

# Commentary

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## Where Are They Now, Part Three: A Continuing History Of The Companies That Have Sought Bankruptcy Protection Due To Asbestos Claims

By  
Mark D. Plevin  
Paul W. Kalish  
And  
Leslie A. Epley

*[Editor's Note: Mr. Plevin and Mr. Kalish are partners at Crowell & Moring LLP in Washington, D.C. Mr. Plevin practices in the bankruptcy, litigation, and insurance coverage areas. He has represented insurers in asbestos, silica, and other mass tort bankruptcy cases, including some of the cases mentioned below, and in coverage cases involving asbestos defendants. Mr. Kalish practices in the litigation and insurance coverage areas, where he too has represented insurers in asbestos and mass tort coverage litigation. Ms. Epley is an associate at Crowell & Moring LLP practicing in the bankruptcy and litigation areas. Together, they represent the Coalition for Litigation Justice, Inc., a group formed by property and casualty insurers to advance education and public awareness about asbestos and silica issues. The views expressed herein are the authors' own. The authors wish to thank Margot Lombardo, an associate at Crowell & Moring LLP, for her assistance in preparing the charts accompanying this article. Copyright 2005 by Mark D. Plevin, Paul W. Kalish, and Leslie A. Epley. Replies to this commentary are welcome.]*

In 2001, we published in these pages what we described then as “a (hopefully) comprehensive chronology of the asbestos-related bankruptcies and a brief summary of the status of the more prominent filings.”<sup>1</sup> The following year, in an attempt to keep current with new bankruptcy cases filed by asbestos defendants, we published a further report in these pages.<sup>2</sup> In that report, we closed by noting that “ABB, the parent company of Combustion Engineering (‘CE’), an-

nounced that mounting compensation payments to asbestos claimants could force CE into bankruptcy protection and that the company was in talks with attorneys representing asbestos claimants.”<sup>3</sup>

Since then, as all practitioners in the asbestos bankruptcy area know, CE filed its bankruptcy case, had its plan confirmed by the bankruptcy and district courts, then saw the district court's confirmation order vacated by the Third Circuit in a landmark ruling and remanded for further proceedings.<sup>4</sup> Since then, CE came to agreement with formerly objecting asbestos claimants on a new plan, which was filed on June 24, 2005.<sup>5</sup> Following a confirmation hearing held on September 28, 2005, the bankruptcy court announced that it would confirm CE's plan.

This article updates our last two by noting the asbestos-related bankruptcies that have been filed since our 2002 article and summarizing some key developments in asbestos bankruptcies. It is not our intention to report on developments in all asbestos bankruptcies, but merely to note some trends. At the end of the article, we present three charts: one listing asbestos bankruptcies that have been filed so far, in chronological order; one providing the same information, with the debtors listed in alphabetical order; and a third listing the case numbers of asbestos bankruptcies, the status of the plans in those cases, and the published decisions that have arisen from those cases. It is our intent to keep these charts up-

dated in real time on our web site, accessible at [www.crowell.com/bankruptcy](http://www.crowell.com/bankruptcy).<sup>6</sup>

## 1. Who Filed the Most Recent Asbestos Bankruptcies?<sup>7</sup>

### Late 2002

Western Macarthur. One asbestos bankruptcy was filed in late 2002, after our article was published at the end of that year. Western Macarthur Corp. and its affiliate Western Asbestos filed for bankruptcy protection in the U.S. Bankruptcy Court for the Northern District of California in November, 2002.<sup>8</sup> After a long confirmation hearing in which insurers were the principal objecting parties, the debtors' plan was confirmed by the bankruptcy court and then the district court. The plan, based on § 524(g) of the Bankruptcy Code, resulted in establishment of an asbestos trust and issuance of a channeling injunction. While the courts entered a § 524(g) injunction in favor of Western Macarthur, the courts did not discharge the debts of Western Asbestos because that entity, a non-operating shell company, liquidated its assets and did not "reorganize" as required for a discharge of debts under Section 1141 of the Bankruptcy Code. Western Asbestos remains a "released party" under the plan, however, and asbestos claims against it are channeled to the Western Macarthur trust.

### 2003 — The Pace of Asbestos Bankruptcy Filings Continues

Combustion Engineering. The first asbestos bankruptcy of 2003 was filed by Combustion Engineering, Inc. in February, 2003 in the U.S. Bankruptcy Court for the District of Delaware. Combustion Engineering may well be the most significant asbestos bankruptcy since the *Johns-Manville* case in 1992, since *In re Combustion Engineering, Inc.* resulted in a wide-ranging opinion by the U.S. Court of Appeals for the Third Circuit taking up 59 pages in Federal Reporter 3d.<sup>9</sup> *Combustion Engineering* was a "pre-packaged" bankruptcy case, meaning it was filed after asbestos claimants had already cast votes in favor of the plan. CE's plan was objected to by a group styling themselves as "Certain Cancer Claimants" and by a large number of insurers. After an extended confirmation hearing, the bankruptcy court confirmed the plan. Shortly afterwards, the confirmation was affirmed by the district court.<sup>10</sup> On appeal, however, the Third Circuit vacated the confirmation order and remanded for further proceedings.

It is beyond the scope of this article to analyze or summarize the Third Circuit's wide-ranging opinion in *Combustion Engineering*. It is unquestionably "must reading" for anyone interested in asbestos bankruptcies. The issues covered in the opinion include the following: the requirements of § 524(g) of the Bankruptcy Code; the interaction between § 524(g) and § 105 of the Code; the appellate standing of insurers and others; whether the "two-trust" structure popular in pre-packaged asbestos bankruptcies is lawful; the scope of "related to" jurisdiction in bankruptcy; and the "going concern" requirement in § 524(g). For a time, the parties in most asbestos bankruptcy cases filed briefs explaining why the Third Circuit's decision did or did not support arguments being made in those cases.

The full story of *Combustion Engineering* is not yet written. CE and its parent, ABB, announced an agreement with "Certain Cancer Claimants" that resulted in a revised plan for CE being filed on June 24, 2005 and a promised future bankruptcy filing by another ABB affiliate, ABB Lummus Global ("Lummus"). A second confirmation hearing was held on September 28, 2005, following which the bankruptcy court announced its intent to confirm the plan. (All of the objecting insurers withdrew their objections during the hearing in exchange for CE's agreement to add some language to its plan which the insurers had requested.) One significant change effected by the modified CE plan is that the claimants who received pre-petition settlements agreed to give up their right to be paid anything under CE's bankruptcy plan.

We shortly expect to see a pre-packaged bankruptcy filed by CE's affiliate Lummus. During the September, 2005 confirmation proceedings for CE's revised plan, CE filed an affidavit by a Lummus executive describing Lummus' pre-packaged plan and the process leading up to the plan and another affidavit by Lummus' balloting agent stating testifying that 95% of known asbestos claimants against Lummus had voted in favor of Lummus' pre-packaged plan.<sup>11</sup>

Muralo. The Muralo Company filed its bankruptcy petition on May 20, 2003 in the U.S. Bankruptcy Court for the District of New Jersey.<sup>12</sup> Muralo's filing was sparked by the previously-filed bankruptcy of Artra Group. Muralo had purchased from Artra Group assets of Artra's Synkoloid division. In the

past, certain Synkoloid products contained asbestos. Muralo claimed that Synkoloid ceased using asbestos before Muralo's purchase of the Synkoloid division assets from the Artra Group. Nevertheless, Muralo had been named as a defendant by more than 60,000 claimants alleging injuries from exposure to Synkoloid products. Pursuant to an express indemnity agreement executed at the time of the asset sale, Artra assumed, controlled the defense of, and provided indemnity against all Synkoloid asbestos actions for more than 20 years, until Artra filed its chapter 11 petition in June, 2002. After its bankruptcy filing, Artra ceased defending the Synkoloid asbestos actions naming Muralo. Muralo, a small company, claimed it was unable to manage litigation of this magnitude, and sought the protection of Chapter 11.

The Official Committee of Asbestos Creditors filed a motion to dismiss Muralo's bankruptcy case as not having been filed in good faith, alleging that the case had been filed "solely as a litigation tactic" so that Muralo could obtain an order from the bankruptcy court that it was not liable as a successor in interest for Synkoloid-related asbestos liabilities. The committee's motion was based in part on Muralo's statements at the time it commenced its bankruptcy case that it was a "financially healthy" company that was "not seeking to financially restructure."<sup>13</sup> The bankruptcy court denied this motion, finding that "Johns-Manville and its progeny, recognizing the need for open access to bankruptcy for mass tort-driven filings, remain the most compelling precedent given Debtors' circumstances," and that the disruption in Muralo's day-to-day business caused by Artra's June, 2002 bankruptcy was a factor "establishing the good faith" of Muralo's bankruptcy petition.<sup>14</sup>

In February, 2004, Muralo sought the court's approval of an agreement with Artra Group to settle all Synkoloid-related litigation among the parties in each of Artra's and Muralo's bankruptcy cases. Pursuant to the settlement, Muralo agreed to pay Artra \$2.5 million, assign certain claims against underlying defense counsel and insurers, and execute certain releases, and Artra's confirmation order will permanently enjoin the assertion of any past, present, and future Synkoloid-related asbestos claims and demands against Muralo.<sup>15</sup> The agreement was approved in late March, 2005, along with a separate settlement agreement between Muralo and its insurers.<sup>16</sup> Although the settlement is

expected to form the basis of Muralo's plan, it has yet to confirm a plan of reorganization.

C.E. Thurston. On August 18, 2003, C.E. Thurston, an industrial, commercial, and marine insulation installation company, filed for bankruptcy in the U.S. Bankruptcy Court for the Eastern District of Virginia.<sup>17</sup> Thurston's CEO stated "the majority of cases involve plaintiffs from several states where we never performed work and over 80% of our cases list illness as 'unknown' leaving only 20% of plaintiffs with asbestos-related impairments."<sup>18</sup> Although the case has been pending for more than two years, a proposed plan and disclosure statement have not been filed as of the time of this writing (October 21, 2005).

Mid-Valley/KBR (Halliburton). Eight Halliburton Company subsidiaries filed a pre-packaged bankruptcy in the U.S. Bankruptcy Court for the Western District of Pennsylvania on December 16, 2003.<sup>19</sup> The debtors' first-day filings unabashedly acknowledged that the case was filed to take advantage of the special asbestos trust provisions of § 524(g) of the Bankruptcy Code even though the debtors were financially healthy: "[T]his is not a typical chapter 11 case and does not involve debtors in financial distress."<sup>20</sup> "Debtors are filing the Plan to avail themselves of the protections available under sections 105 and 524(g) of the Bankruptcy Code and *not due to any financial difficulties* . . ."<sup>21</sup> "Each of the Debtors is a solvent entity and it is projected that the filing of the Reorganization Cases will not adversely affect the financial viability of the Debtors."<sup>22</sup>

Almost immediately after the filing, several insurers moved to dismiss the bankruptcy cases under § 1112(b) of the Bankruptcy Code, arguing that the debtors were not financially distressed and therefore their bankruptcy cases were not filed in good faith.<sup>23</sup> The bankruptcy court never addressed the merits of these motions, instead finding that the moving insurers lacked standing to present their motions.<sup>24</sup>

Thereafter, Halliburton and the debtors announced settlements with all their insurers,<sup>25</sup> and the plan was confirmed by both the bankruptcy court and the district court. The plan went effective on January 20, 2005, 13 months after the cases were commenced.

