

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.  
1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF IMERYS TALC AMERICA, INC., IMERYS TALC VERMONT,  
INC., AND IMERYS TALC CANADA INC. (THE "DEBTORS")**

**APPLICATION OF IMERYS TALC CANADA INC., UNDER SECTION 46 OF THE  
COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**MOTION RECORD  
(FOREIGN ORDERS)  
(returnable October 28, 2019)**

October 23, 2019

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**TO: ATTACHED SERVICE LIST**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
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**APPLICATION OF IMERYS TALC CANADA INC., UNDER SECTION 46 OF THE  
COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

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(October 8, 2019)**

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# INDEX

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.  
1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF IMERYYS TALC AMERICA, INC., IMERYYS TALC VERMONT,  
INC., AND IMERYYS TALC CANADA INC. (THE "DEBTORS")**

**APPLICATION OF IMERYYS TALC CANADA INC., UNDER SECTION 46 OF THE  
*COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**I N D E X**

<b>TAB</b>	<b>DOCUMENT</b>
1.	Notice of Motion, returnable October 28, 2019
2.	Affidavit of Anthony Wilson, sworn October 22, 2019
Exhibit A:	Affidavit of Alexandra Picard, sworn February 14, 2019
Exhibit B:	Willkie Farr & Gallagher Order, dated May 21, 2019
Exhibit C:	Robinson & Cole Order, dated May 21, 2019
Exhibit D:	Gilbert Order, dated June 6, 2019
Exhibit E:	Legal Analysis Systems Order, dated June 25, 2019
Exhibit F:	Ducera Order, dated August 7, 2019
Exhibit G:	GlassRatner Order, dated August 7, 2019
Exhibit H:	FCR Order, dated June 3, 2019
Exhibit I:	Young Conway Order, dated June 6, 2019
Exhibit J:	Ankura Order, dated June 12, 2019
Exhibit K:	Ducera Co-Retention Order, dated September 26, 2019
Exhibit L:	Gilbert Co-Retention Order, dated September 27, 2019

**TAB**

**DOCUMENT**

Exhibit M: Assumption of Leases Order, dated August 16, 2019

Exhibit N: Stipulated Protective Order, dated September 27, 2019

3. Draft Order

**TAB 1**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
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**AND IN THE MATTER OF IMERYYS TALC AMERICA, INC., IMERYYS TALC VERMONT, INC.,  
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**APPLICATION OF IMERYYS TALC CANADA INC., UNDER SECTION 46 OF THE  
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**NOTICE OF MOTION  
(returnable October 28, 2019)**

The Applicants, Imerys Talc America, Inc. ("ITA"), Imerys Talc Vermont, Inc. ("ITV"), and Imerys Talc Canada Inc. ("ITC") make a motion for an Order substantially in the form filed herewith. The Order to be requested on October 28, 2019, the return date of this motion will be, *inter alia*:

- (a) abridging the time for service of the Notice of Motion and the Motion Record and dispensing with further service thereof, if necessary;
- (b) recognizing and enforcing in Canada certain orders of the U.S. Court (the "**Foreign Orders**"), including the following:
  - (1) an order dated May 21, 2019 authorizing the employment and retention of Willkie Farr & Gallagher LLP as Special Litigation and Corporate Counsel to the Official Committee of Tort Claimants (the "**Committee**"), (the "**Willkie Farr & Gallagher Order**");
  - (2) an order dated May 21, 2019 authorizing the employment and retention of Robinson & Cole LLP as Counsel to the Committee (the "**Robinson & Cole Order**");
  - (3) an order dated June 6, 2019 authorizing the employment and retention of Gilbert LLP as Special Insurance Counsel to the Committee (the "**Gilbert Order**");
  - (4) an order dated June 25, 2019 authorizing the employment of Legal Analysis Systems, Inc. as the Tort Liability Consultant to the Committee (the "**Legal Analysis Systems Order**");

- (5) an order dated August 7, 2019 authorizing the employment and retention of Ducera Partners LLC and Ducera Securities LLC ("**Ducera**") as Investment Banker to the Committee (the "**Ducera Order**");
  - (6) an order dated August 7, 2019 authorizing the employment and retention of GlassRatner Advisory & Capital Group, LLC as Financial Advisor to the Committee (the "**GlassRatner Order**");
  - (7) An order dated June 3, 2019 appointing James L. Patton as Future Claimants' Representative (the "**FCR**" and the "**FCR Order**");
  - (8) An order dated June 6, 2019 authorizing the FCR to retain and employ Young Conaway Stargatt & Taylor LLP as Counsel (the "**Young Conway Order**");
  - (9) An order dated June 12, 2019 authorizing the FCR to retain and employ Ankura Consulting Group, LLC as Consultants (the "**Ankura Order**");
  - (10) An order dated September 26, 2019 authorizing the FCR to co-retain and employ Ducera as Investment Banker with the Committee (the "**Ducera Co-Retention Order**");
  - (11) An order dated September 27, 2019 authorizing the FCR to co-retain and employ Gilbert LLC as Special Insurance Counsel with the Committee of (the "**Gilbert Co-Retention Order**");
  - (12) An order dated August 16, 2019 authorizing the Debtors to assume the Leases listed in Exhibit 1 of the order (the "**Assumption of Leases Order**"); and
  - (13) An order dated September 27, 2019 approving a protective order for sharing of documents in discovery (the "**Stipulated Protective Order**").
- (c) such further ancillary relief as set out in the draft order attached at Tab 3 of the Motion Record; and
- (d) such further and other relief as counsel may request and this Honourable Court may permit.

**THE GROUNDS FOR THE APPLICATION ARE:**

- (a) the Debtors are market leaders with respect to talc production in North America, representing nearly 50% of the market;
- (b) on February 13, 2019, the Debtors commenced the U.S. Proceedings by filing voluntary petitions under Chapter 11;
- (c) on February 14, 2019, the US Court made various orders in the US Proceedings (the “**First Day Orders**”), including an order authorizing ITC to act as foreign representative of the US Proceedings and an order placing the Debtors under joint administration in the US Proceedings;
- (d) on February 20, 2019 this Honourable Court made an initial recognition order declaring ITC the foreign representative as defined in section 45 of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) and a supplemental order recognizing the First Day Orders of the US Court;
- (e) ITC seeks an order from this Court, among other things, recognizing the Foreign Orders noted above to ensure consistency between the US Proceedings and these Proceedings;
- (f) the provisions of the CCAA, including Part IV thereof;
- (g) Rules 2.03, 3.02, 14.05, 16, 17 and 38 of the *Rules of Civil Procedure*, R.R.O. 1990. Reg. 194, as amended;
- (h) section 106 of the *Courts of Justice Act*; R.S.O. 1990, c. C-43; and
- (i) such further and other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) the Affidavit of Anthony Wilson, sworn October 22, 2019 and the exhibits referred to therein (“**Wilson Affidavit**”);
- (b) the Fourth Report of the Information Officer to be filed;
- (c) the Foreign Orders of the US Court made in the US Proceeding, copies of which are attached to the Wilson Affidavit; and
- (d) such further and documentary evidence as counsel may advise and this

Honourable Court may permit.

October 22, 2019

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Lawyers for the Applicant

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36,  
AS AMENDED

Court File No: CV-19-614614-00CL

AND IN THE MATTER OF IMERYYS TALC AMERICA, INC., IMERYYS TALC VERMONT, INC., AND  
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CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**NOTICE OF MOTION  
(returnable October 28, 2019)**

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**TAB 2**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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**AFFIDAVIT OF ANTHONY WILSON  
(sworn October 22, 2019)**

I, Anthony Wilson, of the City of San Jose, in the State of California, United States of America (the "US"), MAKE OATH AND SAY:

1. I am the Treasurer and Director of Finance of Imerys Talc America, Inc. ("ITA"), Imerys Talc Vermont, Inc. ("ITV"), and Imerys Talc Canada Inc. ("ITC", and together with ITA and ITV, the "Debtors"). I began working with the Imerys Group (as defined below) in 2012, and have served in various roles, including as Vice President of the Debtors before appointment to my current role. I have served as Treasurer for each of the Debtors since July 1, 2019. I am authorized to submit this Affidavit on behalf of the Debtors.
2. In my role as Treasurer and Director of Finance, I am responsible for overseeing the day-to-day operations and financial activities of the Debtors, including, but not limited to, monitoring cash flow, business relationships, and financial planning. As a result of my role and tenure with the Debtors, my review of public and non-public documents, and my discussions with other members of the Debtors' management team, I either have personal knowledge or am generally familiar with the Debtors' businesses, financial condition, policies, and procedures, day-to-day operations, and books and records.

Except as otherwise noted, I have personal knowledge of the matters set forth herein or have gained knowledge of such matters from the Debtors' employees or retained advisers that report to me in the ordinary course of my responsibilities.

3. I swear this affidavit in support of ITC's motion pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the "**CCAA**"), for an order granting certain relief, including recognizing the Foreign Order (as defined below) in respect of the jointly administered proceeding of the Debtors under title 11 of the United States Code (the "**US Bankruptcy Code**").<sup>1</sup>

## I. OVERVIEW

4. The Debtors are three debtors in possession in the Chapter 11 Cases (as defined below) commenced before the United States Bankruptcy Court for the District of Delaware (the "**US Court**").
5. The Debtors' operations were acquired by Imerys S.A. in 2011. As a result, the Debtors are now part of a group of over 360 affiliated entities directly and indirectly owned by the parent organization, Imerys S.A (the "**Imerys Group**"). None of the other entities in the Imerys Group have sought protection under the US Bankruptcy Code or any other insolvency law.
6. The Debtors' operations are focused on the mining, processing, and/or distribution of talc for use in personal care, industrial, and other specialty products. The Debtors supply talc to third-party manufacturers for use in such parties' products; however, they do not manufacture the final products or sell such products directly to consumers.
7. As of the Filing Date (defined below), one or more of the Debtors were named as defendants in approximately 14,674 lawsuits alleging liability for personal injuries allegedly caused by exposure to talc. The Debtors believe this litigation is without merit and their strategy has consistently been to mount a vigorous defense to all such claims. Nevertheless, given the increasing number of cosmetic talc lawsuits, the rise in

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings attributable to such terms in the previous affidavits filed with the Court including the First Picard Affidavit sworn February 15, 2019, Second Picard Affidavit sworn March 28, 2019, Third Picard Affidavit sworn May 15, 2019 and the First Wilson Affidavit sworn July 31, 2019.

settlement demands in cosmetic talc lawsuits, and the increasing unwillingness of the Debtors' insurers and third-party contractual indemnitors to provide coverage for the Debtors' mounting defense costs and potential liability exposure, the Debtors determined that coordinated and court-supervised Chapter 11 Cases were required to protect their estates and preserve value for all stakeholders.

8. Accordingly, on February 13, 2019 (the "**Filing Date**"), the Debtors filed voluntary petitions (collectively, the "**Petitions**" and each a "**Petition**") for relief under chapter 11 of title 11 of the US Bankruptcy Code (the "**Chapter 11 Cases**") with the US Court (the "**US Proceeding**").
9. In support of the Petitions, on the Filing Date, Alexandra Picard ("**Ms. Picard**") in her role as Chief Financial Officer of the Debtors, swore a declaration (the "**First Day Declaration**") filed with the US Court. In addition, Ms. Picard swore a supporting affidavit in connection with the Debtors' application for recognition of the First Day Orders (as defined below) returnable February 19, 2019. This previous affidavit, without its exhibits, can be found at **Exhibit 'A'** to this affidavit.
10. On February 14, 2019, the US Court entered various orders in the US Proceedings (the "**First Day Orders**"), including an order authorizing ITC to act as foreign representative on behalf of the Debtors' estates in any judicial or other proceedings in Canada and an order placing the Debtors under joint administration in the US Proceedings.
11. On February 20, 2019, this Court made an initial recognition order declaring ITC the foreign representative as defined in section 45 of the CCAA and a supplemental order recognizing the First Day Orders. Since then, the US Court has made a number of orders which are described in greater detail in prior affidavits filed by the Debtors in this proceeding.
12. At the last hearing held on August 7, 2019, this Court entered the Fee Examiner and Bar Date Orders. The Fee Examiner Orders were granted by the US Court on May 22 and June 25, 2019 and the Bar Date Order was granted on July 24, 2019.
13. Additional orders have been granted by the US Court prior to and after the last hearing on August 7, 2019 which the Debtors seek to be recognized by this Court for the reasons set out below.

## II. UPDATE ON THE US AND CANADIAN PROCEEDINGS

### *Debtor Professional Fee Allocation (Post-Petition Obligations)*

14. Since the commencement of the Chapter 11 Cases and CCAA proceedings, ITA has paid the vast majority of professional fees and expenses related to the Chapter 11 Cases. In the case of ITC, its estate had only paid the expenses of the Debtors' Canadian counsel, Stikeman Elliott LLP and the Information Officer, Richter Advisory Group Inc.
15. Since the last hearing, ITA provided ITC and the Information Officer information about its financial position including projected cash flow constraints arising from ITA's full payment and funding of the Debtors' professional costs during the Chapter 11 Cases. In particular, since the Filing Date, ITA had been funding the vast majority of the Debtors' professional fees and costs (despite the fact that the Debtors' professionals are all engaged by, and working on behalf of, all three Debtors including ITC). To address this concern, ITA sought reimbursement from ITC for its portion of the Debtors' professional fees. As described in the Final Cash Management Order, each Debtor has super-priority administrative expense claims on account of any amounts due from another Debtor arising after the Filing Date and pursuant to intercompany transactions.
16. ITC has benefited from various services provided by the Debtors' professionals in these Chapter 11 Case. For example, the Debtors' legal professionals represent ITC in the Chapter 11 Cases, litigate their interests and have obtained the entry of the various orders that benefit ITC and that were thereafter recognized by this Court (e.g. the First Day Orders, the Bar Date Order, etc). Further, the Debtors' financial advisor is critical in ensuring ITC is meeting the chapter 11 reporting requirements, is appropriately coordinated with the Information Officer regarding its liquidity and financials and provides additional finance support as described in its retention application. In addition, ITC is a plaintiff in the ongoing adversary proceeding with Cyprus asserting that certain proceeds of insurance policies are property of the Debtors' estates and has been represented by legal counsel in that proceeding.
17. Importantly, all the Debtors, including ITC, will benefit from a resolution stemming from any reorganization plan incorporating a channeling injunction pursuant to sections

524(g) and 105(a) of the US Bankruptcy Code. Such a channeling injunction will direct pending and future talc-related litigation claims arising from the Debtors' historical operations into a trust and enjoin third parties from pursuing such claims against Debtors post-emergence.

18. Even though ITC has not presently been named in talc claim litigation, it will benefit from any releases obtained as part of the overall settlement, which will also extend to future claims based on the Debtors' historical operations.
19. Based on the foregoing and feedback from the Information Officer who conducted a review of ITA's cash position, ITC agreed to a professional fee allocation in the amount of \$3.5 million which is approximately one-third of the post-petition Debtor professional fees that were paid by ITA as of September 30 and net of fees paid by ITC to Stikeman Elliott LLP, and Richter Advisory Group Inc. In addition, ITC has agreed to compensate ITA for one-third of the Debtors' fees going forward.
20. The payment of the professional fee allocation from ITC to ITA was made on September 30, 2019 and only took into account the Debtors' professionals (although the Debtors' estates are still liable to pay fees of the FCR and the TCC and presently ITA is paying all of those fees in full—discussed further below). The \$3.5 million figure included the professional fees of: Latham & Watkins LLP, Alvarez & Marsal North America, LLC, Richards, Layton & Finger, P.A., PrimeClerk, Neal, Gerber & Eisenberg LLP

#### *Professional Fee Applications*

21. At the October 15, 2019 US hearing, fee applications of the various professionals were reviewed by the US Court. To date, Canadian counsel to ITC has received no formal objections to any of its monthly or interim fee applications from other stakeholders nor has the US Court raised any issues concerning its fees. The Fee Examiner reviewed and provided comments on Canadian counsel's application, which comments were resolved consensually. On October 18, 2019, the US Court entered an order approving the interim fee applications for services rendered by a slate of professionals including Canadian counsel.

*Claims Process Update*

22. On August 7, 2019 this Court recognized the Bar Date Order which established October 15, 2019 as the date by which all entities that wish to assert a claim against the Debtors that arose prior to the Filing Date but excluding any "Talc Claims" (as defined in the Bar Date Order) (a "**General Claim**") must file a proof of claim in accordance with the procedures described therein. Pursuant to the Bar Date Order, entities that appeared on the Debtors' schedules as having claims against ITC would only have to file a proof of claim if they disputed the (a) amount of the claim listed on the schedules, (b) the classification of the claim on the schedules or (c) the Debtor who is liable for such claim, and/or the claim was listed as being disputed, unliquidated or contingent.
23. The Debtors' claims agent, Prime Clerk, has identified approximately 20 timely proofs of claim filed against ITC to date (note that two of these claims were "consolidated" proofs of claims against ITC filed by Imerys S.A. on behalf of itself and various non-debtor affiliates and PBGC)<sup>2</sup>. These claims include trade claims, tax claims, intercompany claims from affiliates, insurance claims, and others. A number of these proofs of claim were listed as unliquidated. ITC's professionals are engaged in a reconciliation process to determine claims were filed against the appropriate entities, are not duplicative of other proofs of claims or claims already listed on the schedules. Following the completion of this reconciliation process, ITC will determine which claims are valid and which are subject to objection in the course of the chapter 11 proceeding.

**III. OTHER STEPS TAKEN IN THE US PROCEEDINGS**

*Extension of the Debtors' Exclusivity Periods*

24. On June 25, 2019, the US Court granted the Debtors' motion to extend the exclusive period during which only the Debtors may file a plan of reorganization in the Chapter 11 Cases and solicit acceptances of the plan. The exclusive period for the Debtors to file a plan of reorganization was September 11, 2019 but it has now been extended through

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<sup>2</sup> At least two of these claims were "consolidated" proofs of claim filed by Imerys S.A. on behalf of itself and various non-debtor affiliates and Pension Benefit Guaranty Corporation ("PBGC"). PBGC filed 27 claims against ITC, stemming from ITC's alleged role as a contributing sponsor to certain pension plans or as a member of a contributing sponsor's-controlled group.

and including December 10, 2019. Additionally, the exclusive period for the Debtors to solicit acceptances of the plan was November 12, 2019 but it has now been extended through and including February 10, 2020.

*Filing of Consolidated Proofs of Claim*

25. On October 10, 2019, the US Court entered a stipulation between the Debtors and its non-Debtor affiliates permitting the non-Debtor affiliates to file consolidated proofs of claim. Imerys S.A is a non-Debtor and the ultimate parent of the Debtors and the other non-Debtor affiliates comprising the Imerys group.
26. These non-Debtor affiliates assert various claims against the Debtors. This order permits the non-Debtor affiliates of the Debtors (including those of ITC) to file consolidated proofs of claim instead of individual claims. Due to the nature of the Debtors' businesses and reliance on intergroup services, filing individual claims would impose an administrative burden on the Debtors and various other stakeholders. As such, an agreement was reached to permit consolidated claims for administrative convenience only.

*Extension of Removal Deadline*

27. On September 18, 2019, the US Court entered the Extension of Removal Deadline Order which authorizes the extension of the Removal Deadline (as defined below) by 120 days, through and including January 9, 2020. Previously, on March 19, 2019, the US Court entered an order extending the deadline by which the Debtors may remove civil actions (the "**Removal Deadline**") from May 14, 2019 through and including September 11, 2019. The Debtors then sought and received another order from the US Court extending the Removal Deadline by 120 days, from September 11, 2019 through and including January 9, 2020.
28. The Debtors believed it prudent to seek a further extension of the time to protect the rights of the Debtors and their estates to remove any civil actions and other pending litigation if deemed appropriate to do so. The extension affords the Debtors a reasonable period to determine whether to remove pending litigation and will ensure that the Debtors do not forfeit valuable rights under the US Bankruptcy Code. Importantly, the rights of the Debtors' adversaries in any litigation will not be prejudiced by such an

extension because any party to an action that is removed may seek to have it remanded to the state court.

*Other Litigation Matters*

29. At the October 15, 2019 US hearing, the US Court was provided with a status update concerning the standing objections from the Committee and FCR concerning a proposed settlement between the Debtors, Cyprus and a group of insurers collectively known as “RMI”. The Debtors and Cyprus incurred defense fees and costs for legal work and professional services performed prior to the Filing Date in connection with talc-related litigation. A settlement was reached between the parties concerning RMI's payment of insurance funds to certain of the Debtors' defense counsel, vendors, and experts to satisfy pre-Filing Date defense costs, incurred by the Debtors and/or Cyprus. Due to the objections of the Committee and FCR, the US Court has not yet approved the settlement. There are ongoing discussions to resolve disagreement over the settlement and the parties informed the US Court that if no agreement is reached in the coming weeks, they may seek to have the matter heard at the next US omnibus hearing on November 22, 2019.

**IV. OVERVIEW OF THE FOREIGN ORDERS SOUGHT TO BE RECOGNIZED**

*Committee Professionals*

30. Between May 21, 2019 and August 7, 2019, the US Court entered several professional retention orders for the Official Committee of Tort Claimants (the “**Committee**”) which have not yet been recognized by this Court.
31. The Committee was appointed to advocate for and defend the collective interests of all tort claimants in the Chapter 11 Cases. The Committee's participation is required to receive court approval of a plan of reorganization pursuant to section 524(g) of the US Bankruptcy Code that includes a channeling injunction in favor of the Debtors, including ITC. The Committee's role includes negotiating terms of any plan of reorganization. The Committee serves the collective interests of tort claimants and does not represent individual tort claimants in the Chapter 11 Cases.

32. The Committee requires the expertise of professionals in order to carry out its objectives. The US Court, by entering these orders, determined there to be good and sufficient cause to authorize the employment and retention of these Committee professionals
33. The Committee's professional retention orders included an order dated May 21, 2019 authorizing the employment and retention of Willkie Farr & Gallagher LLP as special litigation and corporate counsel (the "**Willkie Farr & Gallagher Order**"). As special litigation and corporate counsel, the services enumerated in the Willkie Farr & Gallagher Order include but are not limited to assisting and advising the Committee in identifying potential means for recovery for personal injury and other tort claimants and analyzing, advising and representing the Committee with regard to any derivative and direct causes of action, including, without limitation, reviewing and investigating prepetition transactions in which the Debtors and/or its insiders were involved. This order is found at **Exhibit 'B'** to this affidavit.
34. On May 21, 2019, the US Court also issued an order authorizing the employment and retention of Robinson & Cole LLP as counsel (the "**Robinson & Cole Order**") to the Committee in connection with the Chapter 11 Cases. As counsel, the services enumerated in the Robinson & Cole Order include but are not limited to advising the Committee with respect to its powers under the US Bankruptcy Code and other relevant legislation, assisting and advising the Committee in its examination and analysis of the conduct of the Debtors' affairs and reviewing and analyzing pleadings, orders, and other documents filed and to be filed with the US Court by interested parties. This order is found at **Exhibit 'C'** to this affidavit.
35. On June 6, 2019, the US Court authorized the employment and retention of Gilbert LLP as special insurance counsel to the Committee (the "**Gilbert Order**"). As special insurance counsel the services enumerated in the Gilbert Order include but are not limited to analyzing all insurance policies under which the Debtors may have rights and providing strategic advice to the Committee on steps to be taken to preserve and maximize insurance coverage, attending meetings and negotiating with representatives of the Debtors and assisting the Committee with any insurance-related matters arising in connection with the formulation of a plan of reorganization and funding any trust for the payment of present and future personal injury claims established under a reorganization plan. This order is found at **Exhibit 'D'** to this affidavit.

36. On June 25, 2019, the US Court authorized the employment of Legal Analysis Systems, Inc. as the Committee's tort liability consultant (the "**Legal Analysis Systems Order**"). As tort liability consultant, the services enumerated in the Legal Analysis Systems Order include but are not limited to review and analysis of the Debtors' database of tort claims and related information concerning any tort claims, the estimation of the present and future liability arising from tort claims and the evaluation of reports and opinions of experts and consultants retained by other parties-in-interest to the bankruptcy proceedings. Legal Analysis Systems values present and future claims on behalf of the Committee while the FCR has as separate valuation expert. This order is found at **Exhibit 'E'** to this affidavit.
37. Finally, the US Court issued two orders with respect to the Committee professionals on August 7, 2019. The first order authorized the employment and retention of Ducera Partners LLC and Ducera Securities LLC ("**Ducera**") as investment banker (the "**Ducera Order**"). As Investment Banker, the services enumerated in the Ducera Order include but are not limited to assisting with the assessment of and advising the Committee and its professionals in connection with, the potential value of various estate assets and evaluating the Debtors' and their corporate family's ability to contribute to the resolution of the Debtors' liability. This order is found at **Exhibit 'F'** to this affidavit
38. The second order entered on August 7, 2019 was the authorization and employment of GlassRatner Advisory & Capital Group, LLC as financial advisor to the Committee (the "**GlassRatner Order**"). As Financial Advisor, the services enumerated in the GlassRatner Order include but are not limited to analyzing the financial operations of the Debtors pre and post-petition as necessary, assist the Committee in its review of monthly statements of operations submitted by the Debtors and analyzing various cash management, shared services, and other agreements and arrangements between the Debtors and related parties. This order is found at **Exhibit 'G'** to this affidavit.
39. The Committee's retention of professionals is a necessary prerequisite to achieving the relief that the Debtors, including ITC, hope to achieve in the Chapter 11 Cases. The Debtors respectfully request recognition of the orders approving retention of the Committee professionals.

*The FCR Order*

40. On June 3, 2019 the US Court entered an order appointing James L. Patton as the Future Claimants' Representative (the "**FCR Order**"). The FCR role is unique because the central responsibility is to act as an agent for unknown "future" talc claimants. The FCR's mandate is to negotiate on behalf of future claimants, asserting their rights as creditors to their fair share of value from any trust created pursuant to an approved plan of reorganization. The FCR represents the interests of future claimants of all Debtors, including ITC, to ensure that the relief sought through a plan of reorganization comports with due process and fairness.
41. Section 524(g) of the US Bankruptcy Code requires the participation of a legal representative for future claimants to obtain the channeling injunction relief the Debtors intend to obtain pursuant to a court-approved plan of reorganization. In addition, since a potential for conflict exists between the interest of future claimants and those claimants who have already asserted talc claims against the Debtors, the appointment of an independent representative is necessary to advocate on behalf of all the future claimants including those in Canada.
42. A group of insurers who objected to the FCR's appointment filed an appeal of the FCR Order in the District Court for the District of Delaware. The insurers did not seek a stay of the FCR Order pending appeal. On October 16, 2019, the appellants filed their opening brief in the appeal. The Debtors' answering brief is due on December 15, 2019. The appellants reply brief will be due 30 days after the answering brief is filed.
43. The US Court determined there was good and sufficient cause to grant the FCR Order. This order is found at **Exhibit 'H'** to this affidavit.

*The FCR Professionals Orders*

44. On June 6, 2019, the US Court entered an order approving Young Conaway Stargatt & Taylor LLP as counsel to the FCR (the "**Young Conaway Order**"). The services enumerated in the Young Conaway Order include but are not limited to providing legal advice to the FCR, making appearances on behalf of the FCR, preparing and filing all applications, motions, objections, etc. on behalf of the FCR, and performing other legal services and support as requested. This order is found at **Exhibit 'I'** to this affidavit.

45. On June 12, 2019, the US Court entered an order which authorizes the FCR to employ and retain Ankura Consulting Group, LLC as the claims evaluation and financial valuation consultants to the FCR (the "**Ankura Order**"). The services enumerated in the Ankura Order include but are not limited to estimating the number and value of present and future talc personal injury claims, developing claims procedures to be used in the development of financial models of payments and assets of a claims resolution trust, analyzing insurance coverage and related issues, and providing expert testimony and reports related to the foregoing. This order is found at **Exhibit 'J'** to this affidavit.
46. On September 26, 2019, the US Court entered an order which authorizes the FCR to employ and co-retain Ducera as the Investment Banker with the Committee (the "**Ducera Co-Retention Order**"). As stated in the Ducera Co-Retention Order, the co-retention and employment of Ducera shall be "on the same terms and conditions as the Committee's retention of Ducera." This order is found at **Exhibit 'K'** to this affidavit.
47. On September 27, 2019, the US Court entered an order which authorizes the FCR to employ and co-retain Gilbert LLP as Special Insurance Counsel with the Committee (the "**Gilbert Co-Retention Order**"). As stated in the Gilbert Co-Retention Order, the co-retention and employment of Gilbert LLP shall be "on the same terms and conditions as the Committee's retention of Gilbert LLP." This order is found at **Exhibit 'L'** to this affidavit.
48. Although the costs of the Committee and FCR professionals are obligations of all three Debtors, including ITC, these fees and expenses have not yet been subject to any allocation and have been paid entirely by ITA throughout the pendency of the US chapter 11 proceedings. The future allocation of Committee and/or FCR professional fees to ITC is subject to review and agreement by the Information Officer.