Congoleum. The last asbestos bankruptcy of 2003 was another pre-pack that has spawned a large amount

of litigation. It was filed by Congoleum Corporation and two affiliates on December 31, 2003 in the U.S. Bankruptcy Court for the District of New Jersey.<sup>26</sup> Congoleum manufactured flooring products that contained encapsulated asbestos. By June 30, 2003, the company had received approximately 91,000 asbestos-related claims<sup>27</sup> and was involved in coverage litigation with its excess insurers in a New Jersey state court.<sup>28</sup> Adopting the "two-trust" model utilized in other pre-packs, Congoleum sought to confirm a plan that purported to assign the proceeds of Congoleum's liability insurance policies to a plan trust. A pre-petition settlement agreement provided current settling asbestos claimants with a security interest in the insurance proceeds that were to be assigned to the trust, while other claimants would be entitled to payment only after the secured asbestos claims were satisfied. Congoleum's insurers objected to the plan and Congoleum responded that the insurers lacked standing. On April 19, 2004, the bankruptcy court rejected debtors' standing arguments, holding that the insurers had standing to object to plan confirmation because the plan purported to bind the insurers to the findings of fact and conclusions of law that would be made by the court at confirmation.<sup>29</sup>

Congoleum responded by proposing an amended plan containing modifications that it contended made the plan "insurance neutral," thus depriving the insurers of standing. On June 7, 2004, the bankruptcy court once again rejected Congoleum's standing arguments.<sup>30</sup> On February 28, 2005, after filing a fourth amended plan, Congoleum filed a third motion seeking a determination that the insurers lacked standing, asserting that the new revisions to the plan rendered it "insurance neutral."<sup>31</sup> On March 24, 2005, the bankruptcy court rejected Congoleum's standing arguments for the third time.<sup>32</sup>

A confirmation hearing on Congoleum's fourth amended plan began on April 12, 2005 with opening statements. Congoleum's insurers opposed plan confirmation on several grounds, including the fact that the plan treated pre-petition settling claimants and future claimants differently. The United States Trustee also objected to the Plan for this reason and because the plan purported to improperly exculpate numerous plan proponents. The first day of testimony was to occur on April 26, 2005. However, the hearing was suspended after Congoleum, on April 22,

2005, announced that it had reached an agreement with the secured pre-petition settling asbestos claimants pursuant to which these claimants would give up their security interests in Congoleum's insurance proceeds, thereby eliminating the alleged discrimination between the current and future claimants.<sup>33</sup> Congoleum filed a fifth amended plan on June 10, 2005 that not only adjusted the way certain claims were to be handled as between different classes but also effectively abandoned the idea of "insurance neutrality," stating that as a condition of confirmation, all insurers had been "given notice and an opportunity to be heard" with respect to the assignment of insurance to the plan trust.<sup>34</sup> This plan was superceded by a sixth amended plan on July 22, 2005.<sup>35</sup>

The court approved Congoleum's disclosure statement for the sixth amended plan on August 1, 2005 and scheduled a new confirmation hearing to begin on December 12, 2005.<sup>36</sup> Recently, Congoleum announced its intent to file yet another amended plan by December 2, 2005 because, among other things, certain pre-petition settling claimants would not agree to forbear their security interests and had withdrawn their support for the sixth amended plan.<sup>37</sup> Subsequently, the future claimants' representative filed papers indicating that he did not support the announced seventh amended plan (which has not yet been filed) and stating that, if the court concluded on summary judgment that the seventh amended plan is not confirmable, Congoleum's exclusive right to file a plan should be terminated.<sup>38</sup> In the meantime, the coverage litigation is proceeding, with trial in the state court having commenced on August 2, 2005.<sup>39</sup>

Adding to Congoleum's woes, on October 14, 2005, the Third Circuit issued an opinion reversing the district court's order affirming the bankruptcy court's appointment of Congoleum's insurance counsel.<sup>40</sup> The full effect of the Third Circuit's rulings in *Combustion Engineering* and *Congoleum* on Congoleum's ability to confirm a plan remains to be seen.

#### 2004 — The Pace Slows

Oglebay Norton. On February 23, 2004, Oglebay Norton filed the first asbestos-related bankruptcy case of 2004 in the U.S. Bankruptcy Court for the District of Delaware.<sup>41</sup> While the company had significant asbestos exposure, that did not appear to be the driv-

ing force behind its bankruptcy filing. Oglebay's plan proposed to treat both its trade creditors and its tort creditors as "general unsecured" creditors. Trade creditors within that class would receive payment of 100% of their allowed claims on the effective date, and tort claimants would retain the right to pursue their causes of action against Oglebay. Certain "Toxic Tort Claimants," asserting that Oglebay had been sued by more than 100,000 claimants for asbestos- and silica-related injuries, objected to confirmation of the plan because it proposed a "generic, pass-through treatment" of tort claims rather than a "concrete, supportable proposal to resolve and pay these claims."<sup>42</sup> The tort claimants argued that reinstating their claims following confirmation impaired their rights to a "100% payout" such as the trade creditors within their class would receive due to the uncertainty regarding reorganized Oglebay's access to insurance to pay those claims.

On October 5, 2004, the court entered an order denying confirmation of Oglebay's proposed plan, finding that Debtors had failed to meet their burden of proof regarding the feasibility of the plan because they had not provided adequate information regarding the sufficiency of their insurance coverage to pay tort claims following confirmation.<sup>43</sup> Following Oglebay's agreement to pay the claims of the objecting tort claimants at the settled amounts from a trust established with the proceeds from Oglebay's previous settlement with certain London Market Insurers,<sup>44</sup> modifications to the plan excluding tort claims from the group of claims as to which the debtors would be released, and Oglebay's submission of additional evidence regarding its insurance, the bankruptcy court entered an order confirming Oglebay's plan on November 17, 2004.<sup>45</sup> Because the plan did not seek issuance of a channeling injunction under Section 524(g) of the Bankruptcy Code, and since no appeals were filed, the district court was not asked to issue or affirm the confirmation order.

Utex. Utex Corp. filed a pre-packaged bankruptcy case in the U.S. Bankruptcy Court for the Southern District of Texas on March 26, 2004. It emerged with a confirmed plan less than three months later.<sup>46</sup> Utex asserted that bankruptcy relief became necessary because the "number of alleged asbestos claims against Utex has grown dramatically," from 2 claims pending against it in 2001 to 723 claims in the first 4 months

of 2003.<sup>47</sup> Utex had only a small amount of insurance provided by just a handful of insurers, and was able to settle with all of them either right before or shortly after commencing its case.

Flintkote. An old veteran of the asbestos wars, Flintkote Co., filed a Chapter 11 bankruptcy on May 1, 2004, in the U.S. Bankruptcy Court for the District of Delaware.<sup>48</sup> An affiliate, Flintkote Mines, filed a related Chapter 11 case on August 25, 2004.<sup>49</sup> Flintkote has not conducted operations, other than paying asbestos claims and litigating insurance issues, since approximately 1987.<sup>50</sup> Flintkote asserted that more than 155,000 asbestos claims were pending against it as of the petition date.<sup>51</sup> As of this writing, Flintkote has not filed any plan of reorganization, although it has indicated that it intends to invoke the provisions of § 524(g).<sup>52</sup>

Quigley. Quigley Co., an inactive subsidiary of Pfizer Corp., filed a Chapter 11 petition on September 3, 2004, in the U.S. Bankruptcy Court for the Southern District of New York.<sup>53</sup> At the time of Quigley's bankruptcy filing, it had been named as a defendant in approximately 433,700 claims in approximately 149,000 civil actions, alleging personal injury or wrongful death allegedly arising from plaintiffs' purported exposure to asbestos, silica, mixed dust, talc, and/or vermiculite. As of the petition date, there were approximately 162,700 personal injury claims pending against Quigley in approximately 59,150 civil actions. Also as of the petition date, approximately 114,800 claimants had pending claims naming both Quigley and Pfizer as defendants allegedly responsible for personal injury or wrongful death allegedly arising from plaintiffs' purported exposure to asbestos, silica, mixed dust, talc, and/or vermiculite contained in products formerly made, used, or sold by Quigley and/or Pfizer.<sup>21</sup> At the time of Quigley's Chapter 11 filing, its principal business was said to be managing the defense and resolution of the personal injury claims brought against it.<sup>54</sup>

Comments made by the bankruptcy judge at an early hearing regarding the number and validity of asbestos claims pending against Quigley led to a spate of motions to recuse the bankruptcy judge, which she denied. The district court subsequently ruled that the recusal denial was interlocutory and could not be appealed.<sup>55</sup>

On March 4, 2005, Quigley filed a plan under which a claims trust would be formed and a channeling injunction in favor of Quigley, Pfizer, and certain other protected parties would be provided under § 524(g) of the Bankruptcy Code. Ostensibly to comply with the "going concern" requirements of § 524(g), Quigley's parent Pfizer, Inc. agreed in connection with the plan to donate to Quigley certain pharmaceutical patent rights and other assets that would permit Quigley to conduct a business following confirmation. On October 6, 2005, Quigley filed its third amended plan, which generally maintained the structure of its initial plan.<sup>56</sup> Although when it commenced its bankruptcy case Quigley indicated that its plan had been pre-approved (but not voted on) by its asbestos constituencies, several groups of asbestos claimants opposed Quigley's motion to approve its disclosure statement and its proposed solicitation procedures.<sup>57</sup> Their objections were wide-ranging but focused mostly on whether the solicitation procedures were improper because they would give the same weight to the votes of both asymptomatic claimants and cancer claimants. Quigley has modified its plan in response to the disclosure statement objections, but as of this writing the bankruptcy court has not approved the disclosure statement or the solicitation procedures even though it has conducted three hearings on them.<sup>58</sup>

#### 2005 — The Pace Slows Further

**API.** API, Inc., an insulation distributor and industrial insulation contractor, rang in 2005 by filing a pre-packaged bankruptcy case on January 6, 2005 in the U.S. Bankruptcy Court for the District of Minnesota.<sup>59</sup> API's bankruptcy petition followed several years of negotiations and would resolve 730 asbestos claims pending against API as of the time of the filing.<sup>60</sup> In a press release, API asserted that it "probably could have weathered the asbestos storm if it were legally responsible for no more than its own fault. However, Minnesota laws also require API, Inc. to bear responsibility for the fault of manufacturers and distributors who have already gone bankrupt or settled. This operation of the law puts a burden on API, Inc. greater than it can bear."<sup>61</sup> As in other pre-packaged bankruptcies, asbestos creditors are the only impaired creditors under API's plan.<sup>62</sup>