*Miscellaneous Orders*

i. Assumption of Leases Order

49. On August 16, 2019 the US Court entered an order which authorizes the Debtors to assume certain non-residential real property leases listed in Exhibit 1 of the order (the "**Assumption of Leases Order**").

50. The Debtors are currently party to approximately ninety (90) unexpired leases that were listed in Exhibit 1 of the Assumption of Leases Order (the "**Leases**").
51. The Leases include traditional leases that provide the Debtors with access to talc mines, right of way agreements, easements for land, patented mining claims used in the Debtors' talc-mining operations, and talc production payment agreements. The Leases also include ground and/or building leases for the Debtors' plants and distribution facilities. Without the Leases, the Debtors would likely lose their ability to access talc mines, mine talc, and/or transport talc in the ordinary course of their operations.
52. Of the approximately ninety (90) Leases, the Debtors have identified only one Lease (which belongs to ITA) that requires a cure payment (the "**Cure Amount**"). The Debtors are unaware of any defaults on the remaining Leases and have determined that the Cure Amount for such Leases should be \$0.
53. The Debtors have analyzed, among other things, the costs and benefits of each of the Leases including whether rejection of the Leases would place the Debtors' business operations and the success of these Chapter 11 Cases in material jeopardy. The Debtors submit that assumption of the Leases as set forth herein is critical to their operations and represents a sound exercise of their business judgment. Of the approximately 90 Leases, over 50 are in Canada and were assumed by ITC. This order is found at **Exhibit 'M'** to this affidavit.

ii. Stipulated Protective Order

54. On September 27, 2019, the US Court entered an order approving a protective order for sharing of documents and information in both the Chapter 11 Cases and the Cyprus adversary proceeding, in which ITC is a named party (the "**Stipulated Protective Order**").
55. By reaching agreement on a general form of protective order, the Debtors avoid the burden to the estates of negotiating separate forms of protective order for individual matters. The form includes, among other things, (i) customary terms for the identification of confidential information and the restricted use thereof, (ii) confirms that neither its terms nor the US Court's approval operate to authorize the Debtors to share another party's privileged information, (iii) requires advance notice to third parties if the

Debtors intend to produce information over which such other party asserts a shared privilege or similar protection, and (iv) protects the Debtors and other parties from any claim that an inadvertent disclosure operates as a waiver of privilege or similar protection in this or any other proceeding in state or federal court. This order is found at **Exhibit 'N'** to this affidavit.

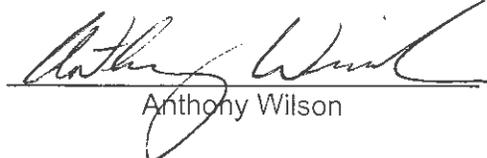
**V. CONCLUSION**

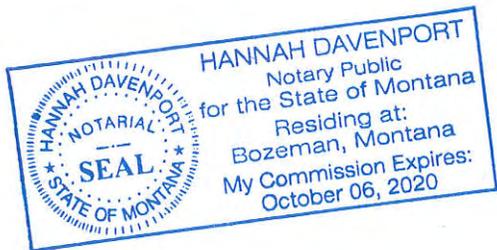
- 56. I believe that the relief sought in this motion (a) is vital to enabling the Debtors to operate in Chapter 11 with minimum interruptions and disruptions to their businesses or loss of productivity or value and (b) constitutes a critical element in the Debtors' being able to successfully maximize value for the benefit of their estates and, ultimately, successfully emerge from insolvency protection.

SWORN BEFORE ME in the State of  
~~California~~, on October 22, 2019.

*Montana*

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
Anthony Wilson



IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36,  
AS AMENDED

Court File No: CV-19-614614-00CL

AND IN THE MATTER OF IMERYYS TALC AMERICA, INC., IMERYYS TALC VERMONT, INC., AND  
IMERYYS TALC CANADA INC. (THE "**DEBTORS**")

APPLICATION OF IMERYYS TALC CANADA INC. UNDER SECTION 46 OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**AFFIDAVIT OF ANTHONY WILSON**

**STIKEMAN ELLIOTT LLP**  
Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
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**Maria Konyukhova** LSO#: 52880V  
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Tel: (416) 869-5642  
Fax: (416) 947-0866

Lawyers for the Debtors

**TAB A**

**THIS IS EXHIBIT "A"**

*referred to in the Affidavit of Anthony Wilson*



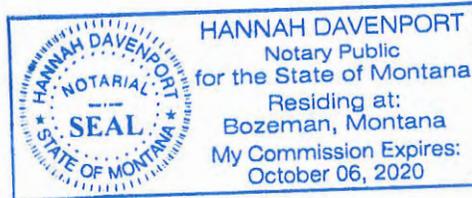
*Sworn before me this*

*day of October, 2019*



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*A Commissioner for Taking Affidavits*



Court File No. \_\_\_\_\_

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF IMERY'S TALC AMERICA, INC., IMERY'S TALC VERMONT,  
INC., AND IMERY'S TALC CANADA INC. (THE "DEBTORS")

APPLICATION OF IMERY'S TALC CANADA INC., UNDER SECTION 46 OF THE  
COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AFFIDAVIT OF ALEXANDRA PICARD  
(sworn February 14, 2019)

I, Alexandra Picard, of the City of San Jose, in the State of California, United States of America (the "US"), MAKE OATH AND SAY:

1. I am the Chief Financial Officer of Imerys Talc America, Inc. ("ITA"), Imerys Talc Vermont, Inc. ("ITV"), and Imerys Talc Canada Inc. ("ITC", and together with ITA and ITV, the "Debtors"). Since I began working with the Debtors and their affiliates in 2005, I have served in various roles, including European Financial Controller for the filtration division level, Deputy Group Treasurer at the Corporate Treasury and then Finance Director for Talc North America before appointment to my current role. I have served as Chief Financial Officer for each of the Debtors since December 2018. I am authorized to submit this Affidavit on behalf of the Debtors.
2. In my role as Chief Financial Officer, I am responsible for overseeing the operations and financial activities of the Debtors, including but not limited to, monitoring cash flow, business relationships, and financial planning. As a result of my tenure with the Debtors, my review of

public and non-public documents, and my discussions with other members of the Debtors' management team. I am generally familiar with the Debtors' businesses, financial condition, policies and procedures, day-to-day operations, and books and records. Except as otherwise noted, I have personal knowledge of the matters set forth herein or have gained knowledge of such matters from the Debtors' employees or retained advisers that report to me in the ordinary course of my responsibilities.

4. I swear this affidavit in support of ITC's application pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the "CCAA"), for orders granting certain relief, including, declaring that ITC is a "foreign representative" as defined in section 45 of the CCAA in respect of the jointly administered chapter 11 proceeding and recognizing the Debtors' US Proceedings under Chapter 11 of the US Bankruptcy Code (as these terms are defined below) and declaring the US Proceedings as a foreign main proceeding with respect to each member of the Debtors, including ITC.

#### I. OVERVIEW

5. The Debtors are the three debtors in possession in the chapter 11 cases commenced before the United States Bankruptcy Court for the District of Delaware (the "US Court").

6. The Debtors' operations were acquired by Imerys S.A. in 2011. As a result, the Debtors are now part of a group of over 360 affiliated entities directly and indirectly owned by the parent organization, Imerys S.A. (the "Imerys Group"). None of the other entities in the Imerys Group are seeking protection under chapter 11 or any other insolvency law.

7. The Debtors' operations are focused on the mining, processing, and/or distribution of talc for use in personal care, industrial, and other specialty products. The Debtors supply talc to third-party manufacturers for use in such parties' products; however, they do not manufacture the final products or sell such products directly to consumers.

8. One or more of the Debtors are named as defendants in lawsuits asserting approximately 14,674 litigation claims alleging liability for personal injuries allegedly caused by exposure to talc. The Debtors believe this litigation is without merit and their strategy has consistently been to mount a vigorous defense to all such claims. Nevertheless, given the

increasing number of cosmetic talc lawsuits, the rise in settlement demands in cosmetic talc lawsuits, and the increasing unwillingness of the Debtors' insurers and third party contractual indemnitors to provide coverage for the Debtors' mounting defense costs and potential liability exposure, the Debtors have determined that coordinated and court-supervised chapter 11 proceedings are required to protect their estates and preserve value for all stakeholders. ITC has not been named as a defendant in any of the lawsuits to date. However, ITA, ITV, and ITC constitute the entirety of Imerys's North American talc operations. ITC's operations are not only significantly integrated with the other Debtors (as further described below), but ITC is particularly reliant upon ITA's personnel and other resources, as ITC utilizes ITA assets and personnel for critical cash, treasury and other necessary administrative services. In addition, the Debtors believe ITC faces potential future litigation as the vast majority of the talc produced by ITC is exported and sold in the US. As a result, the Debtors determined it was in ITC's best interests to initiate chapter 11 proceedings along with the other Debtors.

9. The Debtors' main operating offices, management and the vast majority of their assets and operations (taken in the aggregate) are located in the US. All of the current litigation against the Debtors has also been commenced in the US. The Debtors have determined that value for creditors will be maximized by commencing chapter 11 proceedings in the US.

10. Accordingly, on February 13, 2019 (the "Filing Date"), the Debtors filed voluntary petitions (collectively, the "Petitions" and each a "Petition") for relief under chapter 11 of title 11 ("Chapter 11") of the United States Code (the "US Bankruptcy Code") with the US Court

11. The Debtors have requested that the Petitions be jointly administered for procedural purposes only. As of the date of this Affidavit, I am not aware of any other bankruptcy proceedings involving any of the Debtors other than the proceedings before the US Court commenced by the Petitions (the "US Proceedings") and these proceedings.

12. The Debtors' ultimate goal in the US Proceedings is to confirm a plan of reorganization providing for trust mechanisms and a channeling injunction that will address all current and future talc claims arising from historic operations of the Debtors so the Debtors can emerge from Chapter 11 protection free of such talc-related liabilities. In the near term, however, to minimize any loss of value of their businesses during the US Proceedings, the Debtors'

immediate objective is to maintain a business-as-usual atmosphere during the early stages of the US Proceedings, with as little interruption or disruption to the Debtors' operations as possible. I believe that if the Court grants the relief requested in the within application, the prospect for achieving these objectives and confirmation of a Chapter 11 plan will be substantially enhanced.

13. In support of the Petitions, I caused to be filed with the US Court a declaration (the "First Day Declaration"). The First Day Declaration sets out in greater detail, among other things, the history of the Debtors and the present challenges leading to the US Proceedings and this application. Attached hereto and marked as Exhibit "A" is a true copy of the First Day Declaration.

## II. DESCRIPTION OF ENTITIES

### a. Corporate Structure

14. Since their acquisition in 2011, the Debtors have been part of the Imerys Group. Imerys S.A.,<sup>1</sup> the parent of the Imerys Group, is a French multinational company which specializes in the production and processing of a wide range of industrial minerals. It is headquartered in Paris, France and has operations in 50 countries and approximately 18,000 employees.

15. Details of the incorporating jurisdictions and head office locations of the relevant affiliates are as follows:

- Imerys Talc America, Inc. (ITA), incorporated in Delaware with head office located in San Jose, California;
- Imerys Talc Vermont, Inc. (ITV), incorporated in Vermont with head office located in San Jose California; and

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<sup>1</sup> Imerys S.A. is listed on Euronext Paris and is part of the CAC MD (mid 60) index within the SBF 120, which represents the 120 largest stocks listed on Euronext Paris, as well as the CAC Basic Materials index. Parent shares are also part of the Dow Jones Euro Stoxx, the benchmark index for the euro zone. The Debtors, however, are not listed on any stock exchange.

- Imerys Talc Canada Inc. (ITC), federally incorporated in Canada with a registered head office in Montreal, Quebec and principal place of business in Timmins, Ontario.

16. The Imerys Group acquired its talc operations, including the operations of the Debtors, in 2011. The Debtors' talc operations were previously owned by various entities, including Johnson & Johnson ("J&J"), Cyprus Mines Corporation ("Cyprus"), Cyprus Talc Corporation, and Rio Tinto America, Inc.

17. The management team of the division resides in San Jose, California (General Manager, Finance Director, and CFO) and provides management services to ITC. The Imerys USA headquarters is in Roswell, Georgia and hosts shared services between the Debtors.

18. A simplified overview of the corporate structure of the Imerys Group is set out in an organizational chart, which is attached hereto as Exhibit "B".

b. Group Business

19. The Imerys Group is the world leader in mineral-based specialties for industry, delivering high value-added, functional solutions to a multitude of sectors, from processing industries to consumer goods and building products. It holds leading positions in the majority of its markets, including: minerals for breathable polymer films; alumino-silicate monolithic refractories; graphite for alkaline batteries; conductive additives for Li-ion batteries; fluxes for continuous casting processes; perlite for construction; and mineral solutions for filtration, paper, plastics, paints, ceramics, health products, and cosmetics.

20. The Imerys Group is organized around two segments: the Performance Minerals segment and the High Temperature Materials & Solutions segment. The Performance Minerals segment is comprised of three geographic business areas, including the Europe Middle East Africa (EMEA) area, the Americas area, and the Asia Pacific (APAC) area, which serve the plastics, paints and coatings, filtration, ceramics, renewable energy, and paper and board markets. The entities in the Performance Minerals segment mine, process, and distribute high quality talc, mica, wollastonite, perlite, diatomaceous earth, carbonate, bentonite, and kaolin.

21. The Debtors are part of the Performance Minerals Americas business area and mine, process, and/or distribute talc. Talc is a hydrated magnesium silicate that is used in the manufacturing of both cosmetic/personal care products and industrial products such as paints and coatings, rubber, paper, polymers, and other specialty products. Talc is mined from talc deposits, which result from the transformation of existing rocks under the effect of hydrothermal fluids carrying one or several of the components needed to form the mineral.

22. The Debtors' talc operations include talc mines, plants, and distribution facilities located in: Montana (Yellowstone, Sappington, and Three Forks); Vermont (Argonaut and Ludlow); Texas (Houston); and Ontario, Canada (Timmins, Penhorwood, and Foley).

23. The Debtors are the market leader with respect to talc production in North America, representing nearly 50% of the market.

24. The Debtors' top customers in the personal care sector are manufacturers of baby powder (50% of personal care sales), makeup (30% of personal care sales), and soap (20% of personal care sales). The Debtors are the main supplier of talc to J&J in the United States for use in its manufacturing of baby powder.

c. The Debtors' Financial Status

25. ITC does not independently report its financial performance. Its financial reporting is part of a consolidated report prepared for the Imerys Group.

26. The Debtors' total revenue in 2018 was approximately US\$174 million.

27. According to the Debtors' unaudited financial statements, as at December 31, 2018 ITC had total revenue of CDN\$60.521 million, net annual income of CDN\$8.13 million, total assets of CDN\$40.250 million and total liabilities, excluding shareholder equity, of CDN\$16.16 million.

28. As described in greater detail below, certain of the Debtors are also facing numerous product liability claims in respect of their production and distribution of talc.

**d. ITC**

29. ITC is incorporated under the *Canadian Business Corporations Act*, RSC 1985, c C-44 ("CBCA") and continued from Quebec's *Business Corporations Act*, CQLR c S-31.1 ("QBCA") on September 13, 2011.

30. ITC's registered head office is located at 1155 Rene-Levesque Blvd. West, Suite 4000, Montreal, Quebec which is the address of ITC's Canadian counsel, Stikeman Elliott LLP. However, the primary place of business is located at 100 Water Tower Road in Timmins, Ontario.

31. ITC has a total of four directors. One director is a Canadian resident and three are US residents. The Canadian director is also a company employee.

32. ITC employs 67 employees as described in greater detail below.

33. ITC mines talc in Ontario and exports approximately 95% of its talc into the United States. The vast majority of the talc is then sold directly to manufacturing customers, with only a small portion sold to distributors. In 2018, ITC distributed approximately 81,400 metric tons (MT) of talc into the United States. The talc is primarily for use in industrial products but a small portion, less than 0.5% of the revenue from talc, is used for agricultural and horticultural markets.

34. The ITC operations are located in Ontario, Canada and include a talc mine (Timmins) and plant (Perthorwood), a distribution center in Foleyet and a warehouse in Mississauga as described in greater detail below.

**e. ITC's Cash Management**

35. Cash generated by ITC's operations is held at two bank accounts at the Royal Bank of Canada ("RBC") held in ITC's name. These funds are used to pay ordinary course third party and intercompany business expenses as they arise.

36. There are two (2) active accounts and zero (0) inactive accounts. The following bank accounts are held in the name of ITC:

- Imerys Talc Canada, Inc., Royal Bank of Canada, Operating Account (USD), Account No: \*\*\*9146 (the "USD Account"); and
- Imerys Talc Canada, Inc., Royal Bank of Canada, Operating Account (CDN), Account No: \*\*\*7638 (the "CDN Account").

The USD Account is used for cash received and transactions conducted in US Dollars and the CDN Account is used for cash received and transactions conducted in Canadian Dollars.

37. ITC's cash and cash management system is managed by ITA personnel in the finance and accounting department based in Three Forks, Montana, who have day-to-day access and control over the ITC bank accounts. Like the other Debtors, ITC also relies upon, Imerys USA, Inc. ("Imerys USA") personnel to provide treasury and accounts payable services pursuant to the shared services arrangement (as further described below). The treasury department located in Georgia, USA is generally responsible for ITC's accounts payable and disseminates the cheques to creditors. The treasury department has initiated plans to transfer the cheque issuing process to ITC which is identical to the changes made to the operations of the US Debtors. This new procedure will allow each of the Debtors to have greater control over their cash and disbursements once filing is complete. There will be one ITC employee that handles the printing and issuance of cheques but Imerys USA and ITA employees will still have oversight and provide direction on the vendors selected for payment. Only one ITC employee has access to the ITC bank accounts, and the employee's access is limited to posting monthly income tax and HST/QST payments.

**f. Intercompany Transactions**

38. ITC is a party to various intercompany transactions with ITA and ITV in the ordinary course, including transactions for goods and services. In addition, ITC enters into intercompany transactions with other Imerys Group entities, including Imerys S.A. Historically, there was an arrangement in place where, periodically, excess cash from the

Canadian operating account was transferred by the treasury department in Georgia, USA, at the discretion of ITC to the accounts of the parent company, Imerys S.A., and then recorded as an intercompany loan due and payable to ITC. As a result, as of the filing date, ITC was owed a loan from Imerys S.A. in the amount of US\$3 million on account of these intercompany transfers.

39. Historically, if ITC had insufficient funds in its bank accounts, Imerys S.A. provided the funds required for ITC to meet its obligations and would deduct any such amounts from the outstanding loan amount owed by Imerys S.A. to ITC. All intercompany transfers are recorded in Imerys S.A. and ITC's books and records.

40. Prior to the initiation of the US Proceedings, ITC ceased the practice of sweeping excess cash from the Canadian operating account so that all such funds are available to ITC.

g. Creditors

41. ITC is not party to any secured financing arrangements or any third party credit facilities. ITC funds its operations through cash generated from its operations and could request additional funding from Imerys S.A. on an as-needed basis.

42. I am advised by Maria Konyukhova of Stikeman Elliott LLP, Canadian counsel to the Debtors, that searches of the personal property registries for ITC were conducted across Canada on January 24, 2019. As of that date, there were only three (4) registrations in respect of equipment and motor vehicles in Ontario and Quebec. Attached hereto and marked as Exhibit "C" is a copy of the personal property search results for Ontario and Quebec.

43. The trailing 12-month average for ITC's unsecured trade debt is approximately US\$2.40 million.

44. With regard to intercompany debt by and between ITC on the one hand and Imerys S.A. and/or the other Debtors on the other, ITC was owed, as at the filing date, US\$3 million from Imerys SA.

45. It is the Debtors' intention to pay all post-filing expenses in the ordinary course. The Debtors have also sought court approval to pay certain pre-filing trade debt of non-US vendors or vendors otherwise deemed critical and have received approval, on an interim basis, to pay such claims. The Debtors anticipate having minimal prepetition trade debt outstanding during the Chapter 11 proceedings.

**h. Employees**

46. ITC has a total of 67 employees that work out of either the Timmins, Ontario or Penhorwood, Ontario facilities.

47. At the Timmins facility, 23 of ITC's employees are covered by a labor agreement between ITC and the United Steel Workers of America, Local 7580-01, which expires on June 30, 2021. At the Penhorwood/Foleyet facilities, 26 of ITC's employees are covered by a labor agreement between ITC and United Steel Workers of America, Local 7580-02, which expires on June 30, 2020. ITC also has 18 non-unionized employees.

48. ITC maintains two defined benefit registered pension plans: the Pension Plan for Bargaining Unit Employees of Inerys Talc Canada Inc. (the "Union Plan") and the Pension Plan for Employees of Inerys Talc Canada Inc. (the "Salaried Plan"). As of December 31, 2017, the Union Plan had a total of 22 active and 11 inactive members, and the Salaried Plan had a total of 31 active and 26 inactive members. The membership of the Union Plan is comprised of employees and former employees of ITC represented by United Steel Workers of America, Local 7580 and the membership of the Salaried Plan is comprised of non-unionized employees and former employees of ITC. ITC is the administrator of the Union Plan and the Salaried Plan.

49. The most recently filed actuarial valuation for each plan was performed as of December 31, 2017. As of that date, the Union Plan had assets of CDN\$4,384,500 and liabilities on a wind-up basis of CDN\$5,046,700, and the Salaried Plan had assets of CDN \$9,770,300 and liabilities on a wind-up basis of CDN\$10,493,400. The valuation indicates that no special payments are currently required to be paid to either the Union Plan or the Salaried Plan.

50. The Debtors intend to continue to pay all of their obligations to their employees and retirees in the ordinary course.

51. ITC's employee administration (e.g. compensation, benefits, and human resource policies) is managed by personnel located in the Three Forks, Montana and Atlanta, Georgia offices. The Atlanta offices are leased by a non-filing US affiliate, and the Three Forks space is owned by ITA. The personnel in the Three Forks office are employees of ITA.

**i. Real Estate**

52. The primary office of ITC is located on ITC owned real property at 100 Water Tower Road Timmins, Ontario. The registered head office is located at 1155 Rene-Levesque Blvd, West, Suite 4000, Montreal, Quebec which is the Montreal office of ITC's Canadian counsel, Stikeman Elliott LLP.

53. ITC has three main active sites (Timmins, Penhorwood, and Foleyet) and one warehouse (Mississauga) all located in Ontario. At the Timmins location, ITC owns a small parcel of land where a micronizing mill and a central office building are located. The City of Timmins owns the majority of the surface rights to this land.

54. The Penhorwood location is an active mine and beneficiation plant. At this site, ITC actively mines and mills talc. ITC has a land lease, an aggregate permit and a patent mine holding for this location. At the Foleyet location, ITC transloads the talc product to railcars for distribution. The land is owned by CN Railway and leased to ITC.

55. ITC leases a fourth site in Mississauga, Ontario which is the warehouse for storing finished product.

56. ITC also maintains responsibility for a closed talc mine located in the Sherbrooke region of Quebec. Another tractive mine, Marcoux talc mine, is located in close proximity to Mansorville, Quebec. The Marcoux mine has been closed since 2010, but ITC continues to own surface rights to the land and buildings on the property. ITC retains the responsibility of reclamation and closure of the Broughton mines which is scheduled to commence in February 2019. Once rehabilitation work is completed and upon final inspection, the ITC will relinquish responsibility for the Broughton site.

j. Environmental Claims

57. As described above, ITC operates one active mine in Penhorwood and a plant in Timmins. The Timmins Micronizing Mill, based on the most recent Environmental Site Assessment, is a low environmental liability. Similarly, the Penhorwood mine operation is also low risk. It has inherited waste rock piles and un-vegetated, disturbed land on the property; however, progressive rehabilitation is already in process. Regular environmental monitoring is in place and the mine satisfies all conditions for permits and approvals in its operation.

58. ITC has also conducted reclamation of mines that are no longer active. The Marcoux mine was reclaimed and subsequently closed in 2010. ITC still owns the surface rights to this land and the buildings on the land are not inhabitable. Finally, the reclamation for the Broughton mine is set to begin in February 2019 for a period of 10 months.

59. As described in detail in the Debtors' Insurance and Bonding Motion,<sup>2</sup> the Debtors are obligated to post bonds to cover the costs of obligations related to the reclamation of the land on which their mines are located, as well as certain performance, license/permit, and customs and border protection obligations. To date, there are two bonds posted on behalf of ITC.

60. The premiums for the bonds are paid by ITC. The current total amount of bonds posted by Imerys USA on behalf of ITC is approximately CDN\$2,950,000.

61. The Debtors will continue to comply with all of their environmental obligations through the course of these proceedings.

III. REASONS FOR REORGANIZATION PROCEEDINGS

62. Certain of the Debtors are facing numerous claims by plaintiffs alleging liability for personal injuries caused by exposure to talc mined, processed, and/or distributed by one or more of the Debtors (the "Talc Claims"). The overwhelming majority of the Talc Claims stem from the plaintiffs' alleged use of cosmetic talc, including J&J products. Although there are other talc suppliers in the market, certain of the Debtors have historically been J&J's primary

<sup>2</sup> The "Insurance and Bonding Motion" means the Debtors' Motion for Order Authorizing Debtors to (I) Pay Their Prepetition Insurance Obligations, (II) Pay Their Prepetition Bonding Obligations, (III) Maintain Their Postpetition Insurance Coverage, and (IV) Maintain Their Bonding Program.

supplier of cosmetic talc and, therefore, have been routinely named as a co-defendant of J&J in litigation related to the Talc Claims.

63. The Debtors believe that the Talc Claims are entirely without merit and that exposure to their talc products has not caused any personal injury. The safety of the Debtors' talc has been confirmed by dozens of peer-reviewed studies and multiple regulatory and scientific bodies, including the US Food & Drug Administration. Moreover, two of the largest real-world studies ever conducted on talc miners and nurses using talc over the course of 50 years have overwhelmingly confirmed that talc is not carcinogenic. The Debtors and the rest of the Imerys Group have been and continue to be committed to the quality and safety of their products above all else.

64. At the time of the Imerys Group's acquisition of the Debtors in 2011, there were only approximately eight Talc Claims pending against the Debtors, each of which was in the early stages of litigation. Although plaintiffs began filing additional cosmetic talc cases at an increasing pace in 2014, the Debtors mounted a vigorous defense against such suits and were successful in dismissing or settling for *de minimis* amounts the vast majority of these cases. Nevertheless, the number of cosmetic Talc Claims filed continued to accelerate rapidly over the next several years.

65. ITA and ITV are named defendants in lawsuits asserting approximately 14,674 alleged Talc Claims. The Debtors have access to certain insurance assets that they have relied on to fund their defense and appropriate settlement costs to date. Nevertheless, the Debtors cannot continue to litigate in perpetuity.

66. Although no claims have yet been filed in Canada or the US against ITC, the Debtors believe it is only a matter of time until that occurs as the vast majority of the talc produced by ITC is exported and sold in the US.

67. The Debtors' primary goal in filing for Chapter 11 and CCAA protection is to confirm a plan of reorganization pursuant to Sections 105(a), 524(g), and 1129 of the Bankruptcy Code. These sections allow for the channelling of all present and future Talc Claims to a funded trust that will liquidate and pay the Talc Claims pursuant to a set of court-approved "trust

distribution procedures". These sections also provide for a channeling injunction to prevent claimants from pursuing against any Debtor or non-Debtor affiliate any claims arising from talc mined, produced, or distributed by any of the Debtors prior to their emergence from the US Proceedings. While the Debtors dispute all liability as to the Talc Claims, they believe this approach will provide fair and equitable treatment of all stakeholders.

68. To facilitate negotiations regarding a potential plan of reorganization and the creation of a trust to address the Talc Claims, the Debtors retained Jim Patton of Young, Conaway, Stargatt & Taylor, LLP on September 25, 2018 to serve as a proposed future claims representative (the "Prepetition FCR") to represent the interests of individuals who may in the future assert talc-related demands against the Debtors. The Prepetition FCR retained Young Conaway, Stargatt & Taylor, LLP, as counsel, and Ankura Consulting, as claims analyst, to provide advice in connection with such representation. Together with his advisors, the Prepetition FCR initiated an extensive diligence process into the Debtors' businesses and the pending talc litigation. The Debtors have worked constructively with the Prepetition FCR and his advisors throughout this process by providing access to a fulsome data room and responses to numerous information requests, as well as by attending multiple in-person diligence meetings, among other things.

69. During the US Proceedings, the Debtors intend to negotiate an agreement with the Prepetition FCR and representatives of the holders of current alleged Talc Claims to resolve their historic talc-related liabilities and develop a go-forward strategy for the impacted talc businesses. The Debtors are confident that such negotiations will culminate in a court-approved plan of reorganization in the first half of 2020 and enable the Debtors to emerge free and clear of all their historic talc-related liabilities and insulate the rest of the Imerys Group from any exposure for such liabilities.

70. While the Debtors dispute all liability as to the Talc Claims, the Debtors believe this approach will provide fair and equitable treatment of all stakeholders. It is within the best interests of the Debtors and their creditors to deal with the Debtors' reorganization comprehensively rather than bearing the time and expense of conducting multiple cross-border proceedings.