On October 15, 2005, following plan objections lodged by certain of API's insurers and cross motions for summary judgment by API and the objecting

insurers on legal issues related to plan confirmation, the bankruptcy court issued three related orders ruling on various confirmation-related issues.<sup>63</sup> After ruling that API's insurers lacked standing to object to confirmation of API's plan because confirmation of API's plan and formation and operation of the trust contemplated by the plan would not determine or affect the rights or duties of any party with respect to insurance coverage, the court determined that API's plan met the requirements for confirmation under Chapter 11.<sup>64</sup> The court reserved ruling on whether API would be subject to "substantial demands" as required by Section 524(g) until factual evidence of the same is presented at the confirmation hearing.<sup>65</sup>

**Lake Asbestos and Asarco.** On April 11, 2005, Lake Asbestos of Quebec, Ltd. and several other subsidiaries of Asarco, Inc. commenced Chapter 11 cases in the U.S. Bankruptcy Court for the Southern District of Texas in Corpus Christi.<sup>66</sup> Lake Asbestos asserted that more than 95,000 asbestos claims were pending against it and an affiliated debtor, CAPCO Pipe Company, Inc., as of the petition date, an increase of more than 100% over the number of claims pending against them merely two years earlier.<sup>67</sup> In addition, Lake Asbestos asserted that there were 20,000 settled but unfunded asbestos claims against various of the debtors. Early in the case, non-debtor Asarco secured an injunction under § 105 of the Bankruptcy Code barring asbestos claimants from filing or continuing suits against Asarco.<sup>68</sup> Debtors alleged in their complaint that Asarco has never manufactured or sold asbestos or asbestos-containing products, but nevertheless Asarco has been named as an additional defendant in thousands of lawsuits alleging exposure to CAPCO and Lake Asbestos products, and that Asarco has even been named as a defendant on account of alleged exposure to Lake Asbestos and CAPCO products in some cases where neither CAPCO nor Lake Asbestos are named.<sup>69</sup>

On August 10, 2005, Asarco itself filed for Chapter 11 protection, also in the Corpus Christi bankruptcy court. According to its CEO, it had \$500-900 million in asbestos liabilities beyond those of its subsidiaries which had previously filed. It also had up to \$1 billion in environmental liabilities, had seen its credit recently downgraded from BB- to CCC by Standard & Poor's, and had suffered a 41-day labor strike at company facilities in Texas and Arizona.<sup>70</sup>

## 2. New Developments in Asbestos-Related Bankruptcies

Healthy Company Bankruptcies. *Mid-Valley* (the Halliburton subsidiaries' bankruptcy case) may portend a new trend in which financially healthy companies with asbestos exposure file for bankruptcy in order to take advantage of the protections offered by § 524(g) even though, by their own acknowledgement, they have ample resources to weather the asbestos litigation storm for the foreseeable future. This use of the Bankruptcy Code raises the question whether a company that is subject to asbestos claims, but not in financial distress because of them, may nevertheless take advantage of the bankruptcy laws. The issue was squarely presented by the insurers' motions to dismiss the *Mid-Valley* case, but the bankruptcy court in that case held that the insurers lacked standing to raise the issue, so it did not address the merits of the insurers' motion.

If financially healthy debtors are permitted to use § 524(g) to gain permanent protection from asbestos claims, it is possible to envision companies with other types of tort liabilities, such as silica, pharmaceuticals, tobacco, or other products, attempting to follow suit by using § 105 of the Bankruptcy Code to draw a ring around those liabilities. Future developments in this area bear watching.

Preemptive Bankruptcies. The Halliburton subsidiaries unquestionably had a large number of pending asbestos claims, but they and their parent had the acknowledged financial wherewithal to address the issue without resort to the bankruptcy laws. The Chapter 11 filings by *Utex* and *API* were similar in some respects, in that the companies apparently were not in distress at the time of their filings, but they apparently feared they might be under pressure in the near future. *Utex* is a small company that, in the years prior to its bankruptcy filing, had only a modest asbestos claim count. In 2001, *Utex* had only two asbestos claims pending against it. While this number had increased to 3900 claims by the time it filed for Chapter 11 in March, 2004, *Utex* admitted that it filed its bankruptcy case not because it was unable to address those claims but, rather, "solely due to the devastating impact that asbestos-related litigation and claims . . . threaten to pose to the company."<sup>71</sup>

Similarly, at the time of *API*'s bankruptcy filing, it had only 666 asbestos claims pending against it.<sup>72</sup> Although *API* admitted that it managed its asbestos lawsuits through insurance, certain disputes arising with its excess insurers led *API* to "decide[ ] that a bankruptcy filing was necessary . . . to assure its own long-term viability."<sup>73</sup> Like the Halliburton-related debtors, *API* stated that "[a]t all times prior to the Filing Date Debtor has paid all of its normal trade obligations timely in the ordinary course of its business. Debtor intends to continue to do so during this case and after this case."<sup>74</sup>

Cases such as *Utex* and *API* are analytically analogous to *Mid-Valley*, in that the filings are more about protection for the future than addressing current problems. We will see whether this trend develops further.

The Evergreen Issue. The Third Circuit in *Combustion Engineering* noted that an "implicit requirement" of § 524(g) is the contribution to the trust of assets and equity that will constitute an "evergreen" source of funding for the trust. Part of that "evergreen" funding contemplates that the reorganized debtor will have an ongoing business that would generate revenue and subsequent distributions to the equity previously contributed to the trust. Several cases promise further development of the law in this area.

For example, in connection with the plan *Quigley* filed, *Quigley's* parent, *Pfizer, Inc.*, in an apparent attempt to meet the "evergreen" requirement of Section 524(g), agreed to provide *Quigley* with an ongoing business by conveying to *Pfizer* certain rights to exploit patents for several *Pfizer* pharmaceutical products. Additionally, *Pfizer* and its affiliates agree to continue providing certain services (at reorganized *Quigley's* expense) with respect to the contributed products, including manufacturing and distribution services. Further, *Quigley* will create a "claims handling" business, wherein it will process the claims filed against the subsequent Section 524(g) trust for a per-claim fee. It remains to be seen whether any of this passes muster.

"Evergreen" funding has also become an issue in the *Skinner Engine* bankruptcy case (No. 01-23987, Bankr. W.D. Pa. filed April 15, 2001).<sup>75</sup> That case was not originally filed as an asbestos bankruptcy case, and it was not until numerous asserted asbestos

claimants began making appearances in that case that Skinner determined to address its asbestos claims through a plan of reorganization. At that point, Skinner had already liquidated most of its assets pursuant to a Bankruptcy Code § 363 asset sale, and had little left to fund a trust and pay asbestos claims. Recently, Skinner proposed a plan of reorganization that would create a trust under Section 524(g) funded exclusively with Skinner's stock and its insurance policies and proceeds.<sup>76</sup> Skinner originally did not include provisions for any ongoing business in the plan, but in response to objections raised by its insurers, proposed to create a "sports equipment leasing business," whereby it would purchase sports equipment and lease the equipment to various unnamed youth groups. Skinner subsequently retreated from that proposal, and its current "ongoing business" proposal consists of creating a claims handling business that would, for a fee, process the claims filed against its proposed trust.

During a hearing held on August 15, 2005, the bankruptcy court questioned whether Skinner has an ongoing business to reorganize and ordered Skinner to brief whether it is entitled to a discharge under Section 1141 of the Bankruptcy Code, which is a prerequisite for obtaining a supplemental discharge under Section 524(g).<sup>77</sup> Shortly thereafter, Skinner moved to stay all plan-related proceedings so it could prepare an amended plan that would address the court's concerns regarding Skinner's plan.<sup>78</sup> An amended plan is due by October 28, 2005, and Skinner has indicated that it may not include a Section 524(g) trust, presumably in recognition of the "evergreen" issue.<sup>79</sup>

"Evergreen" funding may also become an issue in both *Flintkote* and *Porter Hayden*, both of which have not had operations for many years other than liquidating and paying asbestos claims and pursuing insurance. Whether a reorganized company's handling of its own claims will be enough to comply with § 524(g) will probably be addressed in these cases as well as in *Skinner*, where several insurers moved to

dismiss the bankruptcy case under § 1112(b) on the ground that a debtor with no business to reorganize cannot obtain either a discharge under § 1141 of the Code or a supplemental injunction under § 524(g) of the Code.<sup>80</sup>

The Impact of *Combustion Engineering*: An Aborted Bankruptcy Filing And An Aborted Plan. In October, 2004, Crane Co. announced the terms of a \$510 million "global" settlement that would have resulted in Crane Co. and its affiliates shedding all of their current and future asbestos liabilities through the filing of a prepackaged Chapter 11 case by March, 2005. The settlement involved a two-trust structure with a \$280 million initial trust and a \$230 million post-petition trust. Like the plan in *Combustion Engineering*, the Crane Co. settlement provided both for stub claims and for the payment of non-malignant claimants.<sup>81</sup>

On December 2, 2004, the Third Circuit issued its decision in *Combustion Engineering*, calling into question the viability of the two-trust structure used in that case and other prepackaged asbestos bankruptcies. The Crane Co. settlement contained a provision that allowed Crane Co. to terminate the deal if "a material change in the case law" took place. On January 24, 2005, Crane Co. announced that it was terminating the settlement based upon the fact that *Combustion Engineering* constituted "a material change in the case law regarding Section 524(g) transactions," and was returning to the tort system.<sup>82</sup>

Crane Co.'s decision to not go forward with its bankruptcy filing following *Combustion Engineering*, coupled with the changes both Combustion Engineering and Congoleum have made to their plans to address the concerns voiced by the Third Circuit with respect to the two-trust structure, raises the issue of whether pre-packs as structured before *Combustion Engineering* are now a thing of the past. And if they are, will there be a new form of pre-pack in the future?