71. Further details of the litigation claims, the status of the Debtors' insurance coverage and pre-filing negotiations are set out in the First Day Declaration.

**IV. CENTRE OF MAIN INTEREST (COMI)**

**i. The US Debtors**

72. ITA and ITV are incorporated in Delaware and conduct the majority of their operations within the US borders. ITA and ITV have no assets or operations in Canada, nor do they have any significant Canadian creditors or any Canadian employees.

**ii. ITC and Integration with ITA and ITV**

73. As stated above, ITC has its registered and records office in Montreal, Quebec and main operations in Timmins, Ontario. It is the only talc entity in the Imerys Group operating in Canada.

74. ITC derives its customer base almost exclusively from the US with 95% of its production purchased by US buyers. ITC shares many of its customers with ITV.

75. Three out of four of ITC's directors are not Canadian residents.

76. The highest level of employee located in Canada (Timmins, ON) is the operations manager for the active mines. This individual, a paid employee of ITC, is responsible for the daily operations of both the Vermont office and ITC's mines. However, various operational tasks and decisions are made by ITA personnel or otherwise require senior approval, which is relayed to, and received by, ITA personnel in the United States. ITA personnel making decisions on behalf of ITC also consult with, rely upon or seek approval of, personnel in the US office (primarily Imerys USA) with respect to material matters which are outside of the ordinary course.

77. ITC relies heavily upon ITA personnel and resources located in the United States for both its strategic business operations as well as day-to-day functionality. Decisions are made on behalf of all of the Debtors by a division manager of North American talc operations who is an employee of ITA and located in the United States. These decisions include considerations such

as which shared services each of the Debtors will participate in and the appropriate use of capital expenditures.

78. Material corporate decisions relating to ITC's general business strategy are made or approved by a combination of senior leadership assigned to offices located in San Jose, California, Atlanta, Georgia, and Three Forks, Montana, and Paris, France, including pursuant to Imerys Group and Division-level management authority rules. Decisions related specifically to pricing and business development are developed and approved by the San Jose, California and Paris, France offices.

79. ITA and Imerys USA personnel located in the San Jose, California and Three Forks, Montana offices are responsible for developing and approving all final financial decisions for ITC (except for certain strategically significant and material decisions, which may require higher-level approval). Marketing decisions for ITC are generally overseen by US personnel.

80. ITC, like ITA and ITV, heavily relies on certain shared services provided by the USA Shared Service Center (the "SSC"), a unit of Imerys Clays, Inc. (which is a wholly-owned subsidiary of Imerys USA) (the "Shared Services"). The Debtors, including ITC, incur various costs related to its receipt of the Shared Services. ITA pays all the Shared Services costs on behalf of the Debtors and then charges back those costs to ITC and ITV. These Shared Services allow ITC and the other Debtors to access certain corporate and administrative services, resulting in efficiencies and reduced costs. The division manager employed at ITA and based in the US determines the extent of ITC's participation in the Shared Services. Given how closely integrated their operations are, ITC, ITA and ITV could not obtain the degree of cost efficiencies and operational benefits afforded by the Shared Services arrangement by outsourcing those shared functions to third party providers.

81. ITC receives certain Shared Services relating to treasury management and accounts payable functionality (including vendor setup and maintenance, invoice processing, and related services) governed by a Master Service Level Agreement with the SSC. Specifically, personnel in the Atlanta, Georgia, and Three Forks, Montana offices manage all of ITC's accounts payable and accounts receivable. ITC is also party to separate service level agreements with units of the SSC relating to purchasing activities and services as well as logistics services related to rail

management, warehouse procurement, and vendor management. Separate from the Shared Services, Imerys S.A. also provides group-level executive management, legal, and other corporate overhead services to its subsidiaries (including ITC). Specifically, these services include, among other things: business administration, marketing and sales, legal, internal and external communications, technology, transport, and services and are governed by a Service Agreement by and between Imerys S.A. and ITC.

82. The Debtors were granted relief by the US Court to continue the provision of the Shared Services and other intercompany services described above.

83. These Shared Services and other arrangements described above reflect the thoroughly integrated operations between ITC and the US Debtors. ITC relies on these services for its daily business operations including the efficient sale and delivery of its talc products to its US based customers.

#### V. OVERVIEW OF THE CHAPTER 11 PROCEEDINGS

84. As part of the first day motions (the "First Day Motions") that were heard by the US Court on February 14, 2019, the US Court made several orders (collectively, the "First Day Orders"). The First Day Orders made by the US Court include, *inter alia*:

- a) an order permitting the joint administration of the US Proceedings of ITA, ITV and ITC in the US Proceedings, which is attached hereto and marked as Exhibit "D" (the "Joint Administration Order");
- b) an order recognizing ITC as the foreign representative of the Debtors, which is attached hereto and marked as Exhibit "E" (the "Foreign Representative Order");
- c) an order authorizing the appointment of Prime Clerk LLC ("Prime Clerk") as claims and noticing agent, which is attached hereto and marked as Exhibit "F" (the "Claims and Noticing Agent Order");
- d) an order confirming the enforceability and applicability of the protections

pursuant to Sections 362, 365, 525 and 541 of the US Bankruptcy Code, which is attached hereto and marked as Exhibit "G" (the "Automatic Stay Order");

- e) an interim order (i) authorizing, but not directing, the Debtors to pay prepetition claims held by (a) Shippers in an amount not to exceed US\$1.9 million on an interim basis, (b) Lien Claimants in an amount not to exceed US\$1.0 million on an interim basis and (c) Royalty Interest Owners in an amount not to exceed US\$200,000 on an interim basis, each absent further order of the Court, (ii) authorizing, but not directing, the Debtors to pay 503(b)(9) Claims in an amount not to exceed US\$300,000 absent further order of the Court; (iii) confirming the administrative expense priority status of orders for goods not delivered until after the filing date (the "Outstanding Orders") and authorizing, but not directing, the Debtors to pay prepetition amounts related to the Outstanding Orders; which is attached hereto and marked as Exhibit "H" (the "Lien Claimants Order");
- f) an interim order (i) authorizing, but not directing, the Debtors to pay prepetition obligations owed to certain critical vendors, up to US\$500,000 on an interim basis; and (ii) authorizing financial institutions to honor and process related checks and transfers, which is attached hereto and marked as Exhibit "I" (the "Critical Vendors Order");
- g) an interim order (i) authorizing, but not directing, the Debtors to pay prepetition obligations owed to foreign vendors, up to US\$900,000, on an interim basis; and (ii) authorizing financial institutions to honor and process related checks and transfers, which is attached hereto and marked as Exhibit "J" (the "Foreign Vendors Order");
- h) an interim order (i) authorizing, but not directing, the Debtors to pay Taxes and Fees (as defined in the First Day Declaration), whether accrued prior to, on or after the commencement of the US Proceedings, up to US\$715,000, on an interim basis; and (ii) authorizing financial institutions to honor and process related checks and transfers, which is attached hereto and marked as Exhibit "K" (the

"Taxes Order");

- i) an order (i) authorizing the Debtors to (a) pay prepetition insurance and bonding obligations, up to US\$700,000 in the aggregate, (b) maintain their postpetition insurance coverage, and (c) maintain their bonding program, and (ii) authorizing financial institutions to honor and process related checks and transfers, which is attached hereto and marked as Exhibit "L" (the "Insurance and Bonding Order");
- j) an interim order (i) authorizing the Debtors to pay certain prepetition workforce obligations, including compensation, expense reimbursements, benefits, and related obligations, not exceeding the amount of US\$1.914 million on an interim basis and (ii) authorizing financial institutions to honor and process related checks and transfers, which is attached hereto and marked as Exhibit "M" (the "Workforce Obligations Order");
- k) an interim order with respect to utilities providers: (i) prohibiting the Debtors' utility service providers from altering or discontinuing service on account of prepetition invoices; (ii) approving an adequate assurance deposit as adequate assurance of postpetition payment to the utilities; and (iii) establishing procedures for resolving any subsequent requests by the utilities for additional adequate assurance of payment, which is attached hereto and marked as Exhibit "N" (the "Utilities Order");
- l) an interim order (i) authorizing the Debtors to honor prepetition obligations owed to customers and to otherwise continue customer programs, and (ii) authorizing financial institutions to honor and process related checks and transfers not exceeding the amount of USD\$600,000 in the interim, which is attached hereto and marked as Exhibit "O" (the "Customer Programs Order");
- m) an interim order authorizing, but not directing, the Debtors to maintain their existing cash management system, including maintenance of existing bank accounts, checks and business forms, authorizing continuation of existing

deposit practices, and approving the continuation of certain intercompany transactions, not exceeding the amount of USD\$1.35 million in the interim, and granting superpriority status of certain transactions among the Debtors, which is attached hereto and marked as Exhibit "P" (the "Cash Management Order"); and

- n) an interim order authorizing the filing of (i) a consolidated master list of creditors, a list of the thirty law firms with the most significant representations of Talc Claimants, a list of the top thirty unsecured claims (excluding talc claims), and (ii) approving certain notice procedures for talc claimants, which is attached hereto and marked as Exhibit "Q" (the "Limit Notice and Approve Notice Procedures Order").

*Joint Administration Order*

85. Pursuant to the Joint Administration Order, the US Court directed that the US Proceedings of each Debtor would be administered jointly, including having one court docket and one service list.

86. In granting the Joint Administration Order, the US Court was satisfied the order was necessary for the US Proceedings and the efficient administration of the US Proceedings. ITC seeks recognition of the Joint Administration Order, so that these proceedings can be managed efficiently and in a manner consistent with the US Proceedings.

*Foreign Representative Order*

87. The US Court made the Foreign Representative Order appointing ITC as the foreign representative of the Debtors to, among other things, seek recognition of the US Proceedings in Canada. Pursuant to the Foreign Representative Order, the US Court requested the assistance of this Court in aiding and supporting the US Proceedings.

88. In granting the Foreign Representative Order, the US Court was satisfied that each order was necessary for the US Proceedings and the efficient administration of the US Proceedings.

ITC seeks recognition of the Foreign Representative Order, so that these proceedings can be managed efficiently and in a manner consistent with the US Proceedings.

*Claims and Noticing Agent Order*

89. Pursuant to the Claims Agent Order, the US Court appointed Prime Clerk as claims and noticing agent for the Debtors in order to administer the claims of the Debtors' creditors and provide certain noticing services. Prime Clerk is a bankruptcy claims and noticing agent that specializes in administering chapter 11 proceedings.

90. In entering the Claims Agent Order, the US Court determined that the appointment of Prime Clerk as claims and noticing agent was reasonable and appropriate to ensure the efficient and effective administration and determination of claims against the Debtors.

91. ITC seeks recognition of the Claims Agent Order from this Honourable Court to ensure consistency in the administration of these proceedings and the US Proceedings. However, ITC does not propose that the role of Prime Clerk supplant or replace the proposed role of Richter Advisory Group Inc. ("Richter") as Information Officer in these proceedings.

*Automatic Stay Order*

92. Pursuant to the Automatic Stay Order, the US Court enforced and restated the automatic stay of the US Bankruptcy Code.

93. In entering the Automatic Stay Order, the US Court determined that enforcing and restating the stay provisions of the US Bankruptcy Code was appropriate and necessary to maintain the Debtors' operations, while it continues its efforts to negotiate and confirm a consensual plan of reorganization in the US Proceedings.

94. ITC seeks recognition of the Automatic Stay Order from this Honourable Court and submits that such recognition is necessary to ensure consistency between these proceedings and the US Proceedings.

*Lien Claimants Order*

95. The US Court entered the Lien Claimants Order, which authorizes (but does not direct) the Debtors to pay certain shippers, lien claimants, royalty interest owners, and claimants with claims arising under Section 503(b)(9) of the US Bankruptcy Code. The Debtors sought this order to ensure that its supply of essential materials and supplies would not be interrupted and that it would be able to continue to transport talc among the Debtors' mines and plants and deliver talc to the Debtors' customers. The Lien Claimants Order was made on an interim basis, and will be subject to a further hearing and final order.

96. In entering the Lien Claimants Order, the US Court was satisfied that it is necessary for the Debtors to be allowed to pay certain shippers, lien claimants, royalty interest owners, and 503(b)(9) claimants for charges incurred in connection with the delivery and transport of goods and the provision of certain services, so that such claimants do not assert possessory, statutory, or other liens against any of the Debtors' property or otherwise refuse to release such property pending receipt of payment, which would disrupt the Debtors' operations and potentially cause substantial delays, great expense and irreparable harm to the Debtors' estates.

97. ITC seeks recognition of the Lien Claimants Order from the Canadian Court and submits that such recognition is necessary to ensure consistency in the treatment of these payments between these proceedings and the US Proceedings.

*Critical Vendors Order*

98. Pursuant to the Critical Vendors Order, the US Court authorized (but did not direct) the Debtors to pay prepetition obligations owed to certain critical vendors up to the Critical Vendor Claims Cap (as defined in the Critical Vendor Order). The Debtors sought this order to ensure its critical vendors would continue to supply necessary goods and services to the Debtors. The Critical Vendors Order was made on an interim basis, and will be subject to a further hearing and final order.

99. In entering the Critical Vendors Order, the US Court was satisfied that the Critical Vendors Order was necessary to ensure that certain critical vendors that provide essential goods and services to the Debtors do not refuse to provide such goods and services to the

Debtors, which would cause significant disruption to the Debtors' operations. The Debtors are authorized, but not directed, to require a critical vendor to agree to provide goods and services to the Debtors on current or recent trade terms in exchange for payment of such vendor's prepetition claims pursuant to the Critical Vendors Order.

100. ITC seeks recognition of the Critical Vendors Order from the Canadian Court and submits that such recognition is necessary to ensure there is no disruption to the Debtors' operations.

*Foreign Vendors Order*

101. Pursuant to the Foreign Vendors Order, the US Court authorized (but did not direct) the Debtors to pay prepetition obligations owed to certain foreign vendors up to the Foreign Vendor Claims Cap (as defined in the Foreign Vendor Motion). The Debtors sought this order to ensure its foreign vendors would continue to supply goods and services to the Debtors. In particular, the Debtors were concerned that foreign vendors may not consider themselves bound by the US Proceedings without a specific order. The Foreign Vendors Order was made on an interim basis, and will be subject to a further hearing and final order.

102. In entering the Foreign Vendors Order, the US Court was satisfied that the Foreign Vendors Order was necessary to ensure that certain foreign vendors that provide goods and services to the Debtors do not refuse to provide such goods and services to the Debtors, which would cause significant disruption to the Debtors' operations.

103. ITC seeks recognition of the Foreign Vendors Order from the Canadian Court and submits that such recognition is necessary to ensure there is no disruption to the Debtors' operations.

*Taxes Order*

104. Pursuant to the Taxes Order, the US Court authorized (but did not direct) the Debtors to pay certain prepetition Taxes and Fees (as defined in the First Day Declaration). The Taxes and Fees include international taxes, state and federal income taxes, franchise taxes, property taxes, sales and use taxes, licenses and fees, and other types of taxes and fees, assessments, or similar

charges. The Taxes Order applies to Canadian taxation authorities, including with respect to sales and use taxes and certain licenses and fees. The Taxes Order was made on an Interim basis, and will be subject to a further hearing and final order. ITC seeks authority to make payments directly to taxing authorities and make payments to, or set off amounts owed from, Inerys USA or the other Debtors, in each case on account of the Taxes and Fees.

105. In entering the Taxes Order, the US Court determined that it was appropriate and necessary for the Debtors to have discretion to pay prepetition taxes and fees to facilitate its continued operations and avoid potential disruptions to the Debtors' operations, including interruptions to necessary permits and distracting the efforts of critical employees.

106. ITC seeks recognition of the Taxes Order from the Canadian Court, and submits that such recognition is necessary to ensure the efficient and consistent administration of the Debtors' operations and stability throughout its efforts in the US Proceedings. ITC also seeks recognition of the Taxes Order from the Canadian Court to ensure that Canadian taxation authorities are treated consistently with those in the US.

#### *Insurance and Bonding Order*

107. The US Court entered the Insurance and Bonding Order, which authorizes (but does not direct) the Debtors to pay prepetition insurance and bonding obligations and to continue, renew, and modify their postpetition insurance coverage and bonding program.

108. In entering the Insurance and Bonding Order, the US Court was satisfied that all of the insurance and bonding programs covered by the Insurance and Bonding Order are essential to the ongoing operation of the Debtors' businesses and the preservation of the value of the Debtors' estates.

109. ITC seeks recognition of the Insurance and Bonding Order from the Canadian Court and submits that such recognition is necessary to ensure continued insurance coverage for the US Debtors and ITC.

*Workforce Obligations Order*

110. The US Court entered the Workforce Obligations Order (i) authorizing (but not directing) the Debtors to (i) pay certain prepetition workforce obligations, including compensation, expense reimbursement, benefits, and related obligations, (ii) confirming the Debtor's right to continue workforce programs on a postpetition basis, (iii) authorizing payment of withholding and payroll-related taxes, (iv) confirming the Debtors' right to continue to deduct and transmit deductions from payroll checks as authorized by employees or required under any workforce-related plan, program or policy or as required by law and (v) authorizing payment of prepetition claims owing to administrators of, or third party providers under, workforce programs. The Workforce Obligations Order was made on an interim basis and will be subject to a further hearing and final order. The Workforce Obligations Order includes Canadian employees and all benefits relevant to Canadian employees.

111. In granting the Workforce Obligations Order, the US Court was satisfied that the failure to make payments on account of these obligations to the Debtors' workforce (and for withholdings related to the workforce) would threaten the Debtors' ability to operate, to the detriment of all stakeholders, and hinder their efforts to negotiate and confirm a consensual plan of reorganization in the US Proceedings. The US Court was further satisfied that authorizing the payment of these amounts was a sound exercise of the Debtors' business judgment.

112. ITC seeks recognition of the Workforce Obligations Order from the Canadian Court to ensure that the Debtors' workforce is treated equally in these proceedings and the US Proceedings.

*Utilities Order*

113. Pursuant to the Utilities Order, the US Court prohibited the Debtors' utility providers from terminating service solely on the basis of the commencement of the US Proceedings, approved adequate assurance of future payment for utility providers, and established procedures for resolving additional adequate assurance requests by utility providers. The utilities providers include those supplying gas, electricity, phone and internet services, among

other things. The Utilities Order includes 14 Canadian utilities providers. The Utilities Order was made on an interim basis and will be subject to a further hearing and final order.

114. In entering the Utilities Order, the US Court was satisfied that continued service was reasonable, appropriate and necessary to maintain the Debtors' operations.

115. ITC seeks the recognition of the Utilities Order from this Honourable Court and submits that such recognition is necessary to ensure consistency between these proceedings and the US Proceedings. ITC also seeks recognition of the Utilities Order from this Honourable Court to ensure Canadian utilities providers are treated consistently with the US utilities providers.

*Customer Programs Order*

116. Pursuant to the Customer Programs Order, the US Court authorized (but did not direct) the Debtors to pay prepetition obligations owed to certain customers on account of customer programs and to continue honoring customer programs postpetition. The customer programs offered by the Debtors include certain rebate, commission, and warranty programs. The Customer Programs Order was entered on an interim basis, and will be subject to a further hearing and final order.

117. In entering the Customer Programs Order, the US Court was satisfied that the Customer Programs Order was necessary to preserve the Debtors' critical business relationships and customer satisfaction.

118. ITC seeks recognition of the Customer Programs Order from the Canadian Court and submits that such recognition is necessary to ensure the Debtors are able to maintain their relationships with all customers, to the ultimate benefit of their business and estates.

*Cash Management Order*

119. The US Court entered the Cash Management Order, which (i) authorizes, but does not direct, the Debtors to maintain and use their existing cash management system, including maintenance of the Debtors' existing bank accounts, checks, and business forms, (ii) grants the Debtors a waiver of certain bank account and related requirements of the United States Trustee

to the extent that such requirements are inconsistent with the Debtors' practices under their existing cash management system or other actions described, (iii) authorizes, but does not direct, the Debtors to continue to maintain and use their existing deposit practices notwithstanding the provisions of section 345(b) of the Bankruptcy Code, (iv) approves the continuation of certain ordinary course intercompany transactions, (v) authorizes the Debtors to open and close bank accounts, and (vi) accords superpriority status to postpetition intercompany claims arising from transactions between the Debtors.

120. In short, the Cash Management Order allows the Debtors to continue to operate existing cash management systems consistent with past practice. The Cash Management Order was made on an interim basis and will be subject to a further hearing and final order.

121. Intercompany transactions regularly occur between various Imerys Group entities and ITC in the ordinary course. Historically, funds were transferred between ITC and Imerys S.A. periodically when deemed necessary or prudent, including, but not limited to, transfers as a result of excess cash held at ITC. Following the Petition Date, ITC will not transfer excess funds to Imerys S.A. on a periodic basis. As described in the Cash Management Order, ITC will continue to transfer funds to Imerys S.A. and other Imerys Group entities on account of (i) shared services expenses described herein and in the motion seeking entry of the Cash Management Order (the "Cash Management Motion") and (ii) fees and expenses arising from intercompany transactions for goods and/or services provided by Imerys S.A. or other Imerys Group entities as described in the Cash Management Motion and which are necessary for or otherwise benefit ITC's ongoing operations (the "Permitted ITC Intercompany Transactions"). Other than the Permitted ITC Intercompany Transactions, following the Petition Date, ITC will not transfer funds to Imerys Group entities on account of any prepetition intercompany transactions, unless otherwise ordered by the US Court.

122. In entering the Cash Management Order, the US Court was satisfied that the existing system was essential to the Debtors' ongoing operations and that there would be no prejudice to the Debtors' continued use of pre-printed business forms without modification to identify the members of the Debtors as debtors in possession.

123. The US Court was also satisfied that the Intercompany transactions should continue because the system enables the Debtors to efficiently monitor and control their cash position and maintain control over Intercompany Transactions (as defined in the Cash Management Order). The continued use of the cash management system in such manner during the pendency of the US Proceedings is essential to the Debtors' business operations and their goal of maximizing value for the benefit of all parties in interest. In entering the Cash Management Order, the US Court was further satisfied that the Cash Management Order was necessary to avoid immediate and irreparable harm and is in the best interests of the Debtors' estates and their creditors and all other parties in interest. Examples of intercompany transactions the US Court approved for superpriority include shared services with the US Debtors, shared services with Imerys S.A, sale of goods which occur between ITC and the US Debtors or affiliates, intercompany sharing and commissions, research and development and testing, and hedging transactions.

124. ITC seeks recognition of the Cash Management Order from the Canadian Court to ensure that the Debtors' finances, which are highly integrated, can continue in the ordinary course to the benefit of all stakeholders.

*Limit Notice and Approve Notice Procedures Order*

125. The US Court entered the Limit Notice and Approve Notice Procedures Order, which (i) authorized the Debtors to file (a) a consolidated master list of creditors, (b) a list of the thirty law firms with the most significant representations of Talc Claimants, and (c) a consolidated list of top 30 unsecured claims and (ii) on an interim basis only, approving the implementation of a set of notice procedures by which the Debtors shall (a) list the addresses of known counsel of record for the Talc Claimants, in lieu of the addresses of the Talc Claimants themselves (where addresses of the Talc Claimants are not reasonably ascertainable to the Debtors), on the Debtors' creditor matrix and (b) send required notices, mailings, and other communications related to these Chapter 11 Cases to such known counsel of record for the Talc Claimants in lieu of sending such communications to the Talc Claimants themselves (where addresses of the Talc Claimants are not reasonably ascertainable to the Debtors).

126. ITC seeks recognition of the Limit Notice and Approve Notice Procedures Order from the Canadian Court to ensure that the Debtors meet their notice obligations as required under the US Bankruptcy Code as well as provide claimants in the talc litigation a fair and appropriate process to be heard.

#### VI. INFORMATION OFFICER

127. ITC, as foreign representative of the Debtors, seeks the appointment of Richter as the Information Officer in these proceedings. Richter is a licensed trustee-in-bankruptcy.

128. ITC, as foreign representative, believes that the appointment of the Information Officer is appropriate in the circumstances to ensure that both the Canadian Court and ITC's creditors and stakeholders are kept informed of these proceedings and the US Proceedings. Attached hereto and marked as Exhibit "R" is a true copy of the executed Consent of Richter to act as Information Officer.

#### VII. ADMINISTRATION CHARGE

129. ITC, as foreign representative of the Debtors, seeks the granting of an administration charge over the assets of the Debtors in Canada with respect to the fees and disbursements of Richter, the Information Officer, and its counsel, Aird & Berlis LLP, to a maximum of CDN\$200,000 (the "Administration Charge").

130. I understand that Richter requires the Administration Charge as security for their fees in order to act in this matter and that the Administration Charge should rank as a first charge.

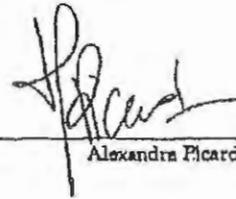
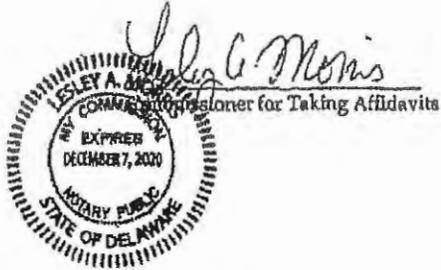
#### VIII. CONCLUSION

131. The Debtors' ultimate goal in the US Proceedings and the CCAA proceedings is to confirm a plan of reorganization providing for trust mechanisms that will address all current and future talc claims arising from the historic operations of the Debtors while simultaneously preserving value and allowing the Debtors to emerge from chapter 11 free of such talc-related liabilities. In the near term, however, to minimize any loss of value of their businesses during the US Proceedings, the Debtors' immediate objective is to maintain a business-as-usual

atmosphere during the early stages of the US Proceedings, with as little interruption or disruption to the Debtors' operations as possible.

132. I believe that the relief sought in this application (a) is vital to enabling the Debtors to make the transition to, and operate in, chapter 11 with minimum interruptions and disruptions to their businesses or loss of productivity or value and (b) constitutes a critical element in the Debtors' being able to successfully maximize value for the benefit of their estates.

SWORN BEFORE ME in the State of  
Delaware, on Thursday, February 14,  
2019.



Alexandra Picard

**TAB B**

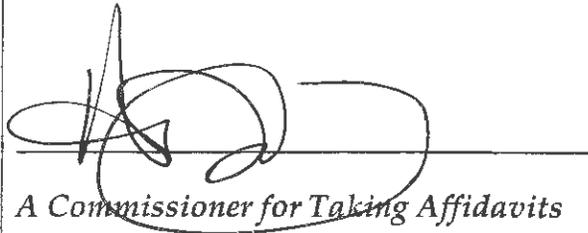
**THIS IS EXHIBIT "B"**

*referred to in the Affidavit of Anthony Wilson*

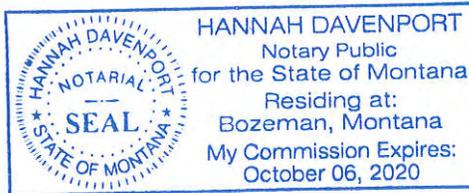


*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

IMERYS TALC AMERICA, INC., *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 19-10289 (LSS)

Jointly Administered

Re: Docket Nos. 470, 473, 559

**ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT  
OF WILLKIE FARR & GALLAGHER LLP AS SPECIAL LITIGATION  
AND CORPORATE COUNSEL NUNC PRO TUNC TO MARCH 15, 2019**

Upon the application (the "Application") of the Official Committee of Tort Claimants (the "Committee") by its Chair, Robin Alander, acting through counsel Maura Kolb, for entry of an order (this "Order") authorizing the Committee to retain and employ Willkie Farr & Gallagher LLP ("WF&G") as special litigation and corporate counsel in connection with the chapter 11 cases of Imerys Talc America, Inc. and its affiliated debtors and debtors in possession (collectively, the "Debtors"), effective *nunc pro tunc* to March 15, 2019; it appearing that this Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these chapter 11 cases and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and upon the *Declaration of Maura Kolb in Support of the Application of the Official Committee of Tort Claimants for an Order Authorizing the Retention and Employment of Willkie Farr & Gallagher LLP as Special Litigation and Corporate Counsel*

<sup>1</sup> The above-captioned debtors in these cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, are: Imerys Talc America, Inc. ("ITA") (6358), Imerys Talc Vermont, Inc. (9050), and Imerys Talc Canada Inc. (6748). The Debtors' address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

to the Committee Nunc Pro Tunc to March 15, 2019 (the “Kolb Declaration”), attached as Exhibit B to the Application; the *Declaration of Rachel C. Strickland in Support of the Application of the Official Committee of Tort Claimants for an Order Authorizing the Retention and Employment of Willkie Farr & Gallagher LLP as Special Litigation and Corporate Counsel to the Committee Nunc Pro Tunc to March 15, 2019* (the “Strickland Declaration”), attached as Exhibit C to the Application; and upon the *Supplemental Declaration of Rachel C. Strickland in Support of the Application of the Official Committee of Tort Claimants for an Order Authorizing the Retention and Employment of Willkie Farr & Gallagher LLP as Special Litigation and Corporate Counsel to the Committee Nunc Pro Tunc to March 15, 2019* [Docket No. 559] (the “Supplemental Strickland Declaration”); and this Court being satisfied based on the representations made in the Application, the Kolb Declaration, the Strickland Declaration and the Supplemental Strickland Declaration that (a) WF&G is a “disinterested person” within the meaning of section 101(14) of the Bankruptcy Code, (b) WF&G does not represent any person or entity having an interest adverse to the Committee in connection with these chapter 11 cases, (c) WF&G does not hold or represent an interest adverse to the interests of the Debtors’ estates, (d) WF&G has no connection to the Debtors, their creditors or any other party in interest except as disclosed in the Strickland Declaration and Supplemental Strickland Declaration and (e) the retention and employment of WF&G as special litigation and corporate counsel to the Committee, effective *nunc pro tunc* to March 15, 2019, is reasonable, necessary, and appropriate and is in the best interests of the Committee; and this Court having found that proper and adequate notice of the Application and the relief requested therein has been provided in accordance with the Bankruptcy Rules and the Local Rules, and that, except as otherwise ordered herein, no other or further notice is necessary; and any objections (if any) to the Application

having been withdrawn or overruled on the merits; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Application is APPROVED, as set forth herein.

2. In accordance with Bankruptcy Code sections 328(a) and 1103(a), the Committee is hereby authorized to employ and retain WF&G as special litigation and corporate counsel in the Debtors' chapter 11 cases, effective as of March 15, 2019, upon the terms and conditions set forth in the Application and Strickland Declaration.

3. WF&G is authorized to perform the following services on the terms set forth in the Application, to the extent not duplicative of services provided by the Committee's other retained professionals:

- (a) assisting and advising the Committee in identifying potential means for recovery for personal injury and other tort claimants;
- (b) advising the Committee in its examination and analysis of the conduct of the Debtors' and the events leading to the filing of these cases;
- (c) participating in such examinations of the Debtors and other witnesses as may be necessary in connection with these cases, and assigned to WF&G;
- (d) analyzing, advising and representing the Committee with regard to any derivative and direct causes of action, including, without limitation, reviewing and investigating prepetition transactions in which the Debtors and/or its insiders were involved;
- (e) advising the Committee regarding the wind-down or sale of any business, assets, or divisions of the Debtors;
- (f) assisting, advising, and representing the Committee in analyzing and investigating the acts, conduct, assets, liabilities, corporate structure, and financial condition of the Debtor, including, without limitation, the Debtors' financial disclosures and related matters, the Debtors' operations, the desirability of the continuance of those operations, and any other matters relevant to this case;
- (g) assisting the Committee in preparing such applications, motions, memoranda, proposed orders, and other pleadings as may be required in support of positions

taken by the Committee and assigned to WF&G, including all trial preparation as may be necessary;

- (h) reviewing and analyzing pleadings, orders, schedules and other documents filed and to be filed with this Court by interested parties in these cases; advising the Committee as to the necessity, propriety and impact of the foregoing on these cases; and responding, including consenting or objection, to pleadings or orders, on behalf of the Committee, as appropriate;
- (i) advising the Committee in its discussions with the Debtors, the future claims representative, and other parties-in-interest regarding the overall direction of these cases;
- (j) representing the Committee at certain hearings to be held before this Court, any appellate courts, the US Trustee and communicating with the Committee regarding the matters heard and the issues raised as well as the decisions and considerations of this Court;
- (k) conferring with the professionals retained by the Debtors, the future claims representative, and other parties-in-interest, as well as with such other professionals as may be selected and employed by the Committee;
- (l) assisting in the negotiation and formulation any plan of reorganization and section 524(g) personal injury trust for the Debtors that may be proposed in these cases; and
- (m) assisting the Committee generally in performing such other services as may be desirable or required for the discharge of the Committee's duties pursuant to section 1103 of the Bankruptcy Code.

4. WF&G shall use its reasonable efforts to avoid any duplication of services provided by any of the Committee's other retained professionals in these chapter 11 cases.

5. WF&G shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with WF&G's representation of the Committee in the Debtors' chapter 11 cases in compliance with sections 330 and 331 of the Bankruptcy Code and applicable provisions of the Bankruptcy Rules, the Local Rules, any case-specific fee protocols approved by this Court after notice and a hearing, and any other applicable procedures and orders of this Court. WF&G also intends to make a reasonable effort to comply with the US Trustee's requests for information and additional disclosures as set forth in the Guidelines for Reviewing

Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Large Chapter 11 Cases Effective as of November 1, 2013, both in connection with the Application and the interim and final fee applications to be filed by WF&G in these chapter 11 cases.

6. WF&G shall not charge a markup to the Debtors with respect to fees billed by any contract attorneys hired by WF&G to provide services to the Committee and shall ensure that any such contract attorneys are subject to conflicts checks and disclosures in accordance with the requirements of the Bankruptcy Code and Bankruptcy Rules. For the avoidance of doubt, WF&G shall neither share fees with future contract attorneys who advise the Committee nor enter into fee sharing arrangements with such contract attorneys.

7. Prior to any increases in the hourly rates set forth in the Strickland Declaration, WF&G shall provide ten (10) business days' notice to the Committee, the Debtors, the US Trustee, and any other statutory committee that may be appointed in these chapter 11 cases. The US Trustee retains all rights to object to any rate increase on all grounds, including the reasonableness standard set forth in section 330 of the Bankruptcy Code, and this Court retains the right to review any rate increase pursuant to section 330 of the Bankruptcy Code.

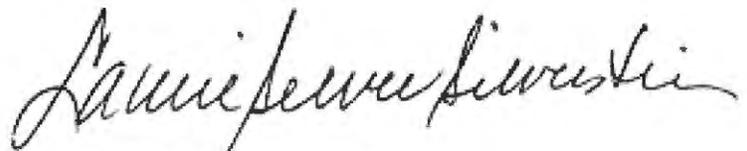
8. The Committee and WF&G are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

9. To the extent the Application, the Kolb Declaration or the Strickland Declaration is inconsistent with the terms of this Order, the terms of this Order shall govern.

10. The requirements set forth in Local Rule 2002-1(b) are satisfied.

This Court shall retain exclusive jurisdiction over all matters pertaining to this Order and the Application.

Dated: May 21st, 2019  
Wilmington, Delaware

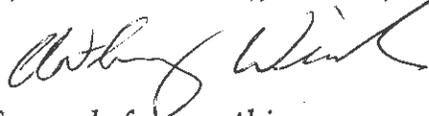


LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**TAB C**

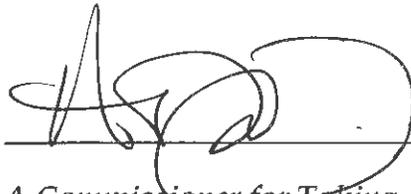
**THIS IS EXHIBIT "C"**

*referred to in the Affidavit of Anthony Wilson*



*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

IMERYS TALC AMERICA, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 19-10289 (LSS)

Jointly Administered

[Re: D.I. 468, 472, & 569]

**ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT OF ROBINSON & COLE LLP AS COUNSEL NUNC PRO TUNC TO MARCH 5, 2019**

Upon the application (the “Application”) of the Official Committee of Tort Claimants (the “Committee”) by its Chair, Robin Alander, acting through counsel Maura Kolb, for entry of an order (this “Order”) authorizing the Committee to retain and employ Robinson & Cole LLP (“R+C”) as its counsel in connection with the chapter 11 cases of Imerys Talc America, Inc. and its affiliated debtors and debtors in possession (collectively, the “Debtors”), effective *nunc pro tunc* to March 5, 2019; it appearing that this Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these chapter 11 cases and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and upon the *Declaration of Maura Kolb in Support of the Application of the Official Committee of Tort Claimants for an Order Authorizing the Retention and Employment of Robinson & Cole, LLP as Counsel to the Committee Nunc Pro Tunc to March 5, 2019* (the “Kolb Declaration”), attached as Exhibit B to the Application; and upon the *Declaration of Natalie D. Ramsey in Support of the*

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<sup>1</sup> The above-captioned debtors in these cases (the “Debtors”), along with the last four digits of each Debtor’s federal tax identification number, are: Imerys Talc America, Inc. (“ITA”) (6358), Imerys Talc Vermont, Inc. (9050), and Imerys Talc Canada Inc. (6748). The Debtors’ address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

*Application of the Official Committee of Tort Claimants for an Order Authorizing the Retention and Employment of Robinson & Cole, LLP as Counsel to the Committee Nunc Pro Tunc to March 5, 2019* (the “Ramsey Declaration”), attached as Exhibit C to the Application; and upon the *Supplemental Declaration of Natalie D. Ramsey in Support of the Application of the Official Committee of Tort Claimants for an Order Authorizing the Retention and Employment of Robinson & Cole, LLP as Counsel to the Committee Nunc Pro Tunc to March 5, 2019* [D.I. 569] (the “Supplemental Ramsey Declaration”); and this Court being satisfied based on the representations made in the Application, the Kolb Declaration, the Ramsey Declaration, and the Supplemental Ramsey Declaration that (a) R+C is a “disinterested person” within the meaning of section 101(14) of the Bankruptcy Code, (b) R+C does not represent any person or entity having an interest adverse to the Committee in connection with these chapter 11 cases, (c) R+C does not hold or represent an interest adverse to the interests of the Debtors’ estates with respect to matters on which R+C is employed, (d) R+C has no connection to the Debtors, their creditors or any other party in interest except as disclosed in the Ramsey Declaration and the Supplemental Ramsey Declaration, and (e) the retention and employment of R+C as counsel to the Committee, effective *nunc pro tunc* to March 5, 2019, is reasonable, necessary, and appropriate and is in the best interests of the Committee; and this Court having found that proper and adequate notice of the Application and the relief requested therein has been provided in accordance with the Bankruptcy Rules and the Local Rules, and that, except as otherwise ordered herein, no other or further notice is necessary; and any objections (if any) to the Application having been withdrawn or overruled on the merits; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Application is APPROVED as set forth herein.

2. In accordance with Bankruptcy Code sections 328(a) and 1103(a), the Committee is hereby authorized to employ and retain R+C as counsel in the Debtors' chapter 11 cases, effective as of March 5, 2019, the date that R+C was first retained as interim counsel for the Committee, upon the terms and conditions set forth in the Application, the Ramsey Declaration, and the Supplemental Ramsey Declaration.

3. R+C is authorized to perform the following services:
- (a) advising the Committee with respect to its powers and duties under the Bankruptcy Code, the Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules"), and the Local Rules for the United States Bankruptcy Court for the District of Delaware (the "Local Rules");
  - (b) assisting and advising the Committee in evaluating the Debtors' chapter 11 filing;
  - (c) assisting and advising the Committee in its discussions with the Debtors, the future claims representative, and other parties-in-interest regarding the overall administration of this Chapter 11 Case;
  - (d) assisting and advising the Committee in its examination and analysis of the conduct of the Debtors' affairs;
  - (e) analyzing, advising and representing the Committee with regard to any causes of action belonging to the Debtors' estates, including, without limitation, reviewing and investigating pre-petition transactions in which the Debtors and/or its insiders were involved, pre-petition contracts and other arrangements to which the Debtors were parties, and pre-petition relationships with its parent and affiliates;
  - (f) assisting, advising, and representing the Committee in analyzing and investigating the acts, conduct, assets, liabilities, corporate structure, and financial condition of the Debtor, including, without limitation, the Debtors' financial disclosures and related matters, the Debtors' operations, the desirability of the continuance of those operations, and any other matters relevant to this case;
  - (g) reviewing and analyzing pleadings, orders, schedules, and other documents filed and to be filed with this Court by interested parties in this case; advising the Committee as to the necessity, propriety, and impact of the foregoing upon this case; and responding, including consenting or objecting, to pleadings or orders on behalf of the Committee, as appropriate;

- (h) assisting the Committee in preparing such applications, motions, memoranda, proposed orders, and other pleadings as may be required in support of positions taken by the Committee, including all trial preparation as may be necessary;
- (i) representing the Committee at hearings to be held before this Court, any appellate courts, the UST, and communicating with the Committee regarding the matters heard and the issues raised as well as the decisions and considerations of this Court;
- (j) conferring with the professionals retained by the Debtors, the future claims representative, and other parties-in-interest, as well as with such other professionals as may be selected and employed by the Committee;
- (k) coordinating the receipt and dissemination of information prepared by and received from the Debtors' professionals, as well as such information as may be received from professionals engaged by the future claims representative, the Committee, or other parties-in-interest in this case;
- (l) participating in such examinations of the Debtors and other witnesses as may be necessary in connection with this chapter 11 case;
- (m) negotiating and formulating any plan of reorganization and section 524(g) personal injury trust for the Debtors that may be proposed in this case; and
- (n) assisting the Committee generally in performing such other services as may be desirable or required for the discharge of the Committee's duties pursuant to section 1103 of the Bankruptcy Code.

4. R+C shall use its reasonable efforts to avoid any duplication of services to be provided by any of the Committee's other retained professionals in these chapter 11 cases.

5. R+C shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with R+C's representation of the Committee in the Debtors' chapter 11 cases in compliance with sections 330 and 331 of the Bankruptcy Code and applicable provisions of the Bankruptcy Rules, the Local Rules, any case-specific fee protocols approved by this Court after notice and a hearing, and any other applicable procedures and orders of this Court. R+C also will make a reasonable effort to comply with the UST's requests for information and additional disclosures as set forth in the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in

Large Chapter 11 Cases Effective as of November 1, 2013, in connection with the Application and the interim and final fee applications to be filed by R+C in these chapter 11 cases.

6. R+C shall not charge a markup to the Debtors with respect to fees billed by any contract attorneys hired by R+C to provide services to the Committee and shall ensure that any such contract attorneys are subject to conflicts checks and disclosures in accordance with the requirements of the Bankruptcy Code and Bankruptcy Rules. For the avoidance of doubt, R+C shall neither share fees with future contract attorneys who advise the Committee nor enter into fee sharing arrangements with such contract attorneys.

7. Prior to any increases in the hourly rates set forth in the Ramsey Declaration, R+C shall provide ten (10) business days' notice to the Debtors, the UST, and any statutory committee appointed in these chapter 11 cases. The UST retains all rights to object to any rate increase on all grounds, including the reasonableness standard set forth in section 330 of the Bankruptcy Code, and this Court retains the right to review any rate increase pursuant to section 330 of the Bankruptcy Code.

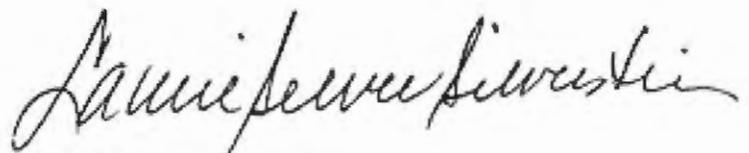
8. The Committee and R+C are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

9. To the extent the Application, the Kolb Declaration, the Ramsey Declaration or the Supplemental Ramsey Declaration is inconsistent with the terms of this Order, the terms of this Order shall govern.

10. The requirements set forth in Local Rule 2002-1(b) are satisfied.

11. This Court shall retain exclusive jurisdiction over all matters pertaining to this Order and the Application.

Dated: May 21st, 2019  
Wilmington, Delaware

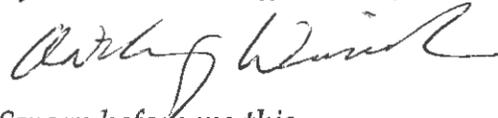


LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**TAB D**

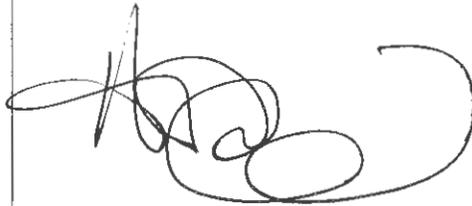
**THIS IS EXHIBIT "D"**

*referred to in the Affidavit of Anthony Wilson*



*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



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

	x	
In re:	:	Chapter 11
	:	
IMERYS TALC AMERICA, INC., <i>et al.</i> , <sup>1</sup>	:	Case No. 19-10289 (LSS)
	:	
Debtors.	:	(Jointly Administered)
	:	
	x	<b>Re: Docket No. 471</b>

**ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT OF GILBERT LLP  
AS SPECIAL INSURANCE COUNSEL TO THE OFFICIAL COMMITTEE OF TORT  
CLAIMANTS *NUNC PRO TUNC* TO MARCH 20, 2019**

On April 30, 2019, the Official Committee of Tort Claimants (“Committee”) filed its Application of the Official Committee of Tort Claimants for an Order Authorizing the Retention and Employment of Gilbert LLP as Special Insurance Counsel *Nunc Pro Tunc* to March 20, 2019 (“Application”) [D.I. 471]. The Application was noticed for hearing on May 22, 2019. The Cyprus Historical Excess Insurers filed an objection to the Application.<sup>2</sup> Prior to the May 22, 2019 evidentiary hearing (“Hearing”) on the Application, the Cyprus Historical Excess Insurers served written discovery on the Committee and took the deposition of Scott Gilbert, Esquire, the name partner of Gilbert LLP (“Gilbert”), in his individual capacity.

At the Hearing, the Court accepted into evidence two declarations (“Quinn Declarations”)<sup>3</sup> previously filed by Kami E. Quinn, Esquire, a Gilbert partner, in support of the

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Imerys Talc America, Inc. (6358), Imerys Talc Vermont, Inc. (9050), and Imerys Talc Canada Inc. (6748). The Debtors’ address is 100 Mausell Court East, Suite 300, Roswell, Georgia 30076.

<sup>2</sup> Cyprus Historical Excess Insurers’ Objection to the Application of the Official Committee of Tort Claimants for an Order Authorizing the Retention and Employment of Gilbert LLP as Special Insurance Counsel *Nunc Pro Tunc* to March 20, 2019 [D.I. 545].

<sup>3</sup> Declaration of Kami E. Quinn In Support of the Application of the Official Committee of Tort Claimants for an Order Authorizing the Retention and Employment of Gilbert LLP as Special Insurance

Application. Ms. Quinn also presented live testimony and was subject to cross-examination by counsel for the Cyprus Historical Excess Insurers. The Court took under advisement the Cyprus Historical Excess Insurers' request to admit into evidence certain articles written between 2005 and 2007 regarding asbestos cases, which were objected to as not relevant. And, the Court provided the Cyprus Historical Excess Insurers with the opportunity to designate the portions of Mr. Gilbert's deposition which constituted declarations against interest as well as to inform the Court as to the means by which those portions of the deposition could be admitted into evidence.<sup>4</sup>

The Quinn Declarations and Ms. Quinn's testimony provide extensive disclosures regarding Gilbert's past and current representations of others in mass tort bankruptcy cases and on insurance related matters. As particularly relevant to issues raised by the Cyprus Historical Excess Insurers, Ms. Quinn's undisputed testimony is that:

- Some of [Gilbert's] corporate clients may be co-defendants with or have contribution claims or other commercial claims against the Debtors, but [Gilbert]

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Counsel *Nunc Pro Tunc* to March 20, 2019 [D.I. 471-3]; Supplemental Declaration of Kami E. Quinn in Support of the Application of the Official Committee of Tort Claimants for an Order Authorizing the Retention and Employment of Gilbert LLP as Special Insurance Counsel *Nunc Pro Tunc* to March 20, 2019 [D.I. 568].

<sup>4</sup> In its submission [D.I. 620], the Cyprus Historical Excess Insurers abandoned the argument made at the Hearing that Mr. Gilbert's statements are statements against interest and now take the position that his statements are admissible under Federal Rule of Evidence 801(d)(2) as statements of a party opponent. Further, the Cyprus Historical Excess Insurers rely on F.R.E. 801(d)(2) as the basis for admission of the deposition itself. The cases cited by the Cyprus Historical Excess Insurers are distinguishable as they address (i) the submission of deposition testimony on summary judgment, (ii) the use of deposition testimony to impeach or contradict a deponent's trial testimony, or (iii) deposition testimony otherwise introduced in conjunction with trial testimony. While it is doubtful that Mr. Gilbert's statements are admissible, the Committee subsequently waived its objection to the admission of the designated portions of Mr. Gilbert's testimony [D.I. 632] so I will consider them. As to the articles, they are dated, and my quick scan of them makes me question whether they are relevant. While the articles raise issues alleged to exist at the times they were written, the Cyprus Historical Excess Insurers provided no evidence such issues actually exist today and/or in this case.

does not and will not represent any clients on any such claims against the Debtors.<sup>5</sup>

- Gilbert also has been, and will continue to be, *co-counsel* with several law firms in a variety of other non-asbestos matters, including consumer-rights class action litigation and opioid litigation. Some of these firms may represent claimants against the Debtors. ***The Firm does not represent any claimant in their claim against the Debtors or against any other asbestos or talc defendant.***<sup>6</sup>
- Gilbert is occasionally retained by law firms or other clients in an expert or consulting capacity. None of these engagements referenced relate to the Debtors but may relate to insurance for asbestos-related or talc-related claims. The Firm may continue to provide consulting services to such clients in the future.<sup>7</sup>

Further, Ms. Quinn's initial declaration has an extensive Appendix B which details connections with law firms that represent talc claimants in the case, including those firms who represent one of the claimants appointed to the Committee. In Appendix B, Ms. Quinn also discloses that:

KCIC LLC ("KCIC") is identified as one of the Debtors' professionals in this case. Gilbert LLP has worked with KCIC on behalf of numerous clients related to insurance coverage issues. Currently, Gilbert LLP is working with KCIC on various insurance

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<sup>5</sup> D.I. 471-3 ¶ 11. At the request of the Office of the United States Trustee ("UST"), Gilbert "clarified" this statement, as follows: "To clarify the information provided in paragraph 11 of my Initial Declaration, all Gilbert clients that appear on Appendix A are identified on Appendix B. Gilbert does not represent any such clients with respect to claims against the Debtors." [D.I. 568 ¶ 9].

<sup>6</sup> D.I. 471-3 ¶ 12 (emphasis added).

<sup>7</sup> D.I. 471-3 ¶ 13. At the request of the UST, Ms. Quinn "clarified" this statement as follows: "To clarify the information provided in paragraph 13 of my Initial Declaration, Gilbert is not currently retained as an expert by any insurance company and does not represent insurance companies in any capacity." Gilbert also qualifies its statements in several ways. For example, Ms. Quinn states:

25. In addition, while we believe our inquiries as described above are reasonably designed to discover significant connections between Gilbert and the Debtors, its creditors, and other parties in interest for the purposes of Bankruptcy Rule 2014, it is likely that additional direct or indirect connections exist given the nature of the Debtors' businesses, Gilbert's practice, and the large number of parties in interest in these chapter 11 cases. Possible other connections include, without limitation:

\* \* \*

(c) As part of its practice, Gilbert is involved in litigation and transactions involving many different attorneys, accountants, and consultants some of which may represent the Debtors or interested parties. The conflict system maintained by Gilbert and other sources we consulted that are described above will not typically identify attorneys, accountants, or consultants involved in every transaction or matter in which we represent a party.

*Id.* ¶ 25(c).

maters [sic], none of which are involved in this bankruptcy case. These matters are unrelated to the Debtors.<sup>8</sup>

At the request of the UST, this information was clarified as follows:

KCIC LLC (“KCIC”) – Gilbert had an ownership interest in Kenesis, a company in the same corporate family as KCIC, which ended as of January 1, 2004. Currently, Kenesis Management Co., also within the KCIC corporate family, pays Gilbert for the use of two (2) of its’ [sic] administrative employees’ time. Gilbert holds Washington National’s [sic] season tickets. Kenesis Management Co. also purchases tickets from Gilbert to the Washington Nationals games.<sup>9</sup>

Nothing in the documents submitted by the Cyprus Historical Excess Insurers, including the designated deposition testimony, contradicts this testimony or calls the Court to question the veracity of Ms. Quinn’s statements.

Nor does *In re Congoleum Corp.*, 426 F.3d 675 (3d Cir. 2005) require the Court to deny the Application. In *Congoleum*, the United States Court of the Appeals for the Third Circuit reversed the bankruptcy court’s approval of the retention of Gilbert, Heintz & Randolph, LLP<sup>10</sup> as special insurance counsel to the debtors under section 327(e) of the Bankruptcy Code. The Third Circuit’s decision was based primarily on two issues. First, Gilbert Heintz simultaneously represented Congoleum and individuals who had claims against Congoleum albeit in other matters.<sup>11</sup> The court held that Gilbert Heintz had an actual conflict and it was not effectively waived. Second, Gilbert Heintz had a 70% ownership interest in KCIC, which was handling claims for the Debtors. The Court held that this ownership interest prevented Gilbert Heintz from being disinterested. The Court also noted a fee sharing arrangement between Gilbert

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<sup>8</sup> D.I. 471-3, at 33.

<sup>9</sup> D.I. 568 ¶12(a). Ms. Quinn testified that this information was not originally disclosed because she did not perceive it to be a relevant connection. The relevancy of a connection is for the court to determine, not the applicant.

<sup>10</sup> While no party has expressly stated it, presumably Gilbert, Heintz & Randolph LLP is either a predecessor firm of Gilbert LLP or an earlier name of Gilbert LLP.

<sup>11</sup> Gilbert Heintz was co-counsel with plaintiff’s counsel in other matters with respect to an estimated 10,000 individuals who also had claims against Congoleum. *Id.* at 689.

Heintz and a plaintiff's attorney with respect to individuals they jointly represented in other asbestos cases.

Circumstances have changed in the fourteen years since the *Congoleum* decision was issued. Gilbert no longer has an ownership interest in KCIC. And there is no evidence on the record to support the Cyprus Historical Excess Insurers' insinuation that the two administrative employees who provide benefits services to Kenesis Mangement Co. and related entities are funneling client information between KCIC and Gilbert.<sup>12</sup> Further, Gilbert no longer represents individual claimants in asbestos cases and does not represent any individual claimants who assert claims against Imerys or other talc defendants. Moreover, unlike in *Congoleum* where the debtor retained Gilbert Heintz, here, it is the Committee who seeks to employ Gilbert as special insurance counsel; accordingly, it is not at all clear that representation of individuals or entities who have claims against Imerys or other talc (or asbestos) defendants would be disqualifying.<sup>13</sup>

For the above reasons, the Objection is overruled,<sup>14</sup> and

**IT IS HEREBY ORDERED THAT:**

1. The Application is **APPROVED** as set forth herein.

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<sup>12</sup> Since the Hearing, the Committee has filed declarations of each of the two employees confirming that they provide human resources related services only, do not have an office at Kenesis Management Company, separate systems exist for employment related data which they access, and they have not conveyed or transmitted any client information from Kenesis Management Company to Gilbert or vice versa.

<sup>13</sup> See 11 U.S.C. § 1103(b).

<sup>14</sup> In its May 24, 2019 letter submission [D.I. 620], in which the Cyprus Historical Excess Insurers identified its designations of Mr. Gilbert's deposition, they also suggested that I continue this matter until the next omnibus hearing date and also made suggestions "to help target the factual areas that need amplification." The evidentiary hearing was closed on May 22, 2019 subject only to the designation of Mr. Gilbert's deposition testimony. Nothing I said at the hearing regarding additional disclosures suggested to the contrary or generally welcomed suggestions for additional areas of inquiry.

2. In accordance with Bankruptcy Code sections 328(a) and 1103(a), the Committee is hereby authorized to employ and retain Gilbert as special insurance counsel in the Debtors' Chapter 11 cases, effective as of March 20, 2019, upon the terms and conditions set forth in the Application and the initial Quinn Declaration.

3. Gilbert is authorized to perform the following services:

a. analyzing all insurance policies under which the Debtor may have rights and providing strategic advice to the Committee on steps to be taken to preserve and maximize insurance coverage;

b. attending meetings and negotiating with representatives of the Debtors, their non-bankrupt affiliates, their insurance carriers, and other parties in interest in this Chapter 11 case related to the preservation of insurance coverage and resolution of disputed insurance coverage;

c. assisting the Committee with any insurance-related matters arising in connection with the formulation of a plan of reorganization and funding any trust for the payment of personal injury claims established under a plan; and

d. performing such other insurance-related tasks as may be necessary during the course of these Chapter 11 cases.

4. Gilbert shall use its reasonable efforts to avoid any duplication of services provided by any of the Committee's other retained professionals in these Chapter 11 cases.

5. Gilbert shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with Gilbert's representation of the Committee in the Debtors' chapter 11 cases in compliance with sections 330 and 331 of the Bankruptcy Code and applicable provisions of the Bankruptcy Rules, the Local Rules, any case-specific fee protocols approved by this Court after notice and a hearing, and any other applicable procedures and orders of this Court. Gilbert also intends to make a reasonable effort to comply with the UST's requests for information and additional disclosures as set forth in the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by

Attorneys in Large Chapter 11 Cases Effective as of November 1, 2013, in connection with the Application and the interim and final fee applications to be filed by Gilbert in these Chapter 11 cases.

6. Gilbert shall not charge a markup to the Debtors with respect to fees billed by any contract attorneys hired by Gilbert to provide services to the Committee and shall ensure that any such contract attorneys are subject to conflicts checks and disclosures in accordance with the requirements of the Bankruptcy Code and Bankruptcy Rules. For the avoidance of doubt, Gilbert shall neither share fees with future contract attorneys who advise the Committee nor enter into fee sharing arrangements with such contract attorneys.