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**CHART 1:**  
**COMPANY NAME AND YEAR OF BANKRUPTCY FILING**  
**(CHRONOLOGICALLY)**

<b>Company</b>	<b>Year</b>
UNR Industries	1982
Johns-Manville Corp.	1982
Amatex Corp.	1982
Unarco	1982
Waterman Steamship Corp.	1983
Wallace & Gale Co.	1984
Forty-Eight Insulations	1985
Philadelphia Asbestos Corp. (Pacor)	1986
Standard Insulations, Inc.	1986
Prudential Lines, Inc.	1986
McLean Industries	1986
United States Lines	1986
Gatke Corp.	1987
Todd Shipyards	1987
Nicolet, Inc.	1987
Raymark Corp./Raytech Corp.	1989
Delaware Insulations	1989
Hillsborough Holding Co.	1989
Celotex Corp.	1990
Carey Canada, Inc.	1990
National Gypsum	1990
Eagle-Picher Industries	1991
H.K. Porter Co.	1991
Kentile Floors	1992
American Shipbuilding, Inc.	1993
Keene Corp.	1993
Lykes Bros. Steamship	1995
Rock Wool Manufacturing	1996
M.H. Detrick	1998
Fuller-Austin	1998
Brunswick Fabricators	1998
Harnischfeger Corp.	1999
Rutland Fire Clay	1999
Babcock & Wilcox Co.	2000
Pittsburgh Corning	2000
Owens Corning Corp./Fibreboard	2000

Armstrong World Industries	2000
Burns & Roe, Inc.	2001
G-I Holdings	2001
Skinner Engine Co.	2001
W.R. Grace	2001
USG Corp.	2001
E.J. Bartells	2001
United States Mineral Products	2001
Federal Mogul	2001
Murphy Marine Services	2001
Insul Co.	2001
Swan Transportation Co.	2001
North American Refractories Corp. (NARCO)	2002
Kaiser Aluminum	2002
GIT/Harbison-Walker/AP Green Industries	2002
Plibrico Co.	2002
Shook & Fletcher	2002
Porter-Hayden Co.	2002
Artra Group, Inc.	2002
Asbestos Claims Management Corp.	2002
ACandS	2002
JT Thorpe Co. (S.D. Tex.)	2002
A-Best Products	2002
Western MacArthur/Western Asbestos	2002
C.E. Thurston	2003
Combustion Engineering	2003
Congoleum Corp.	2003
Mid-Valley	2003
Muralo Co.	2003
Flintkote Co./Flintkote Mines	2004
Oglebay Norton Co. (ONCO)	2004
Quigley Co.	2004
Utex Industries	2004
JT Thorpe, Inc. (C.D. Cal.)	2004
API, Inc.	2005
Lake Asbestos of Quebec, Ltd.	2005
Asarco	2005

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**CHART 2:**  
**COMPANY NAME AND YEAR OF BANKRUPTCY FILING (ALPHABETIZED)**

Company	Year
A-Best Products	2002
ACandS, Inc.	2002
Amatex Corp.	1982
American Shipbuilding Co.	1993
Ancor Holdings Inc./National Gypsum	1990
API, Inc.	2005
Armstrong World Industries	2000
Artra Group, Inc.	2002
Asarco, Inc.	2005
Asbestos Claims Management Corp.	2002
Babcock & Wilcox Co.	2000
Brunswick Fabricators	1998
Burns & Roe	2001
Carey Canada, Inc.	1990
Celotex Corp.	1990
C.E. Thurston	2003
Combustion Engineering	2003
Congoleum Corp.	2003
Delaware Insulations Distributors	1989
Eagle Picher Industries	1991
EJ Bartells Co., Inc.	2001
Federal Mogul Corp.	2001
Flintkote Co.	2004
Flintkote Mines Ltd.	2004
Forty-Eight Insulations	1985
Fuller-Austin Insulation Co.	1998
Gatke Corp.	1987
G-I Holdings	2001
GIT/Harbison-Walker/AP Green	2002
Harnischfeger Corp.	1999
Hillsborough Holdings	1989
H.K. Porter Co., Inc.	1991
Insul Co.	2001
Johns-Manville Corp.	1982
JP Stevens	2004
JT Thorpe (S.D. Tex.)	2002
JT Thorpe (C.D. Cal.)	2004
Kaiser Aluminum Corp.	2002

Keene Corp.	1993
Kentile Floors, Inc.	1992
Lake Asbestos of Quebec	2005
McLean Industries	1986
M.H. Detrick	1998
Mid-Valley	2003
The Muralo Co., Inc.	2003
Murphy Marine Services, Inc.	2001
North American Refractories Co. (NARCO)	2002
Nicolet, Inc.	1987
Oglebay Norton Co. (ONCO)	2004
Owens Corning/Fibreboard	2000
Philadelphia Asbestos Corp. (Pacor)	1986
Pittsburgh Corning	2000
Plibrico Co.	2002
Porter-Hayden Co.	2002
Prudential Lines, Inc.	1986
Quigley Co.	2004
Raymark Corp./Raytech Corp.	1989
Rock Wool Manufacturing	1996
Rutland Fire Clay Co.	1999
Shook & Fletcher Insulation Co.	2002
Skinner Engine Co.	2001
Standard Insulations, Inc.	1986
Swan Transportation Co.	2001
Todd Shipyards	1987
Unarco Industries, Inc.	1982
United States Lines	1986
United States Mineral Products	2001
UNR Industries, Inc.	1982
USG Corp.	2001
Utex Industries	2004
Wallace & Gale	1984
Waterman Steamship Corp.	1983
Western Macarthur/Western Asbestos	2002
W.R. Grace Co.	2001

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**CHART 3:**  
**COMPANY NAME, CASE NO., COURT, PLAN STATUS & PUBLISHED DECISIONS**

<b>Company</b>	<b>Case No. &amp; Court</b>	<b>Plan Status</b>	<b>Published Decisions</b>
A-Best Products	No. 02-12734-JKF (Bankr. D. Del.)	Plan confirmed by bankruptcy court May 25, 2004 and district court June 7, 2004.	
ACandS, Inc.	No. 02-12687 (Bankr. D. Del.)	Plan denied confirmation by bankruptcy court on January 26, 2004; appeals pending in district court.	<i>In re ACandS, Inc.</i> , 311 B.R. 36 (Bankr. D. Del. 2004); <i>In re ACandS, Inc.</i> , 297 B.R. 36 (Bankr. D. Del. 2003); <i>In re ACandS, Inc.</i> , 297 B.R. 395 (Bankr. D. Del. 2003).
Amatex Corp.	No. 82-05220 (Bankr. E.D. Pa.)	Plan confirmed by bankruptcy court on April 25, 1990.	<i>In re Amatex Corp.</i> , 755 F.2d 1034 (3d Cir. 1985); <i>Amatex Corp. v. Aetna Cas. &amp; Sur. Co. (In re Amatex Corp.)</i> , 107 B.R. 856 (Bankr. E.D. Pa. 1989); <i>In re Amatex Corp.</i> , 37 B.R. 613 (E.D. Pa. 1983).
American Shipbuilding Co.	No. 93-11552 (Bankr. M.D. Fla.)	Plan confirmed by bankruptcy court on October 11, 1994.	
A.P.I., Inc.	No. 05-30073 (Bankr. D. Minn.)	Petition filed January 6, 2005; second amended plan filed on May 3, 2005; not yet confirmed.	<i>In re A.P.I., Inc.</i> , 324 B.R. 761 (Bankr. D. Minn. 2005).
Armstrong World Industries	No. 00-4471 (Bankr. D. Del.)	Plan recommended for confirmation by bankruptcy court on December 19, 2003; confirmation denied by district court on	<i>In re Kensington Int'l Ltd.</i> , 368 F.3d 289 (3d Cir. 2004) (also applicable to the <i>Federal-Mogul, Owens Corning, USG</i>

		February 23, 2005; appeal pending in Third Circuit.	<i>Corp.</i> , and <i>W.R. Grace</i> bankruptcies); <i>In re Kensington Int'l Ltd.</i> , 353 F.3d 211 (3d Cir. 2003) (also applicable to the <i>Federal-Mogul</i> , <i>Owens Corning</i> , <i>USG Corp.</i> , and <i>W.R. Grace</i> bankruptcies). See also <i>Wise v. Travelers Indem. Co.</i> , 192 F. Supp.2d 506 (N.D. W.Va. 2002).
Artra Group, Inc.	No. 02-21522 (Bankr. N.D. Ill.)	Amended plan filed on April 29, 2003; not yet confirmed.	<i>Official Comm. Of Unsecured Creditors of Artra Group, Inc. v. Artra Group, Inc. (In re Artra Group, Inc.)</i> , 300 B.R. 699 (Bankr. N.D. Ill. 2003).
Asbestos Claims Management Corp.	No. 02-37124 (Bankr. N.D. Tex.)	Plan confirmed by bankruptcy court on May 6, 2003 and by district court on June 5, 2003.	<i>In re Asbestos Claims Mgt. Corp.</i> , 294 B.R. 663 (N.D. Tex. 2003).
Babcock & Wilcox Co.	No. 00-10992 (Bankr. E.D. La.)	Plan recommended for confirmation by bankruptcy court on Oct. 8, 2004; appeals pending in district court.  Amended plan filed on September 30, 2005.	<i>In re Babcock &amp; Wilcox Co.</i> , 274 B.R. 230 (Bankr. E.D. La. 2002); <i>Amer. Nuclear Insurers v. The Babcock &amp; Wilcox Co. (In re The Babcock &amp; Wilcox Co.)</i> , 2002 U.S. Dist. LEXIS 11464 (E.D. La. June 14, 2002), <i>aff'd mem.</i> , 69 Fed. Appx. 659 (2003); <i>In re Babcock &amp; Wilcox Co.</i> , No. 02-30721, 2003 U.S. App. LEXIS 12157 (5th Cir. May 30, 2003).
Burns & Roe	No. 00-41610 (Bankr. D.N.J.)	Amended plan filed on August 15, 2005.	