7. Prior to any increases in the hourly rates set forth in the initial Quinn Declaration, Gilbert shall provide ten (10) business days' notice to the Debtors, the UST, and any statutory committee appointed in these chapter 11 cases. The UST retains all rights to object to any rate increase on all grounds, including the reasonableness standard set forth in section 330 of the Bankruptcy Code, and this Court retains the right to review any rate increase pursuant to section 330 of the Bankruptcy Code.

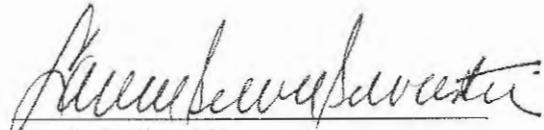
8. The Committee and Gilbert are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

9. To the extent the Application and the Declarations are inconsistent with the terms of this Order, the terms of this Order shall govern.

10. The requirements set forth in Local Rule 2002-1(b) are satisfied.

11. This Court shall retain exclusive jurisdiction over all matters pertaining to this Order and the Application.

Dated: Wilmington, Delaware  
June 6, 2019

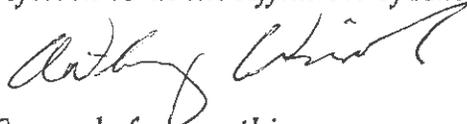


Laurie Selber Silverstein  
United States Bankruptcy Judge

# TAB E

**THIS IS EXHIBIT "E"**

*referred to in the Affidavit of Anthony Wilson*

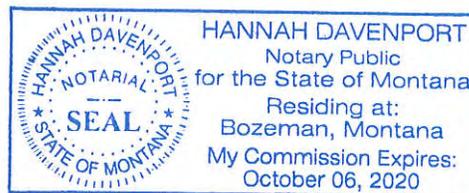


*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

IMERYS TALC AMERICA, INC., *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 19-10289 (LSS)

Jointly Administered

Re: D.I. 656, 720

**ORDER APPROVING THE APPLICATION OF THE OFFICIAL COMMITTEE OF  
TORT CLAIMANTS FOR AN ORDER AUTHORIZING THE RETENTION AND  
EMPLOYMENT OF LEGAL ANALYSIS SYSTEMS, INC. AS ITS TORT  
LIABILITY CONSULTANT *NUNC PRO TUNC* TO APRIL 22, 2019**

Upon the application (the "Application")<sup>2</sup> of the Official Committee of Tort Claimants (the "Committee") of Imerys Talc America, Inc., *et al.* (the "Debtors" or "Imerys") for entry of an order, authorizing the Committee to retain and employ Legal Analysis Systems, Inc. ("LAS") as its tort liability consultant in these Chapter 11 Cases; it appearing that this Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and upon the Peterson Declaration attached to the Application as Exhibit B; and upon the Supplemental Declaration of Mark A. Peterson in Support of the Application (the "Supplemental Peterson Declaration") [D.I. 720]; and this Court being satisfied based on the representations made in the Application, the Peterson Declaration, and the Supplemental Peterson Declaration that (a) LAS is

<sup>1</sup> The above-captioned debtors in these cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, are: Imerys Talc America, Inc. ("ITA") (6358), Imerys Talc Vermont, Inc. (9050), and Imerys Talc Canada Inc. (6748). The Debtors' address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

<sup>2</sup> Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Application.

a “disinterested person” within the meaning of section 101(14) of the Bankruptcy Code, (b) LAS does not represent any person or entity having an interest adverse to the Committee in connection with these Chapter 11 Cases, (c) LAS does not hold or represent an interest adverse to the interests of the Debtors’ estates with respect to matters on which LAS is to be employed, (d) LAS has no connection to any Debtor, its creditors, or any other party in interest except as disclosed in the Peterson Declaration and the Supplemental Peterson Declaration, and (e) the retention and employment of LAS as tort liability consultant for the Committee is reasonable, necessary, and appropriate and is in the best interests of the Committee; and this Court having found that notice of the Application was sufficient under the circumstances, and that, except as otherwise ordered herein, no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Application is APPROVED as set forth herein.
2. In accordance with sections 328 and 1103(a) of the Bankruptcy Code, Bankruptcy Rule 2014, and Local Rules 2014-1, the Committee is hereby authorized to employ and retain LAS as its tort liability consultant in the above-captioned Chapter 11 Cases on the terms and conditions set forth in the Application, Peterson Declaration, and Supplemental Peterson Declaration.
3. LAS is authorized to render the following services:
  - (a) development of oversight methods and procedures so as to enable the Committee to fulfill its responsibilities of reviewing and analyzing any proposed disclosure statement, plan, and other similar documents in these reorganization proceedings;
  - (b) review and analyses of the Debtors’ database of Tort Claims and related information concerning the Tort Claims including review and analysis of the resolution of various Tort Claims;

- (c) estimation of the present and future liability arising from the Tort Claims (the "Tort Claims Liability");
- (d) quantitative analyses of alternative claims resolution procedures including estimation of payments that would be made to various types of Tort Claims under those alternatives and development of cash flow analysis of a trust mechanism under alternative procedures;
- (e) evaluation of reports and opinions of experts and consultants retained by other parties-in-interest to the bankruptcy proceeding;
- (f) evaluations and analyses of any proposed proofs of claims, bar dates, discovery and other information and sources of information obtained in the bankruptcy case, and analyses of data from proofs of claim and other information and forms concerning Tort Claims;
- (g) quantitative analyses of other matters related to the Tort Claims as may be requested by the Committee;
- (h) testimony on such matters as is required by the Committee; and
- (i) such other work as the Committee should conclude is necessary in the discharge of its duties.

4. LAS shall use its reasonable efforts to avoid any duplication of services provided by any of the Committee's other retained professionals in these Chapter 11 Cases.

5. LAS shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with LAS' work for the Committee in these Chapter 11 Cases in compliance with sections 330 and 331 of the Bankruptcy Code, and applicable provisions of the Bankruptcy Rules, Local Rules, and any other applicable procedures and orders of the Court, including the *Order Under 11 U.S.C. §§ 105(a) and 331, Fed. R. Bankr. P. 2016(a), and Del. Bankr. L.R. 2016-2 Establishing Procedures for Interim Compensation and Reimbursement of Professionals* entered in these Chapter 11 Cases.

6. LAS is entitled to reimbursement for reasonable expenses incurred in connection with the performance of the services described above in paragraph 3 in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy

Rules, any applicable orders of this Court, and (to the extent applicable) the Fee Guidelines promulgated by the Office of the United States Trustee.

7. Notwithstanding anything in the Application to the contrary, LAS will not use independent contractors or subcontractors to perform the services provided in paragraph 3 above without separate Court approval.

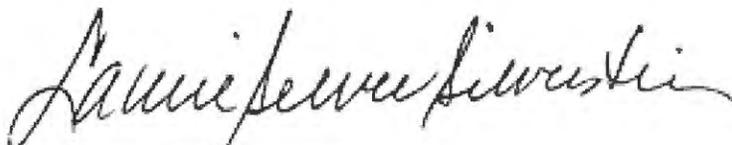
8. The Committee and LAS are authorized to take all actions necessary to effectuate the relief granted pursuant to this order in accordance with the Application.

9. To the extent the Application, the Peterson Declaration, or the Supplemental Peterson Declaration is inconsistent with this Order, the terms of this Order shall govern.

10. The relief granted herein shall be binding upon any chapter 11 trustee appointed in any of these Chapter 11 Cases, or upon any chapter 7 trustee appointed in the event of a subsequent conversion of any of these Chapter 11 Cases to cases under chapter 7.

11. This Court shall retain exclusive jurisdiction over all matters pertaining to this Order and the Application.

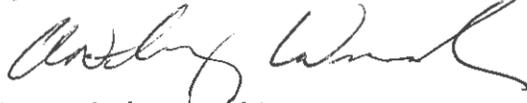
Dated: June 25th, 2019  
Wilmington, Delaware

  
LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

TAB F

**THIS IS EXHIBIT "F"**

*referred to in the Affidavit of Anthony Wilson*

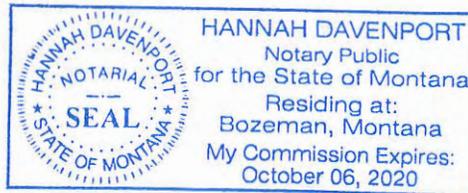


*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

IMERYS TALC AMERICA, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 19-10289 (LSS)

Jointly Administered

Re: D.I. 654

**ORDER (A) AUTHORIZING THE RETENTION AND EMPLOYMENT OF  
DUCERA PARTNERS LLC AND DUCERA SECURITIES LLC AS INVESTMENT  
BANKER *NUNC PRO TUNC* TO APRIL 22, 2019 AND (B) WAIVING CERTAIN  
INFORMATION REQUIREMENTS PURSUANT TO LOCAL RULE 2016-2(h)**

Upon the application (the "Application")<sup>2</sup> of the Official Committee of Tort Claimants (the "Committee") for entry of an order (this "Order") authorizing the Committee to retain and employ Ducera Partners LLC and Ducera Securities LLC (collectively, "Ducera") as the Committee's investment banker in connection with the chapter 11 cases of Imerys Talc America, Inc. and its affiliated debtors and debtors in possession (collectively, the "Debtors"), effective *nunc pro tunc* to April 22, 2019; it appearing that this Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these chapter 11 cases and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); upon the *Declaration of Agnes K. Tang in Support of the Application of the Official Committee of Tort Claimants for an Order (A) Authorizing the Retention and Employment of Ducera Partners LLC*

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<sup>1</sup> The above-captioned debtors in these cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, are: Imerys Talc America, Inc. ("ITA") (6358), Imerys Talc Vermont, Inc. (9050), and Imerys Talc Canada Inc. (6748). The Debtors' address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

<sup>2</sup> Capitalized terms not defined herein shall have the meaning ascribed to them in the Application unless otherwise noted.

as Investment Banker Nunc Pro Tunc to April 22, 2019 and (B) Waiving Certain Information Requirements Pursuant to Local Rule 2016-2(h) (the “Original Declaration”), attached as Exhibit B to the Application; and upon the *Supplemental Declaration of Agnes K. Tang in Support of the Application of the Official Committee of Tort Claimants for an Order (A) Authorizing the Retention and Employment of Ducera Partners LLC as Investment Banker Nunc Pro Tunc to April 22, 2019 and (B) Waiving Certain Information Requirements Pursuant to Local Rule 2016-2(h)* filed as Exhibit A to the reply in support of the Application [D.I. 857] (the “Supplemental Declaration” and with the Original Declaration, the “Tang Declaration”); and considering the arguments and presentations of counsel at the hearing on July 24, 2019; and this Court being satisfied based on the representations made in the Application and the Tang Declaration that (a) Ducera is a “disinterested person” within the meaning of section 101(14) of the Bankruptcy Code, (b) Ducera does not represent any person or entity having an interest adverse to the Committee in connection with these chapter 11 cases, (c) Ducera does not hold or represent an interest adverse to the interests of the Debtors’ estates with respect to matters on which Ducera is employed, (d) Ducera has no connection to the Debtors, their creditors, or any other party in interest except as disclosed in the Tang Declaration and (e) the retention and employment of Ducera as investment banker to the Committee, effective *nunc pro tunc* to April 22, 2019, is reasonable, necessary, and appropriate and is in the best interests of the Committee; and this Court having found that proper and adequate notice of the Application and the relief requested therein has been provided in accordance with the Bankruptcy Rules and the Local Rules, and that, except as otherwise ordered herein, no other or further notice is necessary; and any objections to the Application, including the objection [D.I. 740] to the Application filed by the

Office of the United States Trustee (the "UST") having been withdrawn, overruled, or otherwise resolved; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Application is APPROVED as set forth herein.

2. In accordance with Bankruptcy Code sections 328(a) and 1103(a), the Committee is hereby authorized to employ and retain Ducera as investment banker in the Debtors' chapter 11 cases, effective as of April 22, 2019, upon the terms and conditions set forth in the Application, the Tang Declaration, including, without limitation the Indemnification Provision (as defined in the Original Declaration), and the Transaction Fee (as defined paragraph 9(c) of the Supplemental Declaration), as modified by the provisions of this Order.

3. Ducera is authorized to perform the following services on the Committee's behalf as set forth in paragraph 10 of the Supplemental Declaration:

(a). Advisory Services.

- (i) *Analysis of Claims.* Assisting with the assessment of, and advising the Committee and its professionals in connection with, the potential value of various estate assets, including obligations that may be owed to the Debtors by third parties, and the collectability of those assets;
- (ii) *Sources of Value.* Evaluating the Debtors' and their corporate family's ability to contribute to the resolution of the Debtors' liability. Among other things, Ducera will provide advice and analysis to the Committee in connection with the Committee's assessment of the Debtors' approach(es) to maximizing the value associated with their assets including, in particular, the impact of various transaction structures on the Committee's ability to maximize potential sources contribution to any creditor trust established in these cases;
- (iii) *Projection / Business Valuations.* Analyzing, and advising the Committee in connection with: (a) projections and business valuations including value implications as part of restructuring negotiations, asset and entity level projections; and (b) evaluation of assets at entity level; and

- (iv) *Go-forward Business Evaluation / Case Administration.* Assisting with the assessment of, and advising the Committee and its professionals in connection with: (a) the funding of a claimants' trust; (b) business plan review; (c) the monetization process; (d) case administration; and (e) restructuring alternatives and proposal analyses. This work includes advising the Committee in connection with the most effective and efficient means of funding the claimants' trust and the most effective and efficient means of monetizing an asset (as well as the ability to maximize value of such an asset).
  
- (b). Sales & Transaction Services.
  - (i) Assisting with the evaluation, arrangement, structuring, and effectuation of a Transaction, including identifying potential parties-of-interest and, at the Committee's request: (a) contacting and soliciting potential parties-of-interest; (b) assisting with the due diligence process (including assistance with the preparation of a data room, if necessary); and (c) negotiating the terms of any proposed Transaction; and
  
  - (ii) Analyzing the Debtors' financial liquidity and evaluating alternatives to improve such liquidity in connection with a Transaction. As part of this work Ducera will advise the Committee in connection with efforts to evaluate the Debtors' liquidity as well as potential transactions designed to improve such liquidity, including the short-term and long-term implications of potential transactions.
  
- (c). Testimony Services. Providing deposition and hearing testimony, as necessary, relating to matters on which Ducera has been engaged; and
  
- (d). Additional Services. Providing any other investment banking services as are customary for similar transactions and as may be mutually agreed upon by Ducera and the Committee, and directed by the Committee and its professionals.

4. In consideration of Ducera's services to the Committee, Ducera will receive the following compensation:

- (a). A monthly cash fee of \$175,000 (the "Monthly Fee");
  
- (b). An advisory fee (the "Advisory Fee") to be earned upon confirmation of a chapter 11 plan in these cases of either: (x) \$1,500,000, or (y) in the event Ducera renders deposition testimony (other than document authentication) or is qualified as an expert and provides expert testimony during these

chapter 11 cases, \$2,500,000. Only one Advisory Fee may be earned by Ducera; and

- (c). A fee (the “Transaction Fee”) to be paid upon the consummation of each Transaction<sup>3</sup> which, when taken together, cannot exceed the lower of: (a) \$4,000,000; or (b) 5% of the value of the cash and non-cash assets paid in connection with the Transactions; *provided, however*, Ducera shall grant the Committee a one-time discount on the Transaction Fee equal to \$87,500 for each month commencing ten months after the retention date of April 22, 2019 through the Transaction (the “Ducera Discount”); *provided, further*, that the Ducera Discount shall only apply if any and all outstanding invoices have been paid before, or in connection with, the consummation of the Transaction and provided further that Ducera shall receive a minimum of \$2,500,000.

5. Pursuant to the terms of the Application, Ducera is entitled to reimbursement for reasonable expenses incurred in connection with the performance of its retention pursuant to the Application in accordance with the applicable provisions of the Code, the Bankruptcy Rules, the Local Bankruptcy Rules, the Compensation Procedure Order (as defined below) and any other applicable order of this Court, and the fee guidelines promulgated by the Office of the U.S. Trustee.

6. None of the fees payable to Ducera shall constitute a “bonus” or fee enhancement under applicable law.

7. Ducera shall file monthly, interim, and final fee applications for the allowance of compensation and reimbursement of expenses pursuant to the procedures set forth in sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any other applicable procedures and orders of this Court, including the *Order Under 11 U.S.C. §§ 105(a) and 331, Fed. R. Bankr. P. 2016(a), and Del. Bankr. L.R. 2016-2 Establishing Procedures for*

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<sup>3</sup> The term “Transaction” means: (a) The sale or disposition in one or a series of related transactions of (i) a majority of the then-outstanding equity securities of the Debtors by the security holders of the Debtors, or (ii) all or substantially all of the assets and businesses of the Debtors and their subsidiaries, taken as a whole; or (b) a merger, consolidation or other business combination transaction; however such result is achieved, including through a sale pursuant to § 363 of the Bankruptcy Code or a plan of reorganization confirmed by the Court.

*Interim Compensation and Reimbursement of Professionals* [D.I. 301] (the “Compensation Procedure Order”) entered in these cases; provided, however, that Ducera shall be compensated and reimbursed pursuant to section 328(a) of the Bankruptcy Code and that Ducera’s fees and expenses shall not be evaluated under the standard set forth in section 330 of the Bankruptcy Code.

8. Notwithstanding any provision to the contrary in this Order, the UST (and only the UST) shall have the right to object to Ducera’s request(s) for monthly, interim, and final compensation and reimbursement based on the reasonableness standard provided in section 330 of the Bankruptcy Code, not section 328(a) of the Bankruptcy Code. This Order and the record relating to this Court’s consideration of the Application shall not prejudice or otherwise affect the rights of the UST to challenge the reasonableness of Ducera’s fees under the standard set forth in the preceding sentence. Accordingly, nothing in this Order or the record shall constitute a finding of fact or conclusion of law binding on the UST.

9. The Debtors are authorized to, and shall, pay Ducera’s compensation and reimburse Ducera for its costs and expenses as provided in the Application and the Tang Declaration as amended by this Order, in accordance with the fee application process approved by this Court pursuant to the Compensation Procedure Order.

10. Notwithstanding anything to the contrary in the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, orders of this Court, or any guidelines regarding submission and approval of fee applications, in light of the services to be provided by Ducera and the structure of Ducera’s compensation pursuant to the Application and the Tang Declaration, Ducera and its professionals shall be granted a limited waiver of the information-keeping requirements of Bankruptcy Rule 2016(a), Local Rule 2016- 2(d), the U.S. Trustee Guidelines, and any otherwise

applicable orders or procedures, including the Compensation Procedure Order, of this Court in connection with the services to be rendered pursuant to the Application, such that Ducera shall be required only to maintain time records of its services rendered for the Committee in half-hour increments. For the avoidance of doubt, Ducera shall maintain reasonably detailed time records in 0.5 increments, containing descriptions of those services rendered for the Committee, and the individuals who provided those services, and will present such records together with its fee applications filed with the Court.

11. In the event that, during the pendency of these chapter 11 cases, Ducera seeks reimbursement for any attorneys' fees and/or expenses pursuant to this Order, the invoices and supporting time records from such attorneys shall be included in Ducera's fee applications and such invoices and time records shall be in compliance with the Local Bankruptcy Rules, and shall be subject to any United States Trustee Guidelines and approval of the Bankruptcy Court under the standards of sections 330 and 331 of the Bankruptcy Code, without regard to whether such attorney has been retained under section 327 of the Bankruptcy Code and without regard to whether such attorney's services satisfy section 330(a)(3)(C) of the Bankruptcy Code. Notwithstanding the foregoing, Ducera shall only be reimbursed for any legal fees or costs incurred in connection with these chapter 11 cases to the extent permitted under applicable law and the decisions of this Court.

12. Notwithstanding anything in the Application to the contrary, to the extent that Ducera uses the services of independent contractors or subcontractors (collectively, the "Contractors") in these cases and Ducera seeks to pass through the fees and/or costs of the Contractors to the Debtor, Ducera shall provide notice to the Committee, the Debtors, the FCR,

and UST of its intention to use such Contractors. If the UST provides notice that it objects to the proposed retention, then an application to retain such Contractors shall be filed with the Court.

13. To the extent that Ducera retains Contractors then it shall (i) pass through the fees of such Contractors to the Debtor at the same rate that Ducera pays the Contractors; (ii) seek reimbursement for actual costs of the Contractors only; and (iii) ensure that the Contractors perform the conflicts check required by Bankruptcy Rule 2014 and file with the Court such disclosures as required by Bankruptcy Rule 2014.

14. Ducera is entitled to the Indemnification Provision set forth in its Application during the pendency of the chapter 11 cases, subject to the following:

- (a) subject to the provisions of subparagraphs (b) and (c) below, the Debtors are authorized to indemnify, and to provide contribution and reimbursement to, and shall indemnify, and provide contribution and reimbursement to, the Indemnified Persons for any claim arising from, related to, or in connection with the services provided for in connection with this Order;
- (b) notwithstanding subparagraph (a) above or any provisions to the contrary, the Debtors shall have no obligation to indemnify any person or provide contribution or reimbursement to any person: (i) for any claim or expense that is judicially determined (the determination having become final) to have arisen from any person's bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence, or willful misconduct; (ii) for a contractual dispute in which the Debtors allege the breach of Ducera's contractual obligations if the Court determines that indemnification, contribution, or reimbursement would not be permissible as a result of *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or, (iii) for any claim or expense that is settled prior to a judicial determination as to the exclusions set forth in clauses (i) and, (ii) above, but determined by this Court, after notice and a hearing pursuant to subparagraph (c) below, to be a claim or expense for which that person should not receive indemnity, contribution or reimbursement under the terms of this Order; and
- (c) if, before the earlier of: (i) the entry of an order confirming a chapter 11 plan in the Debtors' cases (that order having become a final order no longer subject to appeal), and, (ii) the entry of an order closing the Debtors' chapter 11 cases, Ducera believes that it is entitled to the payment of any amounts on account of the Debtors' indemnification, contribution and/or reimbursement obligations under this Order, including without limitation the advancement of defense costs, Ducera must file an application therefore in this Court, and the Debtors may not pay any such amounts to Ducera before the entry of an order by this Court approving such

payment. This subparagraph (c) is intended only to specify the period during which the Court shall have jurisdiction over any request by Ducera for indemnification, contribution or reimbursement and is not a provision limiting the duration of Debtors' obligation to indemnify Ducera.

15. The relief granted herein shall be binding upon any chapter 11 trustee appointed in any of these chapter 11 cases, or upon any chapter 7 trustee appointed in the event of a subsequent conversion of any of these chapter 11 cases to cases under chapter 7 of the Bankruptcy Code.

16. In the event of any conflict between the Application and the Supplemental Declaration, the Supplemental Declaration shall govern.

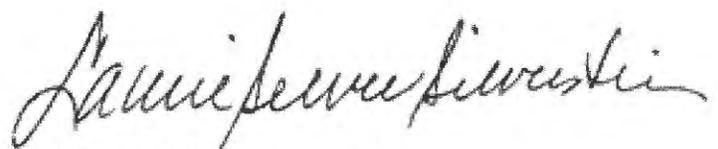
17. To the extent the Application or the Tang Declaration is inconsistent with the terms of this Order, the terms of this Order shall govern.

18. The requirements set forth in Local Rule 2002-1(b) are satisfied.

19. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

20. This Court shall retain exclusive jurisdiction over all matters pertaining to this Order and the Application.

Dated: August 7th, 2019  
Wilmington, Delaware

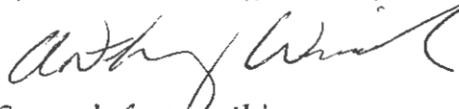


LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**TAB G**

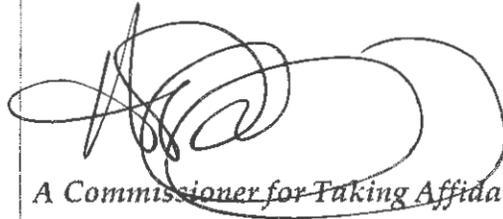
**THIS IS EXHIBIT "G"**

*referred to in the Affidavit of Anthony Wilson*

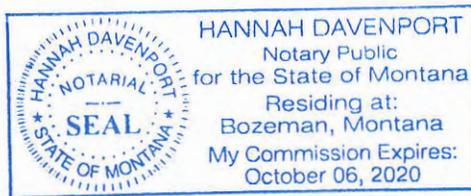


*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

IMERYYS TALC AMERICA, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 19-10289 (LSS)

Jointly Administered

Re: D.I. 655

**ORDER GRANTING APPLICATION OF THE OFFICIAL COMMITTEE OF TORT  
CLAIMANTS TO EMPLOY GLASSRATNER ADVISORY & CAPITAL GROUP, LLC  
AS FINANCIAL ADVISOR NUNC PRO TUNC TO APRIL 22, 2019**

Upon the application (the "Application")<sup>2</sup> of the Official Committee of Tort Claimants (the "Committee") of Imerys Talc America, Inc., *et al.* (the "Debtors" or "Imerys") for entry of an order (this "Order") authorizing the Committee to retain and employ retain GlassRatner Advisory & Capital Group, LLC ("GlassRatner" or the "Applicant") as financial advisor for the Committee, *nunc pro tunc* to April 22, 2019; and it appearing that venue of these chapter 11 cases and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and upon the Declarations of Ian Ratner, co-founder and Chief Executive Officer of GlassRatner (the "Original Ratner Declaration"), attached to the Application as Exhibit B, and Leanne Gould (the "Original Gould Declaration"), an independent contractor and founding member of L Gould LLC d/b/a Gould Consulting Services ("GCS") working on behalf of GlassRatner, attached to the Application as Exhibit C; the Supplemental Declaration of Ian Ratner in Support of the

<sup>1</sup> The above-captioned debtors in these cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification numbers are: Imerys Talc America, Inc. ("ITA") (6358), Imerys Talc Vermont, Inc. (9050), and Imerys Talc Canada Inc. (6748). The Debtors' address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

<sup>2</sup> Any term not defined herein shall use the definition ascribed to it in the Application.

Application [D.I. 915] (the “Supplemental Ratner Declaration”, and with the Original Ratner Declaration, the “Ratner Declaration”) and the Supplemental Declaration of Leanne Could in Support of the Declaration [D.I. 916] (“Supplemental Gould Declaration” and with the Original Gould Declaration the “Gould Declaration”); and the Court having conducted a hearing on the Application on July 24, 2019 (the “Hearing”); and this Court having determined that the proposed terms and conditions of GlassRatner’s employment, as set forth in the Application and as further refined during the Hearing, are reasonable as required by section 328(a) of the Bankruptcy Code; and this Court being satisfied based on the representations made in the Application, the Ratner Declaration, the Gould Declaration, the Supplemental Ratner Declaration, and the Supplemental Gould Declaration that GlassRatner and GCS (i) are “disinterested persons” within the meaning of section 101(14) of the Bankruptcy Code, (ii) do not represent any person or entity having an interest adverse to the Committee in connection with these Chapter 11 Cases, (iii) do not hold or represent an interest adverse to the interests of the Debtors’ estates with respect to matters on which the Applicant is employed, (iv) have no connection to the Debtors, their creditors, or any other party in interest except as disclosed in the Ratner Declaration and the Gould Declaration, and (v) the retention and employment of GlassRatner as financial advisor for the Committee, *nunc pro tunc* to April 22, 2019, is reasonable, necessary and is in the best interests of the Committee and its constituents; and this Court having found that proper and adequate notice of the Application and the relief requested therein has been provided in accordance with the Bankruptcy Rules and the Local Rules, and that, except as otherwise ordered herein, no other or further notice is necessary; and any objections (if any) to the Application having been withdrawn, resolved, or overruled on the merits; and after due deliberation therein; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Application is GRANTED as set forth herein.
2. The terms of the Application are approved in all respects except as explicitly limited or modified herein.
3. In accordance with sections 328(a) and 1103(a) of the Bankruptcy Code, Bankruptcy Rule 2014, and Local Rule 2014-1, the Committee is hereby authorized to employ and retain GlassRatner as financial advisor in the Debtors' Chapter 11 Cases effective as of April 22, 2019, upon the terms and conditions set forth in the Application and the Ratner Declaration and the Gould Declaration, and GlassRatner is authorized to perform the following services:
  - a. Analyze the financial operations of the Debtors pre- and post-petition, as necessary;
  - b. Analyze the financial ramifications of any proposed transactions for which the Debtors seek Bankruptcy Court approval including, but not limited to, post-petition financing;
  - c. Conduct any requested financial analysis including verifying the material assets and liabilities of the Debtors, as necessary;
  - d. Assist the Committee in its review of monthly statements of operations submitted by the Debtors;
  - e. Assist the Committee in its evaluation of cash flow and/or other projections prepared by the Debtors;
  - f. Perform forensic investigation services, as requested by the Committee and counsel, regarding pre-petition activities of the Debtors in order to identify potential causes of action;
  - g. Analyze transactions with insiders, related, and/or affiliated companies;
  - h. Analyze various cash management, shared services, and other agreements and arrangements between the Debtor and related parties;
  - i. Assess the Debtors' ability to contribute to the trust additional amounts above the tender of the insurance proceeds to the extent such contributions are driven by the Debtors or non-Debtors affiliates' continuing operations; and

- j. Testify at hearings from time to time as required by the circumstances and
- k. Provide such other additional services as are requested by the Committee in the exercise of the Committee's duties.

4. GlassRatner shall use its reasonable efforts to avoid any duplication of services provided by any of the Committee's other retained professionals in these Chapter 11 cases.

5. GlassRatner shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the representation of the Committee in the Debtors' Chapter 11 Cases in compliance with sections 330 and 331 of the Bankruptcy Code and applicable provisions of the Bankruptcy Rules, Local Rules, and any other applicable procedures and orders of the Court. GlassRatner's compensation for professional services rendered and reimbursement of expenses incurred in connection with the representation of the Committee in these Chapter 11 Cases shall be subject to the reasonableness standard provided in section 330 of the Bankruptcy Code.

6. GlassRatner is entitled to reimbursement for reasonable expenses incurred in connection with the performance of the services described above in paragraph 3, including, without limitation, fees and expenses of GCS, and any other independent contractors that have been approved by this Court, and the reasonable fees, disbursements and other charges of GlassRatner's counsel (which counsel shall not be required to be retained pursuant to section 328 of the Bankruptcy Code or otherwise), in each case in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, any applicable orders of this Court, and (to the extent applicable) the Fee Guidelines promulgated by the Office of the United States Trustee.

7. GlassRatner may only seek reimbursement for services performed by GlassRatner's counsel in connection with retention and fee application preparation. In the event

that, during the pendency of these cases, GlassRatner seeks reimbursement for any attorneys' fees and/or expenses, the invoices and supporting time records from such attorneys shall be included in GlassRatner's fee applications and such invoices and time records shall be in compliance with Rule 2016-2(f) of the Local Rules of this Court, and shall be subject to the U.S. Trustee Guidelines, and approval of the Bankruptcy Court under the standards of sections 330 and 331 of the Bankruptcy Code, without regard to whether such attorney has been retained under section 327 of the Bankruptcy Code and without regard to whether such attorney's services satisfy section 330 (a)(3)(C) of the Bankruptcy Code; provided, however, that GlassRatner shall not seek reimbursement of any (i) fees incurred defending any of GlassRatner's fee applications in these cases, or (ii) fees for services provided by GlassRatner's counsel to the Committee.

8. Notwithstanding anything in the Application to the contrary, GlassRatner will not use independent contractors or subcontractors, other than GCS, to perform the services provided in paragraph 3 above without separate Court approval.

9. Prior to any increases in the Fee Structure, GlassRatner and GCS shall provide ten (10) business days' notice to the Debtors, the U.S. Trustee, and the Committee. The U.S. Trustee retains all rights to object to any rate increase on all grounds, including the reasonableness standard set forth in section 330 of the Bankruptcy Code, and this Court retains the right to review any rate increase pursuant to section 330 of the Bankruptcy Code.

11. The Committee and GlassRatner are authorized to take all actions necessary to effectuate the relief granted pursuant to this order in accordance with the Application.

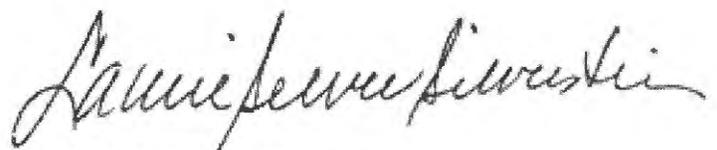
12. To the extent the Application, the Ratner Declaration, or the Gould Declaration is inconsistent with this Order, the terms of this Order shall govern.

13. The relief granted herein shall be binding upon any chapter 11 trustee appointed in any of these Chapter 11 Cases, or upon any chapter 7 trustee appointed in the event of a subsequent conversion of any of these Chapter 11 Cases to cases under chapter 7.

14. The requirements set forth in Local Rule 2002-1(b) are satisfied.

15. This Court shall retain exclusive jurisdiction over all matters pertaining to this Order and the Application.

Dated: August 7th, 2019  
Wilmington, Delaware



LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

TAB H

**THIS IS EXHIBIT "H"**

*referred to in the Affidavit of Anthony Wilson*



*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

----- X  
In re: : Chapter 11  
IMERYYS TALC AMERICA, INC., *et al.*,<sup>1</sup> : Case No. 19-10289 (LSS)  
Debtors. : (Jointly Administered)  
----- X Ref Docket No: 100

ORDER APPOINTING JAMES L. PATTON, JR., AS LEGAL REPRESENTATIVE  
FOR FUTURE TALC PERSONAL INJURY CLAIMANTS, *NUNC PRO TUNC*  
TO THE PETITION DATE

Upon consideration of the motion (the “Debtors’ Motion”)<sup>2</sup> of the Debtors for entry of an order pursuant to sections 105(a), 524(g)(4)(B)(i), and 1109(b) of the Bankruptcy Code appointing James L. Patton, Jr., as legal representative for future talc personal injury claimants, *nunc pro tunc* to the Petition Date; the Patton Declaration [Docket No. 100, Ex. B], the supplemental declaration of Edwin J. Harron [Docket No. 374], the supplemental declaration and second supplemental declaration of James L. Patton, Jr. (the “Supplemental Patton Declarations”) [Docket Nos. 527 & 554] and the disclosures contained therein (collectively, the “Declarations”), each filed in support of the Debtors’ Motion and/or at the direction of the Court; the U.S. Trustee’s objection to the Debtors’ Motion [Docket No. 347]; the limited objection of Certain Excess Insurers (as defined therein) to the Debtors’ Motion [Docket No. 184]; the Debtors’ reply in support of the Debtors’ Motion [Docket No. 413]; and the official committee of tort claimants’ reply in support of the Debtors’ Motion [Docket No. 410]; the Cyprus Historical Excess Insurers’ (as defined therein)

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Imerys Talc America, Inc. (6358), Imerys Talc Vermont, Inc. (9050), and Imerys Talc Canada Inc. (6748). The Debtors’ address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Debtors’ Motion.

Supplemental Objection to the proposed form of order on the Debtors' Motion [Docket No. 571] and the Declaration of Mark Muth in support thereof [Docket No. 599]; and the Proposed Future Claimants' Representative's response thereto [Docket No. 588]; and the Court having heard evidence and statements of counsel at hearing on on April 26, 2019 at 10:00 a.m.; and the Court having jurisdiction over these proceedings and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Debtors' Motion and opportunity for objection having been given and that no other or further notice is necessary; and the Court having determined that the legal and factual bases set forth in the Debtors' Motion and the Declarations establish just cause for the relief granted herein; and upon the record herein; and after due deliberation thereon; and for the reasons set forth in (x) the Court's May 7, 2019 bench ruling filed on the docket on May 8, 2019 as *Bench Ruling on Motion to Appoint James L. Patton, Jr. as the Legal Representative for Future Talc Personal Injury Claimants* (the "Bench Ruling") [Docket No. 503]; in which the Court, *inter alia*, overruled in part the objections to the Debtors' Motion and required submission of the Supplemental Patton Declarations; and (y) the Court's Letter Ruling dated May 31, 2019 [Docket No. 636]; **IT IS HEREBY**

**ORDERED, ADJUDGED AND DECREED THAT:**

1. The Debtors' Motion is **GRANTED** as set forth herein.

2. All objections to the entry of this Order, to the extent not withdrawn, settled or addressed in the Bench Ruling and/or the Letter Ruling, are overruled.

3. James L. Patton, Jr. is hereby appointed as the legal representative of all persons that will assert talc-related personal injury claims against the Debtors after the confirmation of a plan under sections 105(a) and 524(g) but who have not presently done so (“**Future Claimants’ Representative**”), in these Chapter 11 Cases, *nunc pro tunc* to the Petition Date as Mr. Patton meets the standard for approval of a legal representative under section 524 as set forth in the Bench Ruling and he is independent of the Debtors and other parties-in-interest in this case and is able to act with undivided loyalty.

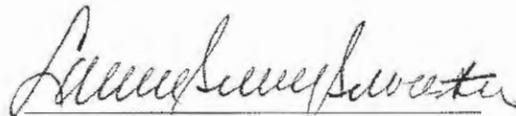
4. The Future Claimants’ Representative is appointed subject to the following terms and conditions:

- a. **Standing**: The Future Claimants’ Representative shall have standing under section 1109(b) of the Bankruptcy Code to be heard as a party-in-interest in all matters relating to the Chapter 11 Cases and shall have such powers and duties of a committee, as set forth in section 1103 of the Bankruptcy Code, as are appropriate for a Future Claimants’ Representative;
- b. **Engagement of Professionals**: The Future Claimants’ Representative may, with prior approval from the Court pursuant to sections 105(a) of the Bankruptcy Code and consistent with the treatment afforded other professionals in these Chapter 11 Cases, retain attorneys and other professionals;
- c. **Compensation**: The Future Claimants’ Representative and his professionals shall apply for compensation in accordance with the Bankruptcy Code, the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), and any order entered by the Court establishing procedures for interim compensation and reimbursement of expenses of professionals. Subject to Court approval, Mr. Patton shall be compensated for his services as the Future Claimants’ Representative at his hourly rate of \$1,325, subject to periodic adjustment, plus reimbursement of reasonable expenses; and
- d. **Right to Receive Notices**: The Future Claimants’ Representative and any professionals retained by him and approved by the Court shall have the right to receive all notices and pleadings that are required to be served upon any

statutory committee and its counsel pursuant to applicable law or an order of the Court.

5. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order and to resolve any disputes arising hereunder.

Dated: Wilmington, Delaware  
June 3, 2019



Laurie Selber Silverstein  
United States Bankruptcy Judge

# TAB I

**THIS IS EXHIBIT "I"**

*referred to in the Affidavit of Anthony Wilson*

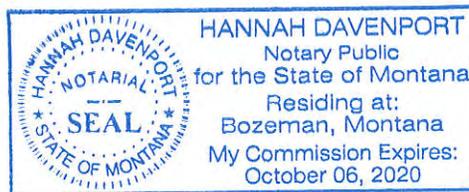


*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

IMERYYS TALC AMERICA, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 19-10289 (LSS)

Jointly Administered

Ref. Docket No. 101

ORDER AUTHORIZING THE FUTURE CLAIMANTS'  
REPRESENTATIVE TO RETAIN AND EMPLOY  
YOUNG CONAWAY STARGATT & TAYLOR, LLP  
AS HIS ATTORNEYS, NUNC PRO TUNC TO THE PETITION DATE

Upon the application (the "YCST Application")<sup>2</sup> of James L. Patton, Jr., the proposed legal representative (the "Future Claimants' Representative") for future talc-related personal injury claimants (the "Future Claimants") for the issuance and entry of an order,  pursuant to sections 105(a) <sup>and</sup> 524(g) ~~and 1103~~ of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code") and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), authorizing and approving the retention and employment of Young Conaway Stargatt & Taylor, LLP ("Young Conaway") as attorneys for the Future Claimants' Representative, *nunc pro tunc* to the Petition Date; and upon (i) the *Declaration of Edwin J. Harron in Support of Application for Entry of Order Authorizing the Future Claimants' Representative to Retain and Employ Young Conaway Stargatt & Taylor, LLP, and Statement of Counsel to the Future Claimants' Representative Pursuant to Federal Rule of Bankruptcy Procedures 2014(a)*, attached as Exhibit A to the YCST Application, (ii) the *Supplemental*

<sup>1</sup> The Debtors in these cases, together with the last four digits of each Debtor's federal taxpayer identification number, are: Imerys Talc America, Inc. (6358), Imerys Talc Vermont, Inc. (9050) and Imerys Talc Canada Inc. (6748). The Debtors' address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the YCST Application.

*Declaration of Edwin J. Harron in Support of Application for Entry of an Order Authorizing the Future Claimants' Representative to Retain and Employ Young Conaway Stargatt & Taylor, LLP, as His Attorneys, Nunc Pro Tunc to the Petition Date [Docket No. 374], (iii) the Declaration of James L. Patton, Jr. in Support of the Application for Entry of an Order Authorizing the Future Claimants' Representative to Retain and Employ Young Conaway Stargatt & Taylor, LLP as His Attorneys, Nunc Pro Tunc to the Petition Date [Docket No. 663], and (iv) the Second Supplemental Declaration of Edwin J. Harron in Support of Application for Entry of Order Authorizing the Future Claimants' Representative to Retain and Employ Young Conaway Stargatt & Taylor, LLP, and Statement as Counsel to the Future Claimants' Representative Pursuant to Federal Rule of Bankruptcy Procedure 2014(a) [Docket No. 664] (collectively, the "Supporting Declarations")*; and the Court being satisfied that, except as may otherwise be set forth in the Supporting Declarations, (i) Young Conaway does not represent any interest adverse to the above-captioned debtors (the "Debtors") or their estates, (ii) Young Conaway is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code, and (iii) the retention and employment of Young Conaway is necessary and would be in the best interests of the Debtors, their estates and creditors as well as in the best interest for the Future Claimants' Representative and of the Future Claimants; and due notice of the YCST Application having been given; and it appearing that no other or further notice need be given; and no adverse interest being represented; and after due deliberation and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED THAT:**

1. The relief requested in the YCST Application is granted and approved, as set forth herein.

2. In accordance with sections 105(a), <sup>and</sup> 524(g) and ~~1103~~ <sup>e</sup> of the Bankruptcy Code and Bankruptcy Rule 2014, the Future Claimants' Representative is authorized and empowered to retain and employ Young Conaway as attorneys to represent him in these cases *nunc pro tunc* to the Petition Date.

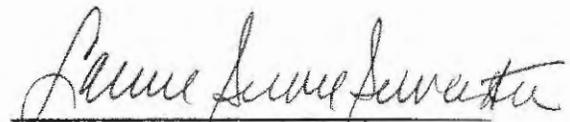
3. Young Conaway shall be compensated in such amounts as may be allowed by this Court upon the filing of appropriate applications for allowance of interim or final compensation in accordance with the procedures set forth in sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, and any order entered by this Court establishing procedures for interim compensation and reimbursement of expenses of professionals. Young Conaway shall make a reasonable effort to comply with the U.S. Trustee's requests for information and additional disclosures as set forth in the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases Effective as of November 1, 2013.

4. The retainer of \$233,970.19 referred to in paragraph 21 of the Harron Declaration in support of the YCST Application shall be treated as an evergreen retainer, and be held by YCST throughout these Chapter 11 Cases until YCST's fees and expenses are awarded and payable to YCST on a final basis. YCST shall apply any retainer remaining at the time of its final fee application in satisfaction of compensation and reimbursement awarded with respect to such application, and promptly pay to the Debtors' estates any retainer remaining after such application.

5. YCST shall use its reasonable efforts to avoid any duplication of services provided by any of the Future Claimants' Representative's other retained professionals in these Chapter 11 Cases.

6. In the event of any inconsistency between the YCST Application and this Order, this Order shall govern.

7. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this order.

  
**LAURIE SELBER SILVERSTEIN**  
**UNITED STATES BANKRUPTCY JUDGE**

Dated: June 6, 2019  
**Wilmington, Delaware**

**TAB J**

**THIS IS EXHIBIT "J"**

*referred to in the Affidavit of Anthony Wilson*

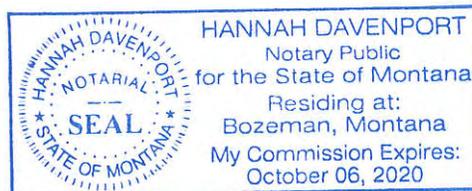


*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



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

In re:

IMERYS TALC AMERICA, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 19-10289 (LSS)

Jointly Administered

**Ref. Docket No. 102**

**ORDER AUTHORIZING THE FUTURE  
CLAIMANTS' REPRESENTATIVE TO RETAIN AND  
EMPLOY ANKURA CONSULTING GROUP, LLC AS  
CONSULTANTS, *NUNC PRO TUNC* TO THE PETITION DATE**

1. Upon the application (the "Ankura Application") of James L. Patton, Jr., the legal representative (the "Future Claimants' Representative") for persons who have not yet asserted a talc-related personal injury claim against the Debtors but may in the future assert such a claim, for the issuance and entry of an order, pursuant to sections 105(a) and 524(g) of title 11 of the United States Code (the "Bankruptcy Code") and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), authorizing the employment and retention of Ankura Consulting Group, LLC ("Ankura") as claims evaluation and financial valuation consultants, *nunc pro tunc* to the Petition Date; and upon the declaration of Thomas Vasquez, Ph.D. in support thereof, as supplemented on June 11, 2019, (the "Vasquez Declaration"); and this Court being satisfied based on the representations made in the Ankura Application and the Vasquez Declaration that Ankura is independent of the Debtors and the Interested Persons, and Ankura does not hold or represent any interest that would adversely affect Ankura's ability to advise the FCR in carrying out his duties to loyally and effectively represent the Future Claimants or that is materially adverse to the FCR or Future Claimants; and that Ankura's employment by the Future

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<sup>1</sup> The Debtors in these cases, together with the last four digits of each Debtor's federal taxpayer identification number, are: Imerys Talc America, Inc. (6358), Imerys Talc Vermont, Inc. (9050) and Imerys Talc Canada Inc. (6748). The Debtors' address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

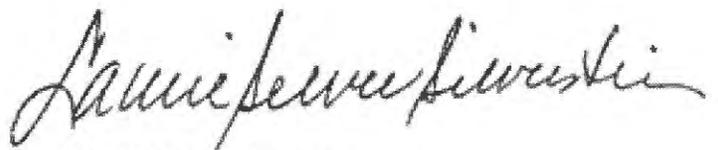
Claimants' Representative is necessary and in furtherance of the Future Claimants' Representative's duties, and would be in the best interests of the Debtors' estates; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The relief requested in the Ankura Application is granted as set forth herein.
2. In accordance with sections 105 and 524(g) of the Bankruptcy Code, the Future Claimants' Representative is hereby authorized to employ and retain Ankura as claims evaluation and financial valuation consultants on the terms set forth in the Ankura Application and Vasquez Declaration, *nunc pro tunc* to the Petition Date.
3. Ankura shall be compensated in such amounts as may be allowed by this Court upon the filing of appropriate applications for allowance of interim or final compensation in accordance with the procedures set forth in sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, and any order entered by this Court establishing procedures for interim compensation and reimbursement of expenses of professionals. The Future Claimants' Representative shall not be personally responsible for providing compensation or expense reimbursements to Ankura under any circumstance.
4. The retainer of \$150,000 referred to in paragraph 8 of the Vasquez Declaration shall be treated as an evergreen retainer, and be held by Ankura throughout these Chapter 11 Cases until Ankura's fees and expenses are awarded and payable to Ankura on a final basis. Ankura shall apply any retainer remaining at the time of its final fee application in satisfaction of compensation and reimbursement awarded with respect to such application, and promptly pay to the Debtors' estates any retainer remaining after such application.

5. Ankura shall use its reasonable efforts to avoid any duplication of services provided by any of the Future Claimants' Representative's other retained professionals in these Chapter 11 Cases.

6. In the event of any inconsistency between the Application and this Order, this Order shall govern.

7. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this order.

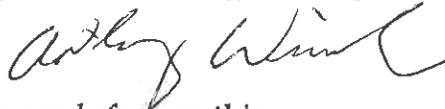


LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**TAB K**

**THIS IS EXHIBIT "K"**

*referred to in the Affidavit of Anthony Wilson*

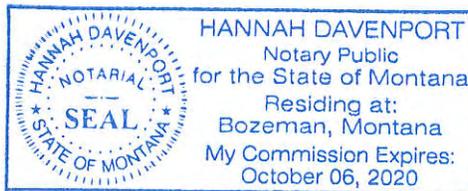


*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

IMERYS TALC AMERICA, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 19-10289 (LSS)

Jointly Administered

Ref. Docket Nos. 989, 1026, and 1069

**ORDER (A) AUTHORIZING THE FUTURE CLAIMANTS' REPRESENTATIVE TO CO-RETAIN DUCERA PARTNERS LLC AND DUCERA SECURITIES LLC AS INVESTMENT BANKER WITH THE OFFICIAL COMMITTEE OF TORT CLAIMANTS AND (B) WAIVING CERTAIN INFORMATION REQUIREMENTS PURSUANT TO LOCAL RULE 2016-2(h)**

Upon the application (the "Application")<sup>2</sup> of the Future Claimants' Representative for entry of an order (this "Order") authorizing the co-retention and employment of Ducera as investment banker with the Committee, on the same terms and conditions as the Committee's retention of Ducera; it appearing that this Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these chapter 11 cases and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and upon the Tang Declaration; and this Court being satisfied based on the representations made in the Application and the Tang Declaration that (a) Ducera is a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code, (b) Ducera does not represent any person or entity having an interest adverse to the Future Claimants' Representative in connection with these chapter 11 cases, (c) Ducera does not hold or represent an interest adverse to the interests

<sup>1</sup> The above-captioned debtors in these cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, are: Imerys Talc America, Inc. (6358), Imerys Talc Vermont, Inc. (9050) and Imerys Talc Canada Inc. (6748). The Debtors' address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

<sup>2</sup> Capitalized terms not defined herein shall have the meaning ascribed to them in the Application unless otherwise noted.

of the Debtors' estates with respect to matters on which Ducera is to be employed, (d) Ducera has no connection to the Debtors, their creditors, or any other party in interest except as disclosed in the Tang Declaration and (e) the co-retention and employment of Ducera as investment banker to the Future Claimants' Representative and the Committee is reasonable, necessary, and appropriate and is in the best interests of the Future Claimants' Representative, the Committee, the Debtors, and their estates; and this Court having found that proper and adequate notice of the Application and the relief requested therein has been provided in accordance with the Bankruptcy Rules and the Local Rules, and that, except as otherwise ordered herein, no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED THAT:**

1. The Application is APPROVED as set forth herein.
2. In accordance with Bankruptcy Code sections 328(a) and 1103(a), Bankruptcy Rule 2014, and Local Rule 2014-1, the Future Claimants' Representative is hereby authorized to co-retain and employ Ducera as his investment banker with the Committee in the Debtors' chapter 11 cases on the same terms and conditions as set forth in the Retention Order.
3. Ducera is authorized to render the professional services set forth in ¶ 3 of the Retention Order.
4. Ducera shall use reasonable efforts to avoid any duplication of services provided by any of the Future Claimants' Representative's other retained professionals in these chapter 11 cases.
5. To the extent that the Committee or the Future Claimants' Representative determines that a conflict has arisen with respect to the co-retention of Ducera, then upon notice

to Ducera, Ducera shall no longer represent the Future Claimants' Representative, but shall continue to represent the Committee. In such circumstances, the Future Claimants' Representative has the right to seek to retain a separate investment banker.

6. In consideration of Ducera's services to the Future Claimants' Representative, Ducera will receive the compensation set forth in ¶ 4 of the Retention Order.

7. Ducera shall be compensated solely from the Debtors and their estates, and the Future Claimants' Representative shall have no personal liability for any obligation to Ducera arising from this Order.

8. Pursuant to the terms of the Application, Ducera is entitled to reimbursement for reasonable expenses incurred in connection with the performance of its retention pursuant to the Application in accordance with the applicable provisions of the Code, the Bankruptcy Rules, the Local Bankruptcy Rules, the Interim Compensation Order and any other applicable order of this Court, and the fee guidelines promulgated by the Office of the U.S. Trustee and approval of the Bankruptcy Court under the standards of section 330 and 331 of the Bankruptcy Code.

9. None of the fees payable to Ducera shall constitute a "bonus" or fee enhancement under applicable law.

10. Ducera shall file monthly, interim, and final fee applications for the allowance of compensation and reimbursement of expenses pursuant to the procedures set forth in sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any other applicable procedures and orders of this Court, including the Interim Compensation Order entered in these cases; provided, however, that Ducera shall be compensated and reimbursed pursuant to section 328(a) of the Bankruptcy Code and that Ducera's fees and expenses shall not be evaluated under the standard set forth in section 330 of the Bankruptcy Code.

11. Notwithstanding any provision to the contrary in this Order, the U.S. Trustee (and only the U.S. Trustee) shall have the right to object to Ducera's request(s) for monthly, interim, and final compensation and reimbursement based on the reasonableness standard provided in section 330 of the Bankruptcy Code, not section 328(a) of the Bankruptcy Code. This Order and the record relating to this Court's consideration of the Application shall not prejudice or otherwise affect the rights of the U.S. Trustee to challenge the reasonableness of Ducera's fees under the standard set forth in the preceding sentence. Accordingly, nothing in this Order or the record shall constitute a finding of fact or conclusion of law binding on the U.S. Trustee.

12. The Debtors are authorized to, and shall, pay Ducera's compensation and reimburse Ducera for its costs and expenses as provided in the Retention Order, in accordance with the fee application process approved by this Court pursuant to the Interim Compensation Order.

13. Notwithstanding anything to the contrary in the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, orders of this Court, or any guidelines regarding submission and approval of fee applications, in light of the services to be provided by Ducera and the structure of Ducera's compensation pursuant to the Retention Order, Ducera and its professionals shall be granted a limited waiver of the information-keeping requirements of Bankruptcy Rule 2016(a), Local Rule 2016-2(d), the U.S. Trustee Guidelines, and any otherwise applicable orders or procedures, including the Interim Compensation Order, of this Court in connection with the services to be rendered pursuant to the Application, such that Ducera shall be required only to maintain time records of its services rendered for the Future Claimants' Representative in half-hour increments. For the avoidance of doubt, Ducera shall maintain reasonably detailed time records in 0.5 increments, containing descriptions of those services rendered for the Future

Claimants' Representative, and the individuals who provided those services, and will present such records together with its fee applications filed with the Court.

14. In the event that, during the pendency of these chapter 11 cases, Ducera seeks reimbursement for any attorneys' fees and/or expenses pursuant to this Order, the invoices and supporting time records from such attorneys shall be included in Ducera's fee applications and such invoices and time records shall be in compliance with the Local Bankruptcy Rules, and shall be subject to any United States Trustee Guidelines and approval of the Bankruptcy Court under the standards of sections 330 and 331 of the Bankruptcy Code, without regard to whether such attorney has been retained under section 327 of the Bankruptcy Code and without regard to whether such attorney's services satisfy section 330(a)(3)(C) of the Bankruptcy Code.

Notwithstanding the foregoing, Ducera shall only be reimbursed for any legal fees or costs incurred in connection with these chapter 11 cases to the extent permitted under applicable law and the decisions of this Court.

15. Notwithstanding anything in the Application to the contrary, to the extent that Ducera uses the services of independent contractors or subcontractors (collectively, the "Contractors") in these cases and Ducera seeks to pass through the fees and/or costs of the Contractors to the Debtors, Ducera shall: (i) pass through the fees of such Contractors to the Debtors at the same rate that Ducera pays the Contractors; (ii) seek reimbursement for actual costs of the Contractors only; and (iii) ensure that the Contractors perform the conflicts check required by Bankruptcy Rule 2014 and file with the Court such disclosures as required by Bankruptcy Rule 2014. Ducera shall provide notice to the Future Claimants' Representative, the Debtors, the Committee, and the U.S. Trustee of its intention to use such Contractors. If the U.S.

Trustee provides notice that it objects to the proposed retention, then an application to retain such Contractors shall be filed with the Court.

16. Ducera is entitled to indemnification as set forth in its Application and the Retention Order during the pendency of the chapter 11 cases, subject to the following:

- (a) subject to the provisions of subparagraphs (b) and (c) below, the Debtors are authorized to indemnify, and to provide contribution and reimbursement to, and shall indemnify, and provide contribution and reimbursement to, the Indemnified Persons for any claim arising from, related to, or in connection with the services provided for in connection with this Order;
- (b) notwithstanding subparagraph (a) above or any provisions to the contrary, the Debtors shall have no obligation to indemnify any person or provide contribution or reimbursement to any person: (i) for any claim or expense that is judicially determined (the determination having become final) to have arisen from any person's bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence, or willful misconduct; (ii) for a contractual dispute in which the Debtors allege the breach of Ducera's contractual obligations if the Court determines that indemnification, contribution, or reimbursement would not be permissible as a result of *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or, (iii) for any claim or expense that is settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by this Court, after notice and a hearing pursuant to subparagraph (c) below, to be a claim or expense for which that person should not receive indemnity, contribution or reimbursement under the terms of this Order; and
- (c) if, before the earlier of: (i) the entry of an order confirming a chapter 11 plan in the Debtors' cases (that order having become a final order no longer subject to appeal), and, (ii) the entry of an order closing the Debtors' chapter 11 cases, Ducera believes that it is entitled to the payment of any amounts on account of the Debtors' indemnification, contribution and/or reimbursement obligations under this Order, including without limitation the advancement of defense costs, Ducera must file an application therefore in this Court, and the Debtors may not pay any such amounts to Ducera before the entry of an order by this Court approving such payment. This subparagraph (c) is intended only to specify the period during which the Court shall have jurisdiction over any request by Ducera for indemnification, contribution or reimbursement and is not a provision limiting the duration of Debtors' obligation to indemnify Ducera.