Carey Canada, Inc.	Nos. 90-10016-8B1, 90-10017-8B1 (Bankr. M.D. Fla.)	Joint plan of reorganization with Celotex Corp. confirmed by bankruptcy court on December 6, 1996 and by district court on March 4, 1997.	
Celotex Corp.	Nos. 90-10016-8B1, 90-10017-8B1 (Bankr. M.D. Fla.)	Joint plan of reorganization with Carey Canada confirmed by bankruptcy court on December 6, 1996 and district court on March 4, 1997.	<p><i>Dana Corp. v. Celotex Asbestos Settlement Trust</i>, 251 F.3d 1107 (6th Cir. 2001); <i>Owens-Illinois, Inc. v. Rapid Am. Corp. (In re Celotex Corp.)</i>, 124 F.3d 619 (4th Cir. 1997); <i>Hillsborough Holdings Corp. v. Celotex Corp.</i>, 123 B.R. 1018 (M.D. Fla. 1990); <i>In re Celotex Corp.</i>, 289 B.R. 460 (Bankr. D. Fla. 2003); <i>In re Celotex Corp.</i>, 245 B.R. 174 (Bankr. D. Fla. 2000); <i>In re Celotex Corp.</i>, 224 B.R. 853 (Bankr. M.D. Fla. 1998); <i>In re Celotex Corp.</i>, 204 B.R. 586 (Bankr. D. Fla. 1998); <i>In re Celotex Corp.</i>, 204 B.R. 586 (M.D. Fla. 1996); <i>Celotex Corp. v. AIU Ins. Co. (In re Celotex Corp.)</i>, 187 B.R. 746 (M.D. Fla. 1995); <i>In re Celotex Corp.</i> 152 B.R. 667 (Bankr. M.D. Fla. 1993); <i>In re Celotex Corp.</i>, 123 B.R. 917 (Bankr. M.D. Fla. 1991); <i>Hillsborough Holdings Corp. v.</i></p>

			<i>Celotex Corp. (In re Hillsborough Holdings Corp.)</i> , 123 B.R. 1004 (Bankr. M.D. Fla. 1990).
C.E. Thurston	No. 03-75932-SCS (Bankr. E.D. Va.)	Petition filed August 18, 2003; plan not yet filed.	
Combustion Engineering	No. 03-10495 (Bankr. D. Del.)	Plan confirmed by bankruptcy court on June 23, 2003 and by district court on August 13, 2003; confirmation order vacated by the Third Circuit on December 2, 2004; modified plan filed June 24, 2005, amended August 3, August 19, and October 7, 2005.  Following confirmation hearing held on September 28, 2005, bankruptcy court announced that it would confirm the modified plan, as amended.	<i>In re Combustion Eng'g, Inc.</i> , 391 F.3d 190 (3d Cir. 2004); <i>In re Combustion Eng'g, Inc.</i> , 295 B.R. 459 (Bankr. D. Del. 2003).
Congoleum Corp.	No. 03-51524 [KCF] (Bankr. D.N.J.)	Sixth modified plan filed July 22, 2005; confirmation hearing scheduled for December 13, 2005.	<i>Century Indem. Co. v. Congoleum Corp. (In re Congoleum Corp.)</i> , No. 04-3609, 2005 U.S. App. LEXIS 22066 (3d Cir. Oct. 13, 2005); <i>Baron &amp; Budd, P.C. v. Unsecured Asbestos Claimants Comm. (In re Congoleum Corp.)</i> , 321 B.R. 147 (D.N.J. 2005).
Delaware Insulations Distributors	No. 89-00295 (Bankr. D. Del.)	Plan confirmed by the bankruptcy court on	



		September 9, 1992.	
Eagle-Picher Industries	No. 91-10100 (Bankr. S.D. Ohio)  No. 05-12601 (Bankr. S.D. Ohio)	Plan confirmed by the bankruptcy and district courts on November 18, 1996.  Company filed a new bankruptcy petition on April 11, 2005.	<i>American Imaging Services, Inc. v. Eagle-Picher Indus., Inc. (In re Eagle-Picher Indus., Inc.)</i> , 963 F.2d 855 (6th Cir. 1992); <i>In re Eagle-Picher Indus.</i> , 203 B.R. 256 (Bankr. S.D. Ohio 1996), <i>aff'd</i> , 1996 U.S. Dist. LEXIS 17160 (S.D. Ohio Nov. 18, 1996); <i>In re Eagle-Picher Indus.</i> , 189 B.R. 681 (Bankr. S.D. Ohio 1995); <i>In re Eagle-Picher Indus.</i> , 144 B.R. 69 (Bankr. S.D. Ohio 1992).
E.J. Bartells Co., Inc.	No. 00-10390 (Bankr. W.D. Wash.)	Plan confirmed by the bankruptcy court on February 14, 2001.	
Federal-Mogul	No. 01-10578 (Bankr. D. Del.)	Third amended joint plan filed on June 4, 2004; not yet confirmed.	<i>In re Kensington Int'l Ltd.</i> , 368 F.3d 289 (3d Cir. 2004) (also applicable to the <i>Armstrong, Owens Corning, USG Corp.</i> , and <i>W.R. Grace</i> bankruptcies); <i>In re Kensington Int'l Ltd.</i> , 353 F.3d 211 (3d Cir. 2003) (also applicable to the <i>Armstrong, Owens Corning, USG Corp.</i> , and <i>W.R. Grace</i> bankruptcies); <i>In re Federal-Mogul Global, Inc.</i> , 300 F.3d 368 (3d Cir. 2002). <i>See also Arnold v. Garlock</i> , 278 F.3d 426 (5th Cir. 2001).
Flintkote Co.	No. 04-11300 [JKF]	Petition filed May 1,	<i>Certain Underwriters</i>

	(Bankr. D. Del.)	2004; plan not yet filed.	<i>at Lloyd's, London v. Future Asbestos Claims Representative (In re Kaiser Aluminum Corp.)</i> , 327 B.R. 554 (D. Del. 2005) (consolidated with <i>London Mkt. Ins. Cos. v. Baron &amp; Budd PC (In re The Flintkote Co.)</i> ).
Forty-Eight Insulations	No. 85-B-05061 (Bankr. N.D. Ill.)	Modified Fourth Amended Plan of Liquidation confirmed by bankruptcy court on May 16, 1995.	<i>In re Forty-Eight Insulations</i> , 115 F.3d 1294 (7th Cir. 1997); <i>In re Forty-Eight Insulations, Inc.</i> , 133 B.R. 973 (Bankr. N.D. Ill. 1991), <i>aff'd</i> , 149 B.R. 860 (N.D. Ill. 1992); <i>In re Forty-Eight Insulations, Inc.</i> , 109 B.R. 315 (N.D. Ill. 1989).
Fuller-Austin Insulation Co.	No. 98-02038 (Bankr. D. Del.)	Plan confirmed by district court, sitting in bankruptcy, on November 13, 1998.	
Gatke Corp.	No. 87-30308 (Bankr. N.D. Ind.)	Second amended plan of liquidation filed August 17, 1989; case converted to Chapter 7 on August 9, 1991.	
G-I Holdings	Nos. 01-30135 [RG] and 01-38790 [RG] (Bankr. D.N.J.)	Petition filed January 5, 2001; plan not yet filed.	<i>Official Comm. of Asbestos Claimants v. G-I Holdings, Inc. (In re G-I Holdings, Inc.)</i> , 385 F.3d 313 (3d Cir. 2004); <i>G-I Holdings, Inc. v. Bennet (In re G-I Holdings, Inc.)</i> , 328 B.R. 691 (D.N.J. 2005); <i>Official Comm. of Asbestos Claimants v. Bank of N.Y. (In re G-I Holdings, Inc.)</i> , 318 B.R. 66 (D.N.J.

			<p>2004); <i>Official Comm. of Asbestos Claimants of G-I Holdings, Inc. v. Heyman</i>, 306 B.R. 746 (S.D.N.Y. 2004); <i>Official Comm. Of Asbestos Claimants of G-I Holdings v. Heyman</i>, 277 B.R. 20 (S.D.N.Y. 2002); <i>In re G-I Holdings, Inc.</i>, 327 B.R. 730 (Bankr. D.N.J. 2005); <i>In re G-I Holdings</i>, 323 B.R. 583 (Bankr. D.N.J. 2005); <i>G-I Holdings, Inc. v. Those Parties Listed On Exhibit A (In re G-I Holdings, Inc.)</i>, 313 B.R. 612 (Bankr. D.N.J. 2004); <i>Official Comm. of Asbestos Claimants v. G-I Holdings, Inc. (In re G-I Holdings, Inc.)</i>, 295 B.R. 211 (D.N.J. 2003); <i>In re G-I Holdings, Inc.</i>, 292 B.R. 804 (D.N.J. 2003); <i>G-I Holdings, Inc. v. Hartford Acc. &amp; Indem. Co. (In re G-I Holdings, Inc.)</i>, 278 B.R. 376 (Bankr. D.N.J. 2002); <i>G-I Holdings, Inc. v. Reliance Ins. Co. (In re G-I Holdings, Inc.)</i>, 278 B.R. 725 (Bankr. D.N.J. 2002).</p>
GIT/Harbison-Walker/AP Green	Nos. 01-01139, 02-21627, 02-21639 (Bankr. W.D. Pa.)	Plan filed July 31, 2003; amended plan filed on September 20, 2005.	<i>In re Global Indus. Techs., Inc.</i> , 303 B.R. 753 (Bankr. W.D. Pa. 2004), vacated in part, modified in part by <i>In re Global Indus.</i>

			<i>Techs., Inc.</i> , 2004 WL 555418 (W.D. Pa Feb 3, 2004).
Harnischfeger Corp.	No. 99-02171 (Bankr. Del.)	Amended plan confirmed by bankruptcy court on May 18, 2001.	
Hillsborough Holdings	No. 89-09715 (Bankr. M.D. Fla.)	Plan confirmed by bankruptcy court on March 2, 1995.	<i>Walter Industries, Inc. v. Solutia, Inc. (In re Hillsborough Holdings Corp.)</i> , 325 B.R. 334 (Bankr. M.D. Fla. 2005); <i>Cavazos v. Mid-State Trust II (In re Hillsborough Holdings Corp.)</i> , 267 B.R. 882 (Bankr. M.D. Fla. 2001); <i>Walter v. Celotex Corp. (In re Hillsborough Holdings Corp.)</i> , 197 B.R. 372 (Bankr. M.D. Fla. 1996); <i>In re Hillsborough Holdings Corp.</i> , 197 B.R. 366 (Bankr. M.D. Fla. 1996); <i>Hillsborough Holdings Corp. v. Celotex Corp.</i> , 123 B.R. 1018 (M.D. Fla. 1990); <i>Hillsborough Holdings Corp. v. Celotex Corp. (In re Hillsborough Holdings Corp.)</i> , 123 B.R. 1004 (Bankr. M.D. Fla. 1990).
H.K. Porter Co.	No. 91-468 WWB (Bankr. W.D. Pa.)	Plan confirmed by district court on June 25, 1998.	<i>Travelers Ins. Co. v. H.K. Porter Co.</i> , 45 F.3d 737 (3d Cir. 1995); <i>In re H.K. Porter Co.</i> , 156 B.R. 16 (Bankr. W.D. Pa.