17. The relief granted herein shall be binding upon any chapter 11 trustee appointed in any of these chapter 11 cases, or upon any chapter 7 trustee appointed in the event of a

subsequent conversion of any of these chapter 11 cases to cases under chapter 7 of the Bankruptcy Code.

18. The Future Claimants' Representative and Ducera are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

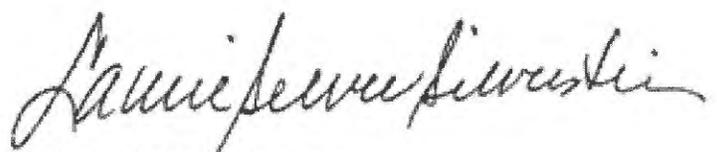
19. To the extent the Application or the Tang Declaration is inconsistent with the terms of this Order, the terms of this Order shall govern.

20. The requirements set forth in Local Rule 2002-1(b) are satisfied.

21. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

22. This Court shall retain exclusive jurisdiction over all matters pertaining to this Order and the Application.

Dated: September 26th, 2019  
Wilmington, Delaware

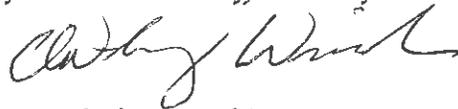


LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**TAB L**

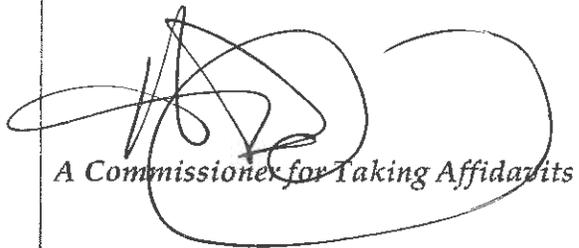
**THIS IS EXHIBIT "L"**

*referred to in the Affidavit of Anthony Wilson*

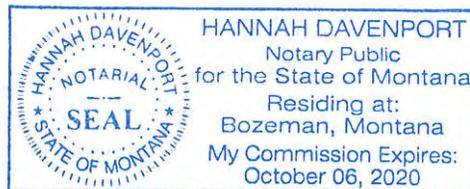


*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

IMERYS TALC AMERICA, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 19-10289 (LSS)

Jointly Administered

Ref. Docket Nos. 942, 991, 1023, 1031, and 1068

**ORDER AUTHORIZING THE FUTURE CLAIMANTS' REPRESENTATIVE  
TO CO-RETAIN GILBERT LLP AS SPECIAL INSURANCE COUNSEL  
WITH THE OFFICIAL COMMITTEE OF TORT CLAIMANTS**

Upon the application (the "Application")<sup>2</sup> of the Future Claimants' Representative for entry of an order (this "Order") authorizing the co-retention and employment of Gilbert as special insurance counsel with the Committee, on the same terms and conditions as the Committee's retention of Gilbert; it appearing that this Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and upon the Quinn Declaration and the Prior Quinn Declarations; and this Court having previously entered the *Order Authorizing the Retention and Employment of Gilbert LLP as Special Insurance Counsel to the Official Committee of Tort Claimants Nunc Pro Tunc to March 20, 2019* [Docket No. 675]; and this Court being satisfied based on the representations made in the Application, the Quinn Declaration, and the Prior Quinn Declarations that (a) Gilbert is a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code, (b) Gilbert does not represent

<sup>1</sup> The Debtors in these cases, together with the last four digits of each Debtor's federal taxpayer identification number, are: Imerys Talc America, Inc. (6358), Imerys Talc Vermont, Inc. (9050) and Imerys Talc Canada Inc. (6748). The Debtors' address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

any person or entity having an interest adverse to the Future Claimants' Representative in connection with these chapter 11 cases, (c) Gilbert does not hold or represent an interest adverse to the interests of the Debtors' estates with respect to matters on which Gilbert is to be employed, (d) Gilbert has no connection to the Debtors, their creditors, or any other party in interest except as disclosed in the Quinn Declaration and the Prior Quinn Declarations, and (e) the co-retention and employment of Gilbert as special insurance counsel for the Future Claimants' Representative and the Committee is reasonable, necessary and appropriate and is in the best interests of the Future Claimants' Representative, the Committee, the Debtors, and their estates; and this Court having found that notice of the Application was sufficient under the circumstances, and that, except as otherwise ordered herein, no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED THAT:**

1. The Application is GRANTED as set forth herein;
2. In accordance with sections 328 and 1103 of the Bankruptcy Code, Bankruptcy Rule 2014, and Local Rule 2014-1, the Future Claimants' Representative is hereby authorized to co-retain and employ Gilbert as his special insurance counsel with the Committee in the above-captioned chapter 11 cases on the same terms and conditions as the Committee's retention of Gilbert;
3. Gilbert is authorized to render the professional services set forth in the Application and the Quinn Declaration;
4. Gilbert shall use reasonable efforts to avoid any duplication of services provided by any of the Future Claimants' Representative's other retained professionals in these chapter 11 cases;

5. To the extent that the Committee or the Future Claimants' Representative determines that a conflict has arisen with respect to the co-retention of Gilbert, then upon notice to Gilbert, Gilbert shall no longer represent the Future Claimants' Representative, but shall continue to represent the Committee. In such circumstances, the Future Claimants' Representative has the right to seek to retain separate special insurance counsel;

6. Gilbert shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with Gilbert's consultation to the Future Claimants' Representative in the Debtors' chapter 11 cases in compliance with sections 330 and 331 of the Bankruptcy Code and applicable provisions of the Bankruptcy Rules, the Local Rules, the Interim Compensation Order, and any other applicable procedures and orders of this Court. Gilbert also intends to make a reasonable effort to comply with the U.S. Trustee's requests for information and additional disclosures as set forth in the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Large Chapter 11 Cases Effective as of November 1, 2013, in connection with the Application and the interim and final fee applications to be filed by Gilbert in these chapter 11 cases;

7. Gilbert shall be compensated solely from the Debtors and their estates, and the Future Claimants' Representative shall have no personal liability for any obligation to Gilbert arising from this Order;

8. Gilbert shall not charge a markup to the Debtors with respect to fees billed by any contract attorneys hired by Gilbert to provide services to the Future Claimants' Representative and shall ensure that any such contract attorneys are subject to conflicts checks and disclosures in accordance with the requirements of the Bankruptcy Code and Bankruptcy Rules. For the avoidance of doubt, Gilbert shall neither share fees with future contract attorneys who advise the

Future Claimants' Representative nor enter into fee-sharing arrangements with such contract attorneys;

9. Prior to any increases in the hourly rates set forth in the Quinn Declaration, Gilbert shall provide ten (10) business days' notice to the Debtors, the U.S. Trustee, and any statutory committee appointed in these chapter 11 cases. The U.S. Trustee retains all rights to object to any rate increase on all grounds, including the reasonableness standard set forth in section 330 of the Bankruptcy Code, and this Court retains the right to review any rate increase pursuant to section 330 of the Bankruptcy Code;

10. The Future Claimants' Representative and Gilbert are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order;

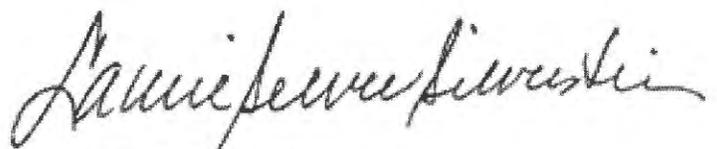
11. To the extent the Application and the Declarations are inconsistent with the terms of this Order, the terms of this Order shall govern;

12. The requirements set forth in Local Rule 2002-1(b) are satisfied;

13. This Order shall be immediately effective and enforceable upon its entry; and

14. This Court shall retain jurisdiction over all matters pertaining to this Order and the Application.

Dated: September 27th, 2019  
Wilmington, Delaware

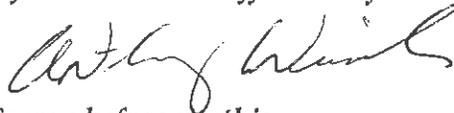


LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**TAB M**

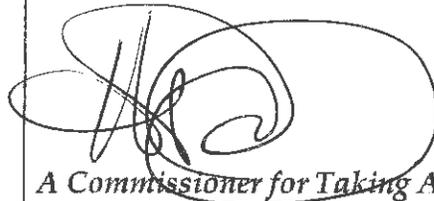
**THIS IS EXHIBIT "M"**

*referred to in the Affidavit of Anthony Wilson*

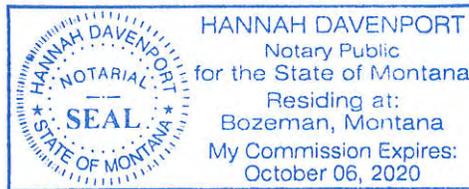


*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

----- X  
In re: : Chapter 11  
: :  
IMERYS TALC AMERICA, INC., *et al.*,<sup>1</sup> : Case No. 19-10289 (LSS)  
: :  
Debtors. : (Jointly Administered)  
: :  
: **Re: Docket No. 931**  
: :  
----- X

**ORDER (A) AUTHORIZING THE DEBTORS TO ASSUME  
CERTAIN UNEXPIRED LEASES OF NONRESIDENTIAL  
REAL PROPERTY AND (B) GRANTING RELATED RELIEF**

Upon the motion (the "**Motion**")<sup>2</sup> of the Debtors for entry of an order (this "**Order**"): (a) authorizing the Debtors to assume the Leases set forth in Exhibit 1 attached hereto (collectively, the "**Leases**"); and (b) granting related relief; all as more fully set forth in the Motion; and the Court having reviewed the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein, and after due deliberation thereon; and

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Imerys Talc America, Inc. (6358), Imerys Talc Vermont, Inc. (9050), and Imerys Talc Canada Inc. (6748). The Debtors' address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

the Court having determined that there is good and sufficient cause for the relief granted in this Order, it is hereby

**ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is GRANTED, as set forth herein.
2. The requirements of Bankruptcy Rule 6006(e) are hereby waived for the purposes of the Motion.
3. The Debtors are authorized, but not directed, to assume the Leases identified on Exhibit 1 attached hereto.
4. The respective amounts set forth under the "Cure Amount" column on Exhibit 1 attached hereto are the sole amounts necessary under sections 365(b)(1)(A) and (B) of the Bankruptcy Code to cure all monetary defaults and pay all actual pecuniary losses under the Leases (the "Cure Amounts").
5. Upon the entry of this Order, the Lease Counterparties set forth on Exhibit 1 attached hereto shall be forever barred and enjoined from asserting against the Debtors any defaults, claims, interest, or other default penalties under the Leases arising before the date of this Order.
6. The Debtors have demonstrated adequate assurance of future performance and have satisfied the requirements set forth in section 365(b)(1)(C) of the Bankruptcy Code.
7. Nothing contained herein is intended, or should be construed, as: (a) an admission as to the validity of any prepetition claim against any Debtor; (b) a waiver of the Debtors' rights to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified

or defined in the Motion or this Order; or (e) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable law.

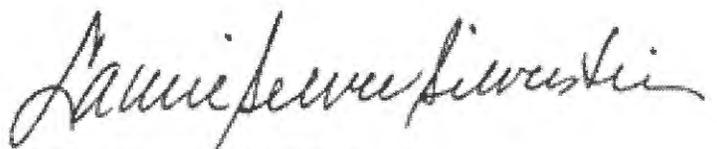
8. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

9. This Order shall be deemed to constitute a separate order with respect to each contract and lease governed hereby.

10. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: August 16th, 2019  
Wilmington, Delaware

US-DOCS\109866799.4RLF1 21884254v.1



LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT 1****Leases<sup>1</sup>**

<b>Number</b>	<b>Debtor</b>	<b>Lease Counterparty</b>	<b>Description of Lease</b>	<b>Cure Amount</b>
1	Imerys Talc America, Inc.	Alcan Cable (Canada) Inc.	Lease: Building and Land Mining Lease and Sublease - Penhorwood Mine	\$0.00
2	Imerys Talc America, Inc.	American Legion Post 87, Inc.	Lease: Building and Land Amendment No. 1 to Field Lease Agreement	\$0.00
3	Imerys Talc America, Inc.	American Legion Post 87, Inc., Gallatian Valley Outlaws	Lease: Building and Land Field Lease Agreement (Non-exclusive)	\$0.00
4	Imerys Talc America, Inc.	Babe Ruth League, Inc.	Lease: Building and Land Amendment No. 1 to Lease Agreement	\$0.00
5	Imerys Talc America, Inc.	Babe Ruth League, Inc.	Lease: Building and Land Field Lease Agreement	\$0.00
6	Imerys Talc Canada Inc.	Canadian National Railway	Lease: Building and Land Rental Siding Agreement	\$0.00
7	Imerys Talc America, Inc.	Canadian National Railway Company	Lease: Building and Land Standard Land Lease	\$0.00
8	Imerys Talc Canada Inc.	Canadian National Railway Company	Lease: Land Standard Land Lease	\$0.00
9	Imerys Talc Canada Inc.	City of Timmins	Lease: Land Notice of Lease Agreement Assignment	\$0.00
10	Imerys Talc Vermont, Inc.	Gary Sheltra and Chris Allen	Lease: Building and Land Lease Agreement	\$0.00
11	Imerys Talc America, Inc.	Ken Dykstra	Lease: Building and Land Lease Agreement	\$0.00
12	Imerys Talc America, Inc.	Larry Walker	Lease: Building and Land Lease Agreement	\$0.00
13	Imerys Talc Canada Inc.	Ministry of Natural Resources	Lease: Land Land Use Permit	\$0.00
14	Imerys Talc America, Inc.	Ministry of Northern Development and Mines	Lease: Building and Land Lease Agreement - Penhorwood Minesite	\$0.00
15	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Land Lease (#No. 107432) Surf & Mining Lease No. 107432	\$0.00

<sup>1</sup> The presence of a contract on this **Exhibit 1** does not constitute an admission by the Debtors that such contract is an executory contract or a nonresidential real property lease subject to section 365(d)(4) of the Bankruptcy Code, and the Debtors reserve all rights to withdraw any proposed assumption or to seek to reject any contract or lease at any time before such contract or lease is assumed pursuant to an order of the Court.

Number	Debtor	Lease Counterparty	Description of Lease	Cure Amount
16	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Land Lease (#No. 109538) Surf & Mining Lease No. 109538	\$0.00
17	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Land Lease (#No. 109539) Surf & Mining Lease No. 109539	\$0.00
18	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Land Lease (#No. 109540) Surf & Mining Lease No. 109540	\$0.00
19	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Land Lease (#No. 109541) Surf & Mining Lease No. 109541	\$0.00
20	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Land Use Permit LP291035	\$0.00
21	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Land Use Permit LUP1505-1040979	\$0.00
22	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	License of Occupation LO0803	\$0.00
23	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	License of Occupation LO0808	\$0.00
24	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	License of Occupation LO11	\$0.00
25	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7696) S59721	\$0.00
26	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7697) S59720	\$0.00
27	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7701) S59017	\$0.00
28	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7708) S58474	\$0.00
29	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7710) S58865	\$0.00
30	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7711) S58288	\$0.00
31	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7712) S58864	\$0.00
32	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7716) S60442	\$0.00
33	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7717) S63911	\$0.00
34	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7718) S63913	\$0.00
35	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7719) S64063	\$0.00

Number	Debtor	Lease Counterparty	Description of Lease	Cure Amount
36	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7720) S58863	\$0.00
37	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7726) S63908	\$0.00
38	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7727) S63909	\$0.00
39	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7736) S59719	\$0.00
40	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7737) S63910	\$0.00
41	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7738) S63912	\$0.00
42	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7741) S63914	\$0.00
43	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#7742) S64064	\$0.00
44	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8555) S82787	\$0.00
45	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8556) S82788	\$0.00
46	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8557) S82789	\$0.00
47	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8558) S82790	\$0.00
48	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8559) S82791	\$0.00
49	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8562) S82796	\$0.00
50	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8563) S82797	\$0.00
51	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8564) S82798	\$0.00
52	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8565) S82799	\$0.00
53	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8566) S82802	\$0.00
54	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8574) S82800	\$0.00
55	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8575) S82801	\$0.00

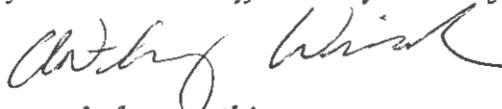
Number	Debtor	Lease Counterparty	Description of Lease	Cure Amount
56	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8576) S82803	\$0.00
57	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8577) S82804	\$0.00
58	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8578) S82805	\$0.00
59	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8584) S94205	\$0.00
60	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8585) S94206	\$0.00
61	Imerys Talc Canada Inc.	Ministry of Northern Development and Mines	Patent Mine Claim (#8586) S94211	\$0.00
62	Imerys Talc America, Inc.	Montana Rail Link, Inc.	Land Sale/Purchase Agreement Quit Claim Deed	\$0.00
63	Imerys Talc America, Inc.	Montana Rail Link, Inc.	Lease: Building and Land Assignment of Lease	\$0.00
64	Imerys Talc America, Inc.	Montana Rail Link, Inc.	Lease: Building and Land Electric Supply Line Across or Along Railroad Right of Way Permit	\$0.00
65	Imerys Talc America, Inc.	Montana Rail Link, Inc.	Lease: Building and Land Industry Track Agreement	\$0.00
66	Imerys Talc America, Inc.	Montana Rail Link, Inc.	Lease: Building and Land Three Forks Mill Indefinite Term Lease	\$0.00
67	Imerys Talc America, Inc.	Montana Rail Link, Inc.	Lease: Building and Land Track Lease	\$0.00
68	Imerys Talc America, Inc.	Montana Rail Link, Inc.	Lease: Land Indefinite Term Lease	\$0.00
69	Imerys Talc America, Inc.	Montana Rail Link, Inc.	Lease: Land Track Lease	\$0.00
70	Imerys Talc America, Inc.	Monte W. Parker; Patricia Parker; Micky W. Jackson; Judy R. Jackson	Land Sale/Purchase Agreement	\$0.00
71	Imerys Talc America, Inc.	NorthWestern Corporation	Lease: Land	\$0.00
72	Imerys Talc Canada Inc.	Ontario Government Complex	Lease: Land Aggregate Permit	\$0.00
73	Imerys Talc America, Inc.	Paul W. Doddridge, Trustee of the Doddridge Living Trust	Land Sale/Purchase Agreement Mortgage	\$0.00
74	Imerys Talc Vermont, Inc.	Rasmussen Ranch LLC	Lease: Building and Land Surface Lease Agreement	\$0.00

Number	Debtor	Lease Counterparty	Description of Lease	Cure Amount
75	Imerys Talc America, Inc.	Robert J Smith, Jr. and Jean Smith	Lease: Land Fifth Amendment to Agreement and Option - Black Bear Mine	\$0.00
76	Imerys Talc America, Inc.	Robert J Smith, Jr. and Jean Smith	Lease: Land Fourth Amendment to Agreement and Option - Black Bear, Argonaut and Argonaut East	\$0.00
77	Imerys Talc Vermont, Inc.	Robert J Smith, Jr. and Jean Smith	Lease: Land Second Amendment to Agreement and Option	\$0.00
78	Imerys Talc Vermont, Inc.	Robert J Smith, Jr. and Jean Smith	Lease: Land Third Amendment to Agreement and Option - East Deposit	\$0.00
79	Imerys Talc Vermont, Inc.	Robert J. Smith, Jr & Jean Smith	Lease: Building and Land SIXTH AMENDMENT TO AGREEMENT AND OPTION	\$0.00
80	Imerys Talc America, Inc.	Roman Catholic Bishop of Helena, Montana	Lease: Land Premises Lease	\$0.00
81	Imerys Talc America, Inc.	Sappington-Jefferson "S" Ranches, Inc.	Lease: Building and Land Lease Agreement	\$3,842.47
82	Imerys Talc America, Inc.	St. Paul Fire and Marine Insurance Company	Land Sale/Purchase Agreement Reclamation Bond - Montana	\$0.00
83	Imerys Talc America, Inc.	Terry Hendrickson	Lease: Building and Land Lease Agreement	\$0.00
84	Imerys Talc America, Inc.	The Corporation of the City of Timmins	Lease: Building and Land Property Lease	\$0.00
85	Imerys Talc Canada Inc.	The Corporation of the City of Timmins	Lease: Building and Land Land & Plant Lease Agreement File	\$0.00
86	Imerys Talc America, Inc.	The Montana Power Company	Land Sale/Purchase Agreement Powerline Agreement	\$0.00
87	Imerys Talc America, Inc.	Three Forks Girls Softball League, Inc.	Lease: Building and Land Amendment No. 1 to Lease Agreement	\$0.00
88	Imerys Talc America, Inc.	Three Forks Girls Softball League, Inc.	Lease: Building and Land Lease Agreement	\$0.00
89	Imerys Talc Canada Inc.	Victor M. Power, Mayor	Lease: Building and Land	\$0.00
90	Imerys Talc America, Inc.	Wisconsin Central Ltd.	Lease: Building and Land Track Lease for Storage of Cars	\$0.00

TAB N

**THIS IS EXHIBIT "N"**

*referred to in the Affidavit of Anthony Wilson*

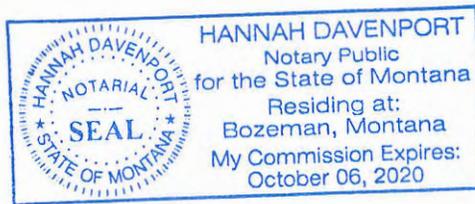


*Sworn before me this*

*day of October, 2019*



*A Commissioner for Taking Affidavits*



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

----- x  
In re: : Chapter 11  
: :  
IMERYS TALC AMERICA, Inc., et al.,<sup>1</sup> : Case No. 19-10289 (LSS)  
: :  
Debtors. : (Jointly Administered)  
: :  
: Re: Docket No. 1081  
----- x

**ORDER APPROVING  
STIPULATED PROTECTIVE ORDER**

Upon consideration of the *Joint Motion for Entry of an Order Approving Stipulated Protective Order* and the *[Proposed] Stipulated Protective Order* (the “**Stipulated Protective Order**”) attached hereto as Exhibit 1,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The Stipulated Protective Order is approved and entered as an order of this Court.
3. Pursuant to Local Rule 9018-1(d) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, parties under the Stipulated Protective Order shall file a publicly viewable redacted form of a document subject to a motion to seal within five (5) days after the filing under seal of such document.
4. Pending a ruling on a motion to seal, any party (including the U.S. Trustee) that receives a filing or document subject to a motion to seal shall treat such material as non-public

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Imerys Talc America, Inc. (6358), Imerys Talc Vermont, Inc. (9050), and Imerys Talc Canada Inc. (6748). The Debtors’ address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

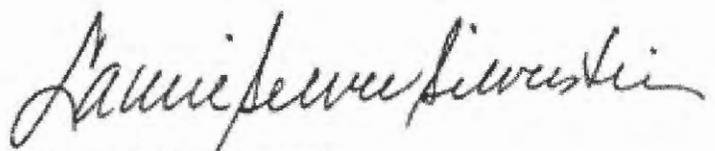
information subject to the continuing protections accorded such material under the Stipulated Protective Order and the party's Acknowledgement and as further subject to the limitation on use and disclosure as set forth in Local Rule 9018-1(f). If the motion to seal is denied, the material subject to the motion to seal shall be returned to the filer, unless otherwise expressly agreed by the filer in writing, provided further that such material need not be returned to the filer if the subject material later is filed as a public document.

5. For the avoidance of doubt, if any: (a) except as set forth in the Amended Scheduling Order [Adv. D.I 55] in Adversary Proceeding No. 19-50115 (the "Cyprus Adversary Proceeding"), the Stipulated Protective Order as embodied in this Order does not apply in the Cyprus Adversary Proceeding; and (b) the Stipulated Protective Order is not intended to, nor shall it, ratify, authorize, amend, or modify any actions or obligations of the Debtors, on one hand, and Cyprus Mines Corporation and Cyprus Amax Mineral Corporation, on the other hand, relating to any shared Privileges or Protections.

6. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: September 27th, 2019  
Wilmington, Delaware

2



LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit 1**

Stipulated Protective Order

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

----- X  
In re: : Chapter 11  
: :  
IMERYYS TALC AMERICA, INC., *et al.*,<sup>1</sup> : Case No. 19-10289 (LSS)  
: :  
Debtors. : (Jointly Administered)  
: :  
: :  
: :  
----- X

**[PROPOSED] STIPULATED PROTECTIVE ORDER**

---

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Imerys Talc America, Inc. (6358), Imerys Talc Vermont, Inc. (9050), and Imerys Talc Canada Inc. (6748). The Debtors' address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

Based upon the agreement of debtors Imerys Talc America, Inc. ("ITA"), Imerys Talc Vermont, Inc. ("ITV"), and Imerys Talc Canada Inc. ("ITC" and together with ITA and ITV, the "Debtors") and those parties identified as signatories to this Stipulated Protective Order (each, a "Party," and collectively, the "Parties"), and subject to the approval of the United States Bankruptcy Court for the District of Delaware (the "Court"), this protective order pursuant to Fed. R. Bankr. P. 7026 and 9018 and Fed. R. Civ. P. 26(c) shall govern the disclosure of information and documents, including deposition testimony or transcripts ("Disclosure Materials"), in connection with the above-captioned proceedings (the "Chapter 11 Cases");

1. A "Producing Party" is a person or entity that produces Disclosure Materials in response to formal or informal discovery served in connection with these Chapter 11 Cases, including any related contested matter, adversary action, or appeal (each, as applicable, a "Proceeding," and collectively, the "Proceedings").

2. A "Receiving Party" is a person or entity to whom a Producing Party produces Disclosure Materials in response to formal or informal discovery served in connection with any of the Proceedings.

3. "Confidential Information" shall include any nonpublic information, documents, or things produced or provided (formally or informally) by the Producing Party that such party has a good faith reasonable belief contains confidential, proprietary, or personally or commercially sensitive information of the Producing Party, including, without limitation, (a) nonpublic information concerning the Producing Party's assets, liabilities, business operations, business practices, business plans, intellectual property and trade secrets, financial projections, financial and business analyses, and compilations and studies relating to the foregoing, and other nonpublic documents prepared by the Producing Party or any of its affiliates or their respective

employees, agents, attorneys, professionals, consultants or other agents; (b) information implicating an individual's legitimate expectation of privacy, including medical information and social security numbers; and (c) any and all information required to be maintained confidentially by federal, state or local laws, rules, regulations or ordinances governing or relating to privacy rights, which are furnished, disclosed or made known to a Receiving Party, whether intentionally or unintentionally and in any manner, including in written form, orally or through any electronic, facsimile or computer-related means of communication. Confidential Information shall also include, without limitation: (i) any notes, summaries, compilations, presentations, memoranda or similar written materials disclosing, discussing or that is based on or reflects Confidential Information; (ii) any written Confidential Information that is discussed or presented orally; and (iii) any other Confidential Information conveyed to a Receiving Party orally that the Producing Party or their advisors or other agents advise the Receiving Party should be treated as confidential.

4. "Highly Confidential Information" shall mean for "attorneys' and advisors' eyes only" and shall be limited to nonpublic information produced or provided (formally or informally) that is marked or designated as "Highly Confidential," whether written, oral, photographic, electronic or otherwise, whether in the form of slides, handouts, letters, memoranda, agreements, facsimile transmissions, meetings, conference and other telephone calls, diskettes, files, and/or any other mode, and that, if disclosed, could cause significant competitive, commercial, privacy, personal, or litigation harm to the Producing Party.

5. Upon a good faith determination by the Producing Party that any Disclosure Materials being produced or disclosed to a Receiving Party, whether formally or informally, contain Confidential Information or Highly Confidential Information, the Producing Party shall

identify such Confidential Information or Highly Confidential Information by affixing to it, in a manner that shall not interfere with its legibility, the words "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" on each page so designated (if the information is produced in written form) or otherwise conspicuously labeling it on a part thereof (if in the form of tape, disc, or other form that makes it difficult to label each page). Any summary, compilation or copy of any document or thing so designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" shall also be treated as so designated pursuant to this Stipulated Protective Order. The "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" designation shall, wherever practicable, be made prior to, or contemporaneously with, production or disclosure, except in the case of depositions, which shall be designated as set forth in Paragraph 13.

6. Disclosure Materials, or information derived therefrom, shall be used solely in connection with the Proceedings, and shall not be used in any other proceeding or for any other purpose. Neither the Disclosure Materials designated as "CONFIDENTIAL" ("Confidential Materials") nor the contents thereof shall be given, shown, made available, communicated, used or otherwise disclosed to anyone other than (a) the Court, (b) outside counsel for the parties to the Proceedings, and paralegal, stenographic and clerical personnel of such counsel, (c) experts (including financial advisors, consultants, and other retained professionals) specifically retained by the parties for purposes relating to the Proceedings, (d) litigation vendors and other third-party litigation support personnel engaged for purposes of the Proceedings, and (e) the parties to the Proceeding, provided that in the case of a Committee, the term party shall be limited to the Committee and those members thereof (or such member's designee to the Committee) who have accepted the terms of this Stipulated Protective Order, except: (i) with prior written approval of the Producing Party or its attorneys in the case of Disclosure Materials or the party requesting the

designation in the case of deposition transcripts; or (ii) upon further order of the Court and after notice to all parties to the Proceeding; or (iii) as set forth in paragraphs 11 and 15 below with respect to the United States Trustee for the District of Delaware (“U.S. Trustee”), and his counsel.