			1993).
Insul Co.	No. 02-43909 (Bankr. N.D. Ohio)	Chapter 7 case; petition filed September 4, 2002; no-asset report filed May 18, 2005; case closed June 7, 2005.	
Johns-Manville Corp.	Nos. 82 B 11656 [BLR] through 82 B 11676 [BLR] (S.D.N.Y., E.D.N.Y.)	Plan confirmed by bankruptcy court on December 22, 1986 and affirmed by district court on July 15, 1987	<i>State Gov't Creditors' Comm. for Prop. Damage Claims v. McKay (In re Johns-Manville Corp.)</i> , 920 F.2d 121 (2d Cir. 1990); <i>Kane v. Johns-Manville Corp.</i> , 843 F.2d 636 (2d Cir. 1988); <i>MacArthur Co. v. Johns-Manville Corp. (In re Johns-Manville Corp.)</i> , 837 F.2d 89 (2d Cir. 1988), <i>cert denied</i> , 488 U.S. 868 (1988); <i>Manville Corp. v. Equity Sec. Holders' Comm (In re Johns-Manville Corp.)</i> , 60 B.R. 842, 845 (S.D.N.Y. 1986), <i>rev'd</i> , 801 F.2d 60 (2d Cir. 1986); <i>In re Johns-Manville Corp.</i> , 52 B.R. 940 (S.D.N.Y. 1985); <i>In re Johns-Manville Corp.</i> , 45 B.R. 827 (S.D.N.Y. 1984); <i>In re Johns-Manville Corp.</i> , 45 B.R. 823 (S.D.N.Y. 1984); ); <i>In re Johns-Manville Corp.</i> , 42 B.R. 651 (S.D.N.Y. 1984); <i>In re Johns-Manville Corp.</i> , 40 B.R. 219 (S.D.N.Y. 1984), <i>aff'g</i>

			<p><i>Johns-Manville Corp. v. Asbestos Litig. Group (In re Johns-Manville Corp.)</i>, 26 B.R. 219 (Bankr. S.D.N.Y. 1983), and <i>GAF Corp. v. Johns-Manville Corp. (In re Johns-Manville Corp.)</i>, 26 B.R. 405 (Bankr. S.D.N.Y. 1983); <i>In re Johns-Manville Corp.</i>, 31 B.R. 965 (S.D.N.Y. 1983); <i>In re Johns-Manville Corp.</i>, 39 B.R. 998 (S.D.N.Y. 1984); <i>Johns-Manville Corp. v. Colorado Ins. Guar. Ass'n</i>, 91 B.R. 225 (Bankr. S.D.N.Y. 1988); <i>In re Johns-Manville Corp.</i>, 68 B.R. 618 (Bankr. S.D.N.Y. 1986); <i>In re Johns-Manville Corp.</i>, 36 B.R. 743 (Bankr. S.D.N.Y. 1984); <i>Johns-Manville Corp. v. Asbestos Litig. Group (In re Johns-Manville Corp.)</i>, 33 B.R. 254 (Bankr. S.D.N.Y. 1983); <i>Findley v. Falise (In re Joint Eastern &amp; Southern Districts Asbestos Litig.)</i>, 878 F. Supp. 473 (E. &amp; S.D.N.Y. 1995); <i>Findley v. Falise (In re Johns-Manville Corp.)</i>, 982 F.2d 721 (2d Cir. 1992). See also <i>In re Davis</i>, 730</p>
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			F.2d 176 (5th Cir. 1984).
JT Thorpe Co.	No. 02-41487-H5-11 (Bankr. S.D. Tex.)	Plan confirmed by bankruptcy court on January 17, 2003 and by district court on January 30, 2003; following appeal and remand, plan re-confirmed by bankruptcy court on March 3, 2004 and by district court on March 3, 2004.	<i>In re JT Thorpe Co.</i> , 308 B.R. 782 (Bankr. S.D. Tex. 2003).
JT Thorpe, Inc.	No. LA02-14216-BB (Bankr. C.D. Cal.)	Plan filed March 3, 2005; not yet confirmed.	
Kaiser Aluminum Corp.	No. 02-10429 (Bankr. D. Del.)	Second Amended Plan filed September 7, 2005.	<i>Certain Underwriters at Lloyd's, London v. Future Asbestos Claims Representative (In re Kaiser Aluminum Corp.)</i> , 327 B.R. 554 (D. Del. 2005); <i>In re Kaiser Aluminum Corp.</i> , 303 B.R. 299 (D. Del. 2003).
Keene Corp.	No. 93 B 46090, 96 CV 3492 (Bankr. S.D.N.Y.)	Fourth Amended Plan confirmed by bankruptcy court on June 13, 1996 and by district court on June 13, 1996.	
Kentile Floors, Inc.	No. 92 B 46466 BRL (Bankr. S.D.N.Y.)	Plan confirmed by bankruptcy court on December 10, 1998.	
Lykes Bros. Steamship Co.	No. 95-10453 (M.D. Fl.)	Plan confirmed by bankruptcy court on April 15, 1997 and by district court on April 15, 1997.	
M.H. Detrick	No. 98 B 01004 (Bankr. N.D. Ill.)	Plan confirmed jointly by bankruptcy court and district court on	

		Aug. 21, 2002.	
Mid-Valley, Inc.	No. 03-35592- JKF (Bankr. W.D. Pa.)	Plan confirmed by bankruptcy court on July 16, 2004 and by district court on December 1, 2004.	<i>In re Mid-Valley, Inc.</i> , 305 B.R. 425 (Bankr. W.D. Pa. 2004).
The Muralo Co.	No. 03-26723-MS (Bankr. D.N.J.)	Petition filed May 20, 2003; plan not yet filed.	<i>In re Muralo Co.</i> , 301 B.R. 690 (D.N.J. 2003); <i>In re Muralo Co.</i> , 295 B.R. 512 (Bankr. D.N.J. 2003).
Murphy Marine Services, Inc.	No. 01-00926 (Bankr. D. Del.)	Plan filed on January 23, 2002; case converted to Chapter 7 on July 25, 2002.	
National Gypsum Co./Ancor Holdings Inc.	No. 90-37213 (Bankr. N.D. Tex.)	Plan confirmed by bankruptcy court March 9, 1993.	<i>New Nat'l Gypsum Co. v. National Gypsum Co. Settlement Trust (In re Nat'l Gypsum)</i> , 219 F.3d 478 (5th Cir. 2000); <i>Donaldson Lufkin Jenrette Securities Corp. v. National Gypsum Co. (In re National Gypsum Co.)</i> , 123 F.3d 861 (5th Cir. 1997); <i>In re National Gypsum Co.</i> , 257 B.R. 184 (Bankr. N.D. Tex. 2000); <i>In re National Gypsum Co.</i> , 243 B.R. 676 (Bankr. D. Tex. 1999). <i>See also Browning v. Prostok</i> , 165 S.W.3d 336 (Tex. 2005).
North American Refractories Corp. (NARCO)	No. 02-20198 (Bankr. W.D. Pa.)	Plan filed July 31, 2003; amended plan filed September 20, 2005.	<i>In re North American Refractories Co.</i> , 280 B.R. 356 (Bankr. W.D. Pa. 2002).
Nicolet, Inc.	No. 87-03574S (Bankr. E.D. Pa.)	Plan confirmed by bankruptcy court on September 21, 1989.	
Oglebay Norton Co.	No. 04-10558-JBR	Second amended plan	



	(Bankr. D. Del.)	confirmed by bankruptcy court on November 7, 2004. Company emerged from bankruptcy on Jan. 31, 2005.	
Owens Corning/Fibreboard	No. 00-03837 (Bankr. D. Del.)	Fourth amended plan filed November 21, 2003; not yet confirmed.	<i>In re Owens Corning</i> , 419 F.3d 195 (3d Cir. 2005), <i>rev'g In re Owens Corning</i> , 316 B.R. 168 (D. Del. 2004); <i>Owens Corning v. Credit Suisse First Boston</i> , 322 B.R. 719 (D. Del. 2005); <i>In re Owens Corning</i> , 305 B.R. 175 (D. Del. 2004); <i>In re Owens Corning</i> , 291 B.R. 329 (Bankr. D. Del. 2003); <i>In re Kensington Int'l Ltd.</i> , 368 F.3d 289 (3d Cir. 2004), <i>rev'g In re Owens Corning</i> , 316 B.R. 168 (Bankr. D. Del. 2004) (also applicable to the <i>Armstrong, Federal-Mogul, USG Corp.</i> , and <i>W.R. Grace</i> bankruptcies); <i>In re Kensington Int'l Ltd.</i> , 353 F.3d 211 (3d Cir. 2003) (also applicable to the <i>Armstrong, Federal-Mogul, USG Corp.</i> , and <i>W.R. Grace</i> bankruptcies).
Philadelphia Asbestos Corp. (Pacor, Inc.)	No. 86-03252G (Bankr. E.D. Pa.)	Plan confirmed by bankruptcy court on November 30, 1989.	
Pittsburgh Corning	No. 00-22876 (Bankr. W.D. Pa.)	Second amended plan filed on November 20, 2003; not yet confirmed.	<i>Mt. McKinley Ins. Co. v. Corning, Inc.</i> , 399 F.3d 436 (2d Cir. 2005); <i>In re</i>

			<i>Pittsburgh Corning Corp.</i> , 308 B.R. 716 (Bankr. W.D. Pa. 2004).
Plibrico Co.	No. 02 B 09952 (Bankr. N.D. Ill.)	Amended plan filed on August 4, 2005; not yet confirmed.	
Porter-Hayden Co.	No. 02-54152 (Bankr. D. Md.)	Third amended plan filed on September 16, 2005; not yet confirmed.	<i>Porter-Hayden Co. v. First State Mgt. Group, Inc. (In re Porter-Hayden Co.)</i> , 304 B.R. 725 (Bankr. D. Md. 2004).
Prudential Lines, Inc.	No. 86-11773 (Bankr. S.D.N.Y.)	Plan confirmed by bankruptcy court on December 15, 1989 and by district court on October 4, 1990.	<i>In re Prudential Lines, Inc.</i> , 170 B.R. 222 (S.D.N.Y. 1994).
Quigley Co.	No. 04-15739-PCB (Bankr. S.D.N.Y.)	Third amended plan filed October 6, 2005; not yet confirmed.	<i>In re Ad Hoc Comm. Of Tort Victims (In re Quigley Co., Inc.)</i> , 327 B.R. 138 (S.D.N.Y. 2005); <i>In re Quigley Co. Inc.</i> , 323 B.R. 70 (S.D.N.Y. 2005).
Raymark Corp./Raytech Corp.	No. 89-00293 (Bankr. D. Conn.)	Second amended plan confirmed by bankruptcy court on August 31, 2000.	
Rock Wool Manufacturing	Nos. CV-99-J-1589-S, BK-96-08295-TBB-11 (Bankr. N.D. Ala.)	Second amended plan confirmed by bankruptcy court on December 3, 1999 and by district court on Dec. 6, 1999.	
Rutland Fire Clay Co.	No. 99-11390 (Bankr. D. Vt.)	Plan confirmed by bankruptcy court and district court on November 17, 2000.	
Shook & Fletcher Insulation Co.	No. 02-02771-BGC-11 (Bankr. N.D. Ala.)	Plan confirmed by bankruptcy court on October 29, 2002 and by district court on November 8, 2002.	
Skinner Engine Co.	No. 01-23987-MBM	Joint amended plan	<i>In re American</i>

	(Bankr. W.D. Pa.)	filed on September 13, 2001; not yet confirmed.	<i>Capital Equipment, LLC</i> , 325 B.R. 372 (W.D. Pa. 2005); <i>In re American Capital Equipment, LLC</i> , 324 B.R. 570 (W.D. Pa. 2005).
Standard Insulations, Inc.	No. 86-03413-1-11 (Bankr. W.D. Mo.)	Plan confirmed by bankruptcy court and district court on October 26, 1992.	<i>In re Standard Insulations, Inc.</i> , 138 B.R. 947 (Bankr. W.D. Mo. 1992).
Swan Transportation Co.	No. 01-11690-JKF (Bankr. D. Del.)	Plan confirmed by bankruptcy court on May 30, 2003 and by district court on July 21, 2003.	
United States Lines	No. 86-12240 (Bankr. S.D.N.Y.) (jointly administered with McLean Industries, No. 86-12238)	Plan confirmed by bankruptcy court on May 16, 1989.	<i>In re United States Lines</i> , 197 F.3d 631 (2d Cir. 1999).
United States Mineral Products	No. 01-02471 (Bankr. D. Del.)	Fifth amended plan filed by Chapter 11 Trustee on September 27, 2005; not yet confirmed.	
UNR Industries, Inc.	Nos. 82 B 9841-9845, 82 B 9847, 82 B 9849 (Bankr. N.D. Ill.)	Plan confirmed by bankruptcy court on June 1, 1989.	<i>In re UNR Indus., Inc.</i> , 20 F.3d 766 (7th Cir. 1994); <i>In re UNR Indus., Inc.</i> , 986 F.2d 207 (7th Cir. 1993); <i>UNR Indus., Inc. v. Continental Cas. Co.</i> , 942 F.2d 1101 (7th Cir. 1991); <i>In re UNR Indus., Inc.</i> , 736 F.2d 1136 (7th Cir. 1984); <i>In re UNR Indus., Inc.</i> , 725 F.2d 1111 (7th Cir., 1984); <i>In re UNR Industries, Inc.</i> , 224 B.R. 664 (Bankr. N.D. Ill. 1998); <i>In re UNR Industries, Inc.</i> , 212 B.R. 295 (Bankr. N.D. Ill. 1997); <i>UNR</i>

			<p><i>Industries, Inc. v. Bloomington Factory Workers</i>, 173 B.R. 149 (N.D. Ill. 1994); <i>In re UNR Industries, Inc.</i>, 143 B.R. 506 (Bankr. N.D. Ill. 1992); <i>UNARCO Bloomington Factory Workers v. UNR Industries, Inc.</i>, 124 B.R. 268 (N.D. Ill. 1990); <i>UNR Industries, Inc. v. American Mut. Liability Ins. Co.</i>, 92 B.R. 319 (N.D. Ill. 1988); <i>In re UNR Indus., Inc.</i>, 74 B.R. 146 (N.D. Ill. 1987); <i>In re UNR Industries, Inc.</i>, 72 B.R. 796 (Bankr. N.D. Ill. 1987); <i>In re UNR Industries, Inc.</i>, 72 B.R. 789 (Bankr. N.D. Ill. 1987); <i>In re UNR Industries, Inc.</i>, 71 B.R. 467 (Bankr. N.D. Ill. 1987); <i>In re UNR Industries, Inc.</i>, 54 B.R. 270 (Bankr. N.D. Ill. 1985); <i>In re UNR Industries, Inc.</i>, 54 B.R. 266 (Bankr. N.D. Ill. 1985); <i>In re UNR Industries, Inc.</i>, 54 B.R. 263 (Bankr. N.D. Ill. 1985); <i>In re UNR Industries, Inc.</i>, 46 B.R. 671 (Bankr. N.D. Ill. 1985); <i>In re UNR Industries, Inc.</i>, 46 B.R. 25 (Bankr. N.D. Ill. 1984); <i>In re UNR Industries, Inc.</i>, 42</p>
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			<p>B.R. 99 (Bankr. N.D. Ill. 1984); <i>In re UNR Industries, Inc.</i>, 42</p> <p>B.R. 94 (Bankr. N.D. Ill. 1984); <i>In re UNR Industries, Inc.</i>, 39</p> <p>B.R. 190 (Bankr. N.D. Ill. 1984); <i>In re UNR Industries, Inc.</i>, 30</p> <p>B.R. 609 (Bankr. N.D. Ill. 1983); <i>In re UNR Industries, Inc.</i>, 30</p> <p>B.R. 613 (Bankr. N.D. Ill. 1983); <i>In re UNR Industries, Inc.</i>, 29</p> <p>B.R. 741 (N.D. Ill. 1983); <i>In re UNR Industries, Inc.</i>, 23</p> <p>B.R. 144 (Bankr. N.D. Ill. 1982).</p>
USG Corp.	No. 01-2094 (Bankr. D. Del.)	Plan not yet filed.	<p><i>In re Kensington Int'l Ltd.</i>, 368 F.3d 289 (3d Cir. 2004) (also applicable to the <i>Armstrong, Federal-Mogul, Owens Corning, and W.R. Grace</i> bankruptcies);</p> <p><i>In re Kensington Int'l Ltd.</i>, 353 F.3d 211 (3d Cir. 2003) (also applicable to the <i>Armstrong, Federal-Mogul, Owens Corning, and W.R. Grace</i> bankruptcies);</p> <p><i>In re USG Corp.</i>, 290 B.R. 223 (Bankr. D. Del. 2003).</p>
Utex Industries	No. 04-34427 (Bankr. S.D. Tex.)	Plan confirmed by bankruptcy court and district court on June 16, 2004.	
Wallace & Gale	No. 85-40092 (Bankr. D. Md.)	Plan confirmed by bankruptcy court on July 27, 1998 and	<i>Jones v. Liberty Mut. Ins. Co. (In re Wallace &amp; Gale Co.)</i> ,

		affirmed by district court on May 30, 2002.	385 F.3d 820 (4th Cir. 2004).
Waterman Steamship Corp.	No. 83-11732 (Bankr. S.D.N.Y.)	Plan confirmed by bankruptcy court on June 19, 1986.	<i>In re Waterman S.S. Corp. v. Aguiar</i> , 141 B.R. 552, 556 (Bankr. S.D.N.Y. 1992).
Western Macarthur/Western Asbestos	No. 02-46284-86, (Bankr. N.D. Cal.)	Plan confirmed by bankruptcy court on January 27, 2004 and affirmed by district court on April 16, 2004.	<i>In re Western Asbestos Co.</i> , 313 B.R. 859 (N.D. Cal. 2004); <i>In re Western Asbestos Co.</i> , 313 B.R. 832 (Bankr. N.D. Cal. 2003); <i>In re Western Asbestos Co.</i> , 313 B.R. 456 (Bankr. N.D. Cal. 2004).
W.R. Grace Co.	Nos. 01-1139, 01-1140 (Bankr. D. Del.)	Amended plan filed January 13, 2005; not yet confirmed.	<i>In re Kensington Int'l Ltd.</i> , 368 F.3d 289 (3d Cir. 2004) (also applicable to the <i>Armstrong, Federal-Mogul, Owens Corning, and USG Corp.</i> bankruptcies); <i>In re Kensington Int'l Ltd.</i> , 353 F.3d 211 (3d Cir. 2003) (also applicable to the <i>Armstrong, Federal-Mogul, Owens Corning, and USG Corp.</i> bankruptcies); <i>In re W.R. Grace &amp; Co.</i> , 315 B.R. 353 (D. Del. 2004); <i>Official Comm. Of Asbestos Personal Injury Claimants v. Sealed Air Corp. (In re W.R. Grace &amp; Co.)</i> , 281 B.R. 852 (Bankr. D. Del. 2002).

**Endnotes**

1. Mark D. Plevin and Paul W. Kalish, *Where Are They Now? A History Of The Companies That Have Sought Bankruptcy Protection Due To Asbestos Claims*, **Mealey's Asbestos Bankruptcy Report**, Vol. 1, No. 1 at 27 (Aug. 2001).
2. Mark D. Plevin, Paul W. Kalish, and Leslie A. Epley, *Where Are They Now, Part 2? A History Of The Companies That Have Sought Bankruptcy Protection Due To Asbestos Claims*, **Mealey's Litigation Report: Asbestos**, Vol. 17, No. 20, at 32 (Nov. 15, 2002).
3. *Id.* at 36.
4. See In re Combustion Engineering, Inc., 391 F.3d 190 (3d Cir. 2004).
5. *ABB to Present Final Asbestos Plan in U.S. in June*, May 27, 2003, available at <http://www.reuters.com/newsArticle.jhtml?type=topNews&storyID=8624237> (last visited May 31, 2005); Combustion Engineering, Inc.'s Plan of Reorganization, As Modified Through June 24, 2005, In re Combustion Engineering, Inc., No. 03-10495, Dkt. No. 2302 (Bankr. D. Del. June 24, 2005). CE later amended its plan twice more; the currently operative plan was filed October 7, 2005. See Combustion Engineering, Inc.'s Plan of Reorganization, As Modified Through October 7, 2005, In re Combustion Engineering, Inc., No. 03-10495, Dkt. No. 2590 (Bankr. D. Del. Oct. 7, 2005).
6. Corrections are welcome. Please send any corrections or comments to [mplevin@crowell.com](mailto:mplevin@crowell.com) or [lepley@crowell.com](mailto:lepley@crowell.com).
7. There is an element of judgment in some instances in determining whether a particular bankruptcy filing is or is not an "asbestos bankruptcy," since some companies with limited asbestos exposure file for bankruptcy relief overwhelmingly for reasons unrelated to asbestos. Where we know of such situations, we have occasionally exercised our judgment to not include them in this article or the attached charts.
8. In re Western Asbestos Co., No. 02-46284 (LJT) (Bankr. N.D. Cal. filed Nov. 22, 2002).
9. In re Combustion Engineering, Inc., 391 F.3d 190 (3d Cir. 2004).
10. For a complete discussion of the background of the *Combustion Engineering* case, see Mark D. Plevin, Robert T. Ebert, and Leslie A. Epley, "Pre-Packaged Asbestos Bankruptcies: A Flawed Solution," 44 So. Tex. L. Rev. 883, 898-907 (2003).
11. See Affidavit of Margaret Duplantier In Support of Confirmation of Combustion Engineering's Plan of Reorganization, As Modified Through August 19, 2005, Dkt. No. 2479, In re Combustion Engineering, Inc., No. 03-10495 (JFK) (Bankr. D. Del. Sept. 12, 2005); Affidavit of Kathy Gerber Certifying the Individual Ballots and Master Ballots Accepting and Rejecting the Prepackaged Plan of Reorganization of ABB Lummus Global, Inc., Dated August 30, 2005, Dkt. No. 2560, In re Combustion Engineering, Inc., No. 03-10495 (JFK) (Bankr. D. Del. Sept. 27, 2005).
12. In re Muralo Co., No. 03-26723 (MS) (Bankr. D.N.J. May 20, 2003).
13. In re Muralo Co., 301 B.R. 690, 691 (Bankr. D.N.J. 2003).
14. *Id.* at 706.
15. See Debtors' Motion For Order Approving Settlement with the Artra Group, Inc., the Artra Group Creditors' Committee, the Future Claims Representative for Artra Group and the Debtors' Asbestos Committee, Pursuant to 11 U.S.C. §§ 105(a) and 363(b) and Federal Rule of Bankruptcy Procedure 9019(a), Dkt. No. 716, In re Muralo Co., No. 03-26723 (MS) (Bankr. D.N.J. Feb. 16, 2005).
16. See Order Approving Settlement with the Artra Group, Inc., the Artra Group Creditors' Committee, the Future Claims Representative for Artra Group and the Debtors' Asbestos Committee, Pursuant to 11 U.S.C. §§ 105(a) and 363(b) and Federal Rule of Bankruptcy Procedure 9019(a), Dkt. No. 785, In re Muralo Co., No. 03-26723 (MS) (Bankr. D.N.J. March 28, 2005); Order Granting Debtors' Motion Pursuant To 11 U.S.C. §§ 105(a) and 363(b) and Federal Rule of Bankruptcy Procedure 9019(a)