7. Disclosure Materials designated as “HIGHLY CONFIDENTIAL” (“Highly Confidential Materials”) or the contents thereof shall not be given, shown, made available, communicated, used or otherwise disclosed to anyone, including without limitation the Parties and their members, employees, officers, and agents, and in-house counsel, other than (a) the Court, (b) outside counsel for the parties to the Proceedings, and paralegal, stenographic and clerical personnel of such counsel, provided that in the case of the Committee, the term outside counsel shall not include any member or its representative on the Committee, but shall include professionals formally engaged to represent the Committee in the Proceedings even if the retention application of such professional has not yet been filed with, or approved by, the Bankruptcy Court, and, for the avoidance of any doubt, such professionals shall include Robinson & Cole LLP and Willkie Farr & Gallagher LLP, and (c) experts (including financial advisors, consultants, and other retained professionals) specifically retained by the parties for purposes relating to the Proceedings, and (d) litigation vendors and other third-party litigation support personnel engaged for purposes of the Proceedings, except: (i) with prior written approval of the party requesting the designation in the case of deposition transcripts or of the Producing Party or its attorneys in the case of other Highly Confidential Materials; or (ii) upon further order of the Court and after notice to all Parties to the Proceeding; or (iii) as set forth in paragraphs 11 and 15 below with respect to the U.S. Trustee and his counsel.

8. Disclosure to the individuals authorized pursuant to Paragraphs 6 and 7 of this Stipulated Protective Order shall be made only as necessary for matters in the Proceedings and only after the person to whom the disclosure is to be made has been informed of the confidential or highly confidential nature of the Disclosure Materials and agrees to be bound by the terms of this Stipulated Protective Order. No person to whom Confidential Materials or Highly Confidential Materials are disclosed shall disclose such materials or the contents of such materials to any person to whom disclosure is not authorized by the terms hereof.

9. This Stipulated Protective Order does not restrict in any manner the use or disclosure by the Producing Party of any of its own Disclosure Materials. If a disclosure of its own Disclosure Materials designated Confidential or Highly Confidential is made by the Producing Party in a document filed with the Court not under seal, in a court hearing, or a deposition and not designated Confidential or Highly Confidential at such deposition, such Disclosure Materials shall no longer be considered Confidential Information or Highly Confidential Information. For the avoidance of doubt, in this paragraph the phrase “own Disclosure Materials” does not include privileged information generated in connection with the defense of talc related and/or asbestos related claims that another party or entity claims is subject to its shared Privilege or Protection.

10. A Receiving Party shall have no obligation under this Stipulated Protective Order as to Confidential Information or Highly Confidential Information which: (a) is known to the Receiving Party at the time of disclosure, without obligation of confidentiality, unless the Receiving Party became aware of the Confidential Information or Highly Confidential Information as a result of a violation of this Stipulated Protective Order; (b) is independently developed by the Receiving Party without reference to or use of Confidential Information or

Highly Confidential Information; (c) becomes known to the Receiving Party from another source, unless the Receiving Party knows or reasonably believes that such other source was subject to a confidentiality restriction at the time of disclosure; (d) is or becomes part of the public domain through no wrongful act of the Receiving Party; or (e) is disclosed publicly pursuant to any judicial or government request or order; provided that with regard to 10(e) of this paragraph, unless requested not to do so by the judicial or governmental entity, the Receiving Party shall take reasonable steps to give sufficient prior written notice so that the Producing Party may seek a protective order to contest or limit the scope of such request or order as much as possible.

11. Any document containing Confidential Information or Highly Confidential Information that is submitted to or filed with the Court shall be filed under seal as a restricted document in accordance with Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware ("Local Rules") and any applicable Chambers Procedures. The filing party shall file a publicly viewable redacted form of the document within five (5) days of the filing of the document under seal as a restricted document. Any party that files a motion to file under seal in the Bankruptcy Court for the District of Delaware shall provide counsel to the U.S. Trustee with an unredacted copy of all documents sought to be sealed, pursuant to Bankruptcy Code § 107(c)(3)(A), provided however, that the filing party may move the Bankruptcy Court (under the motion to seal or otherwise) to limit access to all or a part of the proposed sealed materials on grounds of the attorney-client privilege, joint defense privilege, common interest privilege, work product doctrine or any other applicable privilege, provided further that, for the avoidance of doubt, (1) the U.S. Trustee's, Johnson & Johnson's and Johnson & Johnson Consumer Inc.'s (collectively "J&J"), and the

Cyprus Historical Excess Insurers' rights to object to the same are fully preserved and (2) the reference herein to "attorney-client privilege, joint defense privilege, common interest privilege, work product doctrine or any other applicable privilege" is not intended to, and does not, authorize the disclosure of any such information in contravention of applicable agreement or law or the terms of this Stipulated Protective Order or the Order approving the same. Pending a ruling on a motion to seal, any party (including the U.S. Trustee) that receives a filing or document subject to a motion to seal shall treat such material as non-public information subject to the continuing protections accorded such material under this Stipulated Protective Order and as subject to the limitation on use and disclosure as set forth in Local Rule 9018-1(f). Moreover, if the motion to seal is denied, the material subject to the motion to seal shall be returned to the filer, unless otherwise expressly agreed by the filer in writing, provided further that such material need not be returned to the filer if the subject material later is filed as a public document. The mere inclusion in a paper or pleading of factual information derived from documents or things designated "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" will not require that paper or pleading to be filed under seal if the Parties agree in writing prior to filing the paper or pleading that the factual information actually contained in that paper or pleading would not itself be properly subject to such designation. If the Parties cannot resolve a dispute regarding the inclusion in a paper or pleading of facts from documents or things marked "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL," the procedures of this paragraph shall be followed prior to the filing of any such paper or pleading.

12. Except as otherwise approved by the Producing Party or by an order of the Court, the Receiving Party may use the Confidential Information or Highly Confidential Information, including any information contained in documents so designated, in preparing and deposing

only: (a) an individual who has had or who is eligible to have access to the Confidential Information or Highly Confidential Information by virtue of his or her employment with the Producing Party, the Debtors, any Party, or an affiliate of the Debtors; (b) an individual identified in the Confidential Information or Highly Confidential Information as an author, addressee, or copy recipient of such information; (c) an individual who, although not identified as an author, addressee, or copy recipient of such Confidential Information or Highly Confidential Information, has seen such Confidential Information or Highly Confidential Information in the ordinary course of business; (d) any of the professionals retained by the Producing Party including the Producing Party's accountants; or (e) any other non-Party witness who has executed the Agreement To Be Bound By The Protective Order attached hereto.

13. The portions of any deposition transcript that the Producing Party has designated on the record as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" and any Confidential Information or Highly Confidential Information that is marked as a deposition exhibit shall be treated as Confidential Information or Highly Confidential Information. Notwithstanding the foregoing, the entirety of all deposition transcripts shall be deemed Confidential Information for seven (7) days after the transcript is delivered to counsel for the Producing Party. During the seven (7) day period, the Producing Party may designate by page and line number any portion of a deposition transcript, to the extent not previously designated, as Confidential Information or Highly Confidential Information. Transcript pages and exhibits containing Confidential Information or Highly Confidential Information shall be distributed only in accordance with this Stipulated Protective Order and to the deponent, and the deponent's counsel (who shall first have executed the Agreement To Be Bound By The Protective Order attached hereto if such counsel is not also counsel for one of the Parties).

14. Nothing contained in this Stipulated Protective Order authorizes a Producing Party to disclose to the Committee, Future Claimants Representative or any other party or entity, or their respective professionals, another party's or entity's privileged information generated in connection with the defense of talc related and/or asbestos related claims that is subject to a shared Privilege or Protection as between the Producing Party and such party or entity. In the event that the Producing Party intends to produce any such information that is subject to a claim by another party or entity of a shared Privilege or Protection (which may include information that was prepared by, or delivered by the Producing Party to, counsel retained to represent the Producing Party in filed or threatened talc-related litigation), the Producing Party will provide advance notice by email or other writing to the counterparty under the shared Privilege or Protection prior to production by the Producing Party of such information under this Protective Order. The notice shall attach the documents or information sought to be produced. Such counterparty will have three (3) business days after receipt of the Producing Party's notice to object by email or other writing to the Producing Party's proposed production and, if such objection is delivered to the Producing Party within the three (3) day period, then the Producing Party and the counterparty will confer in good faith regarding the objection and proposed production. In the event that an agreement cannot be reached between the Producing Party and the objecting counterparty, then the Producing Party will not produce the subject documents or information and the issue will be determined by the Bankruptcy Court.

15. Except as set forth in paragraph 16 below as to the U.S. Trustee, no one may attend or review the portion(s) of transcripts of any depositions designated as containing Confidential Information or Highly Confidential Information, other than the Court and its personnel, the court reporter, outside counsel for the Receiving Party, counsel for a non-Party

deponent (who shall first have executed the Agreement To Be Bound By The Protective Order attached hereto if such counsel is not also counsel for one of the Parties), and those individuals otherwise permitted to view Confidential Information or Highly Confidential Information pursuant to the terms of this Agreement and whose attendance at or review of this data is reasonably necessary to assist in connection with the Proceeding.

16. The Parties shall discuss the manner of use of Confidential Information or Highly Confidential Information at any hearing or trial in the Proceedings, including any procedures related to the non-public disclosure of Confidential Information or Highly Confidential Information, and shall consult with the United States Trustee with regards to any planned use of Confidential Information or Highly Confidential Information at any hearing or trial in the Chapter 11 Cases that involves the non-public disclosure thereof. In the event that an agreement cannot be reached on such procedures, the issue shall be determined by the Bankruptcy Court. All trial exhibits or other materials to be offered into evidence at a hearing or proceeding in the Bankruptcy Court as to which a party seeks to prevent or limit public disclosure shall be provided to counsel to the U.S. Trustee in an unredacted form before the hearing, subject to the continuing restrictions on use and disclosure provided hereunder, to the extent not already provided.

17. In the event that a dispute arises concerning the question of whether information should be treated as Confidential Materials or Highly Confidential Materials, the party challenging the need for such treatment shall advise the designating party by written notification, specifying why such treatment is improper. The parties shall attempt to resolve in good faith within three (3) business days any such disputes as to the need to treat the information as Confidential Materials or Highly Confidential Materials; provided, however, if any such dispute

cannot be resolved in three (3) business days, the party objecting to the confidential nature of the information may, on an expedited basis, move for an Order relieving it from the obligations of this Stipulated Protective Order, with respect to such Confidential Materials or Highly Confidential Materials. The Producing Party shall fully cooperate with efforts to bring the dispute to the Court on an expedited basis. The party challenging the designation shall demonstrate to the Court that good faith attempts to resolve the dispute without the need for the Court's intervention have been exhausted. The Disclosure Materials at issue shall be treated as Confidential Materials or Highly Confidential Materials, as designated by the Producing Party, until the issue is determined by the Court; provided, however, that the burden shall remain with the Producing Party to demonstrate that Disclosure Materials in dispute are properly designated as Confidential Materials or Highly Confidential Materials.

18. A Party's failure to designate information as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" shall not be deemed a waiver of that Party's later claim that such information should be entitled to another designation pursuant to this Stipulated Protective Order ("Misdesignated Material") at any time thereafter. Documents or information inadvertently disclosed by or on behalf a Producing Party without being designated "Confidential" or "Highly Confidential" may thereafter be so designated by promptly notifying the Receiving Party in writing that such materials are Confidential or Highly Confidential, as the case may be. The Receiving Party shall thereafter treat such materials as so designated.

19. If Disclosure Material (designated Confidential, Highly Confidential or neither) that is subject to a claim of attorney-client privilege, joint defense privilege, common interest privilege, work product doctrine, or any other applicable privilege or protection from disclosure (a "Privilege or Protection"), is nevertheless inadvertently produced ("Inadvertently Produced"),

Material”), such production shall in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of Privilege or Protection to which such inadvertently Producing Party or any person or entity claiming a shared Privilege or Protection would otherwise be entitled, in these Proceedings or any other federal or state proceeding. This Stipulated Protective Order shall be interpreted to provide the maximum protection allowed by rule 502(d) of the Federal Rules of Evidence, and the Parties agree that their productions satisfy the provisions of rule 502(b). If a claim of inadvertent production is made pursuant to this paragraph, the Receiving Party shall, upon notification and request, return or destroy the Inadvertently Produced Material (including all copies thereof) as to which the claim of inadvertent production has been made, within three (3) business days, and the information shall not be used for any purpose. Such request shall describe the Inadvertently Produced Material with a reasonable degree of specificity (such as a Bates number or range, or other manner by which the Receiving Party can identify the material) and state the applicable Privilege or Protection upon which a claim of inadvertent disclosure is predicated. If a Producing Party discovers that it has produced Disclosure Materials that appear to be subject to a Privilege or Protection, the Producing Party who provided the Disclosure Materials shall immediately notify the Receiving Party in writing or electronic mail regarding the production and shall provide the Receiving Party with the first bates number or bates range of the Inadvertently Produced Materials. If a Receiving Party discovers that it has received Disclosure Materials that it knows or is reasonably certain are Inadvertently Produced Materials, the Receiving Party shall immediately notify the Producing Party regarding the production and provide the Producing Party with the first bates number or bates range of the potentially Inadvertently Produced Materials. Nothing in this Paragraph is intended to limit any obligations or rights a Party, or other parties or entities, may otherwise have under this Order or

any other applicable law or regulation with regards to the treatment of inadvertently produced documents subject to any Privilege or Protection. The Producing Party shall immediately provide notice of a request for the return of Inadvertently Produced Materials to any party or entity known, or reasonably certain, to such Producing Party to assert a claim of its own Privilege or Protection in such Inadvertently Produced Materials, and the Producing Party shall provide such party or entity a copy of the documents or information identified as Inadvertently Produced Material and as to which such person or entity is known, or reasonably certain, to assert a claim of its own Privilege or Protection. For the avoidance of doubt, the procedures set forth in this paragraph shall apply to any formal or informal production made by a Producing Party during the pendency of the Chapter 11 Cases prior to or pending approval of this Stipulated Protective Order by the Court. If the Debtors become aware that they provided material subject to a shared Privilege or Protection to James L. Patton , Jr. or to Young Conaway Stargatt & Taylor, LLP or Ankura Consulting Group, LLC before the Chapter 11 Cases, then the procedures set forth in this paragraph shall apply to any such material.<sup>2</sup>

20. In the event that a dispute arises concerning the question of whether Disclosure Materials are subject to a claim of any Privilege or Protection (the “Disputed Protected Materials”), the party challenging the need for such treatment shall advise the party claiming the relevant Privilege or Protection by written notification, specifying why such treatment is improper. The parties shall attempt to resolve in good faith within three (3) business days any

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<sup>2</sup> For the avoidance of doubt, the provisions of this Stipulated Protective Order, if any, that may require the disclosure of any documents produced in adversary proceeding no. 19-50115 (Bankr. D. Del.) that are subject to a shared Privilege or Protection to the parties that share in the Privilege or Protection shall not apply to the informal exchange process between the Debtors and Cyprus Amax Minerals Company and Cyprus Mines Corporation as described in the Amended Scheduling Order governing that adversary proceeding [Adv. D.I. 55], except to the extent that any documents shared in the informal exchange process are disclosed to a party that does not share in the Privilege or Protection. See Am. Sched. Order at ¶ 6, n. 3.

such disputes as to the need to treat the Disputed Protected Materials as subject to a claim of Privilege or Protection; provided, however, if any such dispute cannot be resolved in three business days, the party objecting to the treatment of such information as privileged or protected may, on an expedited basis, move for an Order compelling production of the Disputed Protected Materials. The Producing Party shall fully cooperate with efforts to bring the dispute to the Court on an expedited basis. The party challenging a claim of Privilege or Protection shall demonstrate to the Court that good faith attempts to resolve the dispute without the need for the Court's intervention have been exhausted. The Disputed Protected Materials will be treated as privileged or protected as claimed by the Producing Party until the issue is determined by the Court. A party or entity may utilize the protections and procedures set out in paragraphs 19 and 20 with regard to that party's or entity's claim of its own Privilege or Protection in Disclosure Materials even though it was not the Producing Party.

21. In the event of a disclosure by a Receiving Party of Confidential Information or Highly Confidential Information to persons or entities not authorized by this Stipulated Protective Order to receive such Confidential Information or Highly Confidential Information, the Receiving Party making the unauthorized disclosure shall, upon learning of the disclosure: (i) immediately notify the person or entity to whom the disclosure was made that the disclosure contains Confidential Information or Highly Confidential Information subject to this Stipulated Protective Order; (ii) immediately make reasonable efforts to recover the disclosed Confidential Information or Highly Confidential Information as well as preclude further dissemination or use by the person or entity to whom the disclosure was made; and (iii) immediately notify the Producing Party of the identity of the person or entity to whom the disclosure was made, the circumstances surrounding the disclosure, and the steps taken to recover the disclosed

Confidential Information or Highly Confidential Information and ensure against further dissemination or use thereof, and the Producing Party thereafter shall notify any party that such attorney knows to have asserted a claim of its own Privilege or Protection in such Confidential Information of Highly Confidential Information. Disclosure of Confidential Information or Highly Confidential Information other than in accordance with the terms of this Stipulated Protective Order may subject the disclosing person to such sanctions and remedies as the Court may deem appropriate.

22. When counsel for any Party or an attorney who has executed this Stipulated Protective Order or the Agreement To Be Bound By The Protective Order attached hereto becomes aware of any violation of this Stipulated Protective Order, or of facts constituting good cause to believe that a violation of this Stipulated Protective Order may have occurred, such attorney shall promptly report, with appropriate particulars to assist in aiding any investigation, to counsel for the Producing Party that there may have been a violation of this Stipulated Protective Order, and the Producing Party shall notify any party that such attorney knows to have asserted a claim of its own Privilege or Protection in Disclosure Materials if such Disclosure Materials are the subject of the violation or alleged violation of this Stipulated Protective Order.

23. The Parties to this Stipulated Protective Order (including parties executing the Agreement To Be Bound By The Protective Order attached hereto) agree that prior to and after the completion of the Proceeding, the provisions of this Stipulated Protective Order shall continue to be binding and the Court shall retain jurisdiction over the Parties and any other person who has had access to Confidential Information or Highly Confidential Information pursuant to this Stipulated Protective Order, in order to enforce the provisions of this Stipulated Protective Order.

24. Within sixty (60) days after the entry of a final decree closing these Chapter 11 Cases, or upon the written request of the Producing Party within sixty (60) days after the closing of any Proceeding, as well as any associated appeals, all Confidential Information and Highly Confidential Information produced to a Receiving Party, including any copies of documents or reproductions of things, shall, at the option of the Receiving Party, either: (a) be returned to the Producing Party without keeping a copy thereof, which includes erasing any electronically stored information; or (b) destroyed by the Receiving Party without keeping a copy thereof, which includes erasing any electronically stored information. Counsel for any Party or non-Party receiving Confidential Information or Highly Confidential Information shall provide written certification of compliance with this provision to counsel for the Producing Party within sixty (60) days of any request by the Producing Party in accordance with this paragraph. Electronic mail of a Party or non-Party or its counsel that evidences, refers to or contains Confidential Information or Highly Confidential Information is not subject to the foregoing destruction or return requirement, but otherwise remains subject to the provisions of this Stipulated Protective Order. Notwithstanding anything to the contrary, counsel for the Parties may retain Confidential Information and Highly Confidential Information constituting, containing, or incorporated in pleadings, motion papers, and exhibits contained in the official court record, work product, discovery responses, deposition transcripts, and deposition and trial exhibits, but otherwise subject to the provisions of this Stipulated Protective Order. Moreover, counsel for the Parties do not need to return or destroy Confidential Information and Highly Confidential Information that are stored on archival or other backup systems and are not reasonably accessible to persons other than personnel who maintain such systems. All such archival copies shall be maintained in accordance with the terms of this Stipulated Protective Order.

25. Any interested party with respect to these Chapter 11 Cases, including but not limited to any person intending or planning to receive or produce documents, receive or disclose information, or provide testimony in connection therewith, may become a Party to this Stipulated Protective Order by executing, prior to any disclosure, the Agreement To Be Bound By The Protective Order attached hereto, in which case the provisions of this Stipulated Protective Order shall apply fully to any discovery material that he, she or it may provide or receive.

26. The Parties to this Stipulated Protective Order acknowledge that because of the unique nature of the Confidential Information and Highly Confidential Information, any breach of any of the terms and conditions of this Stipulated Protective Order would cause irreparable damage to the Producing Party and that monetary damages and other damages available at law may be inadequate to compensate for such breach. Accordingly, the Parties agree that, in addition to any other remedies available to them at law or in equity, the Parties will be entitled to injunctive relief and specific performance to enforce the provisions of this Stipulated Protective Order without proof of actual damages and without any requirement to post a bond or provide other security.

27. If a Receiving Party or any of its advisors is legally compelled (whether by regulatory request, deposition, interrogatory, request for documents, subpoena, civil investigation, demand or similar process) to disclose any of the Confidential Information or Highly Confidential Information, the Receiving Party shall immediately notify the Producing Party, and the Producing Party shall notify any party or entity known to the Producing Party to have asserted a claim of its own Privilege or Protection in such Confidential Information or Highly Confidential Information (in this paragraph only, collectively with the Producing Party, the "Interested Parties"), in writing of such requirement to disclose Confidential or Highly

Confidential Information, so that the Interested Parties, collectively or alone, may seek a protective order or other appropriate remedy. The Receiving Party will use its best efforts, at the expense of those Interested Parties that elect to seek a protective order or pursue other appropriate remedy, to obtain or assist such Interested Parties in obtaining any such protective order. Failing the entry of a protective order or the receipt of a waiver hereunder, the Receiving Party may disclose, without liability hereunder, that portion (and only that portion) of the Confidential Information or Highly Confidential Information that the Receiving Party has been advised by written opinion of counsel reasonably acceptable to the Interested Parties that it is legally compelled to disclose; provided, however, that the Receiving Party agrees to use its best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information or Highly Confidential Information by the person or persons to whom it is disclosed.

28. Nothing herein shall be deemed to prevent a Producing Party, or any party or entity claiming a Privilege or Protection in connection thereto, from objecting to discovery or asserting that information being sought in discovery is of such a nature that discovery should not be afforded because of the confidential, personal, or proprietary nature of the information being sought or to preclude a Party from seeking additional or further limitations on the use or disclosure of such information being sought in discovery.

29. No waiver of any breach or default shall be deemed or construed to constitute a waiver of any other violation or other breach of any of the terms, provisions and covenants contained in this Stipulated Protective Order, and forbearance to enforce one or more of the remedies provided herein in the event of a default will not be deemed or construed to constitute a waiver of that default or of any other remedy provided for in this Stipulated Protective Order. Furthermore, nothing contained herein shall reduce any protections otherwise provided by other

confidentiality agreements to which the Debtors, the Parties, and other person who becomes a Party hereto are a party.

30. This Stipulated Protective Order may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument. Upon approval by the Court, this Stipulated Protective Order is a binding agreement upon the signatories hereto (and to the Agreement To Be Bound By The Protective Order attached hereto) and constitutes an order of the Court, the violation of which is subject to enforcement and imposition of legal sanction in the same manner as any other order of the Court.

31. This Stipulated Protective Order may be amended by agreement of the Parties and further order of the Court.

Dated: September 26, 2019  
Wilmington, Delaware

Stipulated and agreed to by:

/s/ Marcos A. Ramos

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Michael J. Merchant (No. 3854)  
Marcos A. Ramos (No. 4450)  
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*Counsel for the Tort Claimants' Committee*

**YOUNG CONAWAY STARGATT &  
TAYLOR, LLP**

/s/ Sharon M. Zeig

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*Counsel to the Future Claimants'  
Representative*

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

-----	x	
In re:	:	Chapter 11
	:	
IMERYYS TALC AMERICA, INC., <i>et al.</i> , <sup>1</sup>	:	Case No. 19-10289 (LSS)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	
	:	
-----	x	

**AGREEMENT TO BE BOUND BY THE PROTECTIVE ORDER**

This is to certify that: (a) I am producing and/or being given access to Confidential Information or Highly Confidential Information under the Protective Order entered in the above-captioned proceeding; (b) I have read the Protective Order; and (c) I agree to be bound by the terms and conditions thereof as a "Receiving Party" and "Producing Party," as the case may be, including, without limitation, the obligations regarding the use, non-disclosure and return of such Confidential Information or Highly Confidential Information. I further agree that in addition to being contractually bound by the Protective Order, I am subject to the powers of the Bankruptcy Court for any violation of the Protective Order.

Date: \_\_\_\_\_

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Signature

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Imerys Talc America, Inc. (6358), Imerys Talc Vermont, Inc. (9050), and Imerys Talc Canada Inc. (6748). The Debtors' address is 100 Mansell Court East, Suite 300, Roswell, Georgia 30076.

**TAB 3**



## SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

## RECOGNITION OF FOREIGN ORDERS

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Wilson Affidavit.

3. **THIS COURT ORDERS** that the following orders of the United States Bankruptcy Court for the District of Delaware (the “**US Court**”) made in the insolvency proceedings of the Debtors under Chapter 11 of Title 11 of the United States Bankruptcy Code are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA:

- (a) an order dated May 21, 2019 authorizing the employment and retention of Willkie Farr & Gallagher LLP as Special Litigation and Corporate Counsel to the Official Committee of Tort Claimants (the “**Committee**”), (the “**Willkie Farr & Gallagher Order**”);
- (b) an order dated May 21, 2019 authorizing the employment and retention of Robinson & Cole LLP as Counsel to the Committee (the “**Robinson & Cole Order**”);
- (c) an order dated June 6, 2019 authorizing the employment and retention of Gilbert LLP as Special Insurance Counsel to the Committee (the “**Gilbert Order**”);
- (d) an order dated June 25, 2019 authorizing the employment of Legal Analysis Systems, Inc. as the Tort Liability Consultant to the Committee (the “**Legal Analysis Systems Order**”);
- (e) an order dated August 7, 2019 authorizing the employment and retention of Ducera Partners LLC and Ducera Securities LLC (“**Ducera**”) as Investment Banker to the Committee (the “**Ducera Order**”);

- (f) an order dated August 7, 2019 authorizing the employment and retention of GlassRatner Advisory & Capital Group, LLC as Financial Advisor to the Committee (the “**GlassRatner Order**”);
- (g) An order dated June 3, 2019 appointing James L. Patton as Future Claimants’ Representative (the “**FCR**” and the “**FCR Order**”);
- (h) An order dated June 6, 2019 authorizing the FCR to retain and employ Young Conaway Stargatt & Taylor LLP as Counsel (the “**Young Conway Order**”);
- (i) An order dated June 12, 2019 authorizing the FCR to retain and employ Ankura Consulting Group, LLC as Consultants (the “**Ankura Order**”);
- (j) An order dated September 26, 2019 authorizing the FCR to co-retain and employ Ducera as Investment Banker with the Committee (the “**Ducera Co-Retention Order**”);
- (k) An order dated September 27, 2019 authorizing the FCR to co-retain and employ Gilbert LLP as Special Insurance Counsel with the Committee (the “**Gilbert Co-Retention Order**”);
- (l) An order dated August 16, 2019 authorizing the Debtors to assume the Leases listed in Exhibit 1 of the order (the “**Assumption of Leases Order**”); and
- (m) An order dated September 27, 2019 approving a protective order for sharing of documents in discovery (the “**Stipulated Protective Order**”).

## **GENERAL**

4. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, to give effect to this Order and to assist the Debtors, the Foreign Representative, the Information Officer as officer of this Court, and their respective counsel and agents in carrying out the terms of this Order.

5. **THIS COURT ORDERS AND DECLARES** that this Order shall be effective as of 12:01 am on the date of this Order.

6. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days' notice to the Debtors and the Foreign Representative and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36,  
AS AMENDED

Court File No: CV-19-614614-00CL

AND IN THE MATTER OF IMERYYS TALC AMERICA, INC., IMERYYS TALC VERMONT, INC., AND  
IMERYYS TALC CANADA INC. (THE "DEBTORS")

APPLICATION OF IMERYYS TALC CANADA INC. UNDER SECTION 46 OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**ORDER  
(FOREIGN ORDERS)**

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Lawyers for the Applicant

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36,  
AS AMENDED  
AND IN THE MATTER OF IMERYYS TALC AMERICA, INC., IMERYYS TALC VERMONT, INC., AND  
IMERYYS TALC CANADA INC. (THE "DEBTORS")  
APPLICATION OF IMERYYS TALC CANADA INC. UNDER SECTION 46 OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

Court File No: CV-19-614614-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**MOTION RECORD  
(FOREIGN ORDERS)  
(returnable October 28, 2019)**

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