- For Approval Of Partial Settlement And Tolling Agreement Between Debtors And Certain Of Their Insurers, Among Other Relief, Dkt. No. 786, In re Muralo Co., No. 03-26723 (MS) (Bankr. D.N.J. March 28, 2005).
17. In re C.E. Thurston & Sons, Inc., No. 03-75932 (Bankr. E.D. Va. filed Aug. 18, 2003).
  18. Press Release, *CE Thurston & Sons, Inc. Faces Asbestos Challenges*, August 18, 2003, available at <http://www.cethurstonreorg.com/Press%20Releases/CE%20Thurston%20and%20Sons%20Inc.%20Faces%20Asbestos%20Challenges.htm> (last visited May 31, 2005).
  19. In re Mid-Valley Inc., No. 03-35592 (JKF) (Bankr. W.D. Pa. filed Dec. 16, 2003).
  20. Affidavit of Bruce A. Stanksi In Support Of Debtor's Chapter 11 Petitions And First Day Motions And In Support Of Confirmation Of The Debtor's Plan Of Reorganization, Dkt. No. 5, ¶ 4, In re Mid-Valley Inc., No. 03-35592 (JKF) (Bankr. W.D. Pa. Dec. 16, 2003).
  21. Affidavit of Albert O. Cornelison In Support Of Debtors' Chapter 11 Petitions And First Day Motions And Applications, Dkt. No. 4, ¶ 30, In re Mid-Valley Inc., et al., No. 03-35592 (JKF) (Bankr. W.D. Pa. Dec. 16, 2003).
  22. See Motion for Entry of an Interim Order Pursuant to 11 U.S.C. Sections 364 and Rule 4001 of the Federal Rules of Bankruptcy Procedure (i) Authorizing Debtors to Obtain Interim Post-petition Financing, Granting Super-Priority Administrative Expense Status, and Authorizing the Debtors to Enter into Agreements with HESI and Halliburton, and (ii) Prescribing Form and Manner of Notice and Time for Final Hearing Under Federal Rule of Bankruptcy Procedure 4001(c), Dkt. No. 37, ¶ 11, In re Mid-Valley, Inc., No. 03-35592 (JKF) (Bankr. W.D. Pa. Dec. 16, 2003).
  23. See Certain Insurers' Motion to Dismiss Pursuant to 11 U.S.C. § 1112(b), Dkt. No. 58, In re Mid-Valley, Inc., No. 03-35592 (JKF) (Bankr. W.D. Pa. Dec. 16, 2003); Memorandum in Support of Hartford Accident and Indemnity Company and Certain of its Affiliates to Dismiss These Bankruptcy Cases as Bad Faith Filings, Dkt. No. 31, In re Mid-Valley, Inc., No. 03-35592 (JKF) (Bankr. W.D. Pa. Dec. 16, 2003).
  24. In re Mid-Valley, Inc., 305 B.R. 425, 428 (Bankr. W.D. Pa. 2004).
  25. See Hearing Transcript at 13-19, Dkt. No. 1498, In re Mid-Valley, Inc., No. 03-35592 (JKF) (Bankr. W.D. Pa. May 10, 2004).
  26. See Proposed Disclosure Statement With Respect to the Sixth Modified Joint Plan for Reorganization Under Chapter 11 of the Bankruptcy Code of Congoleum Corporation, et al., Dated As Of July 22, 2005, Dkt. No. 2731, § 5.1 at 38, In re Congoleum Corp., Case No. 03-51524-KCF (Bankr. D.N.J. July 22, 2005)
  27. In re Congoleum Corp., Case No. 03-51524-KCF (Bankr. D.N.J. Dec. 31, 2003)
  28. Congoleum Corp. v. ACE American Ins. Co., et al., Superior Court of New Jersey, Law Div., Middlesex Cty., Docket No. MID-L-89080-01.
  29. See Order Denying Motion Or For The Entry Of An Order For Determination Of Insurers' Standing To Raise Objections And Be Heard With Respect To Debtors' Joint Prepackaged Plan, Dkt. No. 662, In re Congoleum Corp., Case No. 03-51524-KCF (Bankr. D.N.J. Apr. 21, 2004).
  30. See Order Denying Motion Or Application For The Entry Of An Order For Determination Of Insurer's Standing To Raise Objections, Dkt. No. 812, In re Congoleum Corp., Case No. 03-51524-KCF (Bankr. D.N.J. June 8, 2004).
  31. See Motion To Limit Standing Of The Insurers To Raise Objections And Be Heard With Respect To Confirmation Of Debtors' Fourth Modified Plan Of Reorganization, Dkt. No. 2029, In re Congoleum Corp., Case No. 03-51524-KCF (Bankr. D.N.J. Feb. 28, 2005).
  32. See Memorandum Opinion, Dkt. No. 2166, In re Congoleum Corp., Case No. 03-51524-KCF (Bankr. D.N.J. Mar. 24, 2005).



33. See Order Withdrawing Fourth Modified Plan, Dkt. No. 2435, In re Congoleum Corp., Case No. 03-51524-KCF (Bankr. D.N.J. April 28, 2005).
34. See Fifth Modified Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code of Congoleum Corporation, et al., Dated as of June 10, 2005, ¶ 10.1(a)(xv), Dkt. No. 2590, In re Congoleum Corp., Case No. 03-51524-KCF (Bankr. D.N.J. June 10, 2005).
35. See Sixth Modified Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code of Congoleum Corporation, et al., Dated as of July 22, 2005, Dkt. No. 2730, In re Congoleum Corp., Case No. 03-51524-KCF (Bankr. D.N.J. July 22, 2005).
36. See Order (I) Approving Disclosure Statement Regarding Debtors' Sixth Modified Joint Plan Of Reorganization Under Chapter 11 Of The Bankruptcy Code; (II) Scheduling A Hearing To Consider Confirmation Of The Debtors' Plan Of Reorganization; And (III) Granting Other Related Relief, Dkt. No. 2793, In re Congoleum Corp., No. 03-51524-KCF (Bankr. D.N.J. August 1, 2005).
37. See Motion to Adjourn the Date for the Next Status Conference, to Extend to the Time for the Debtors to Submit Plan Modifications and/or a New Plan, and to Adjourn the Date for the Hearing on the Debtors' Motion to Extend Exclusivity, Dkt. No. 3125, In re Congoleum Corp., No. 03-51524-KCF (Bankr. D.N.J. Oct. 19, 2005).
38. See Opposition of Future Claimants' Representative To Debtor's Sixth Motion For Order Pursuant to 11 U.S.C. § 1121(d) Further Extending Debtor's Exclusive Periods In Which To File A Chapter 11 Plan And Solicit Acceptances Thereon, Dkt. No. 3138, In re Congoleum Corp., No. 03-51524-KCF (Bankr. D.N.J. Oct. 19, 2005).
39. See Kate Coscarelli, "Trial Puts Asbestos Settlements Center Stage: Congoleum tile firm case a test for courts," *The Star Ledger*, August 3, 2005.
40. See In re Congoleum Corp., et al., No. 04-3609, 2005 U.S. App. LEXIS 22066 (3d. Cir. Oct. 13, 2005).
41. In re ONCO Investment Co., No. 04-10558 (JBR) (Bankr. D. Del. Feb. 23, 2004).
42. Objection of Certain Tort Claimants to Second Amended Joint Plan of Reorganization of Debtors and Debtors in Possession, Dkt. No. 1631, In re ONCO Investment Co., No. 04-10558 (JBR) (Bankr. D. Del. Sept. 21, 2004).
43. Order Denying Confirmation of Debtors' Second Amended Plan of Reorganization, Dkt. No. 1740, In re ONCO Investment Co., No. 04-10558 (JBR) (Bankr. D. Del. Oct. 5, 2004), citing Hearing Transcript, Dkt. No. 1801, In re ONCO Investment Co., No. 04-10558 (JBR) (Bankr. D. Del. Oct. 5, 2004).
44. Motion of Debtors and Debtors in Possession for an Order, Pursuant to Sections 105(a) and 363 of the Bankruptcy Code and Rule 9019(a) of the Bankruptcy Rules, Approving (I) Certain Settlement Agreements Between Debtor On Marine Services Company and Certain Asbestos Plaintiffs; and (II) Settlement Agreement Among the Debtors, Certain Asbestos Plaintiffs, and London Trust Insurers, Dkt. No. 1878, In re ONCO Investment Co., No. 04-10558 (JBR) (Bankr. D. Del. Nov. 4, 2004).
45. Order Confirming Second Amended Joint Plan of Reorganization of Debtors and Debtors in Possession, Dkt. No. 1945, In re ONCO Investment Co., No. 04-10558 (JBR) (Bankr. D. Del. Nov. 17, 2004).
46. Order Confirming Utex Industries, Inc.'s Plan of Reorganization, Dkt. No. 155, In re Utex Industries, Inc., No. 04-34427 (JB) (Bankr. S.D. Tex. June 16, 2004); Dkt. No. 2, In re Utex Industries, Inc., No. 04-2305 (S.D. Tex. June 17, 2004).
47. See Disclosure Statement of Utex Industries, Inc., Dkt. No. 16, In re Utex Industries, Inc., No. 04-34427 (JB) (Bankr. S.D. Tex. Mar. 26, 2004), at 14.
48. In re The Flintkote Co., No. 04-11300 (JKF) (Bankr. D. Del. May 1, 2004).
49. Voluntary Petition, Dkt. No. 1, In re Flintkote Mines Ltd., No. 04-12440 (JKF) (Bankr. D. Del. Aug. 25, 2004).

50. See Affidavit of David J. Gordon In Support Of First Day Motions, Dkt. No. 2, ¶¶ 9-10, In re The Flintkote Co., No. 04-11300 (JKF) (Bankr. D. Del. May 1, 2004),.
51. *Id.* at ¶ 4.
52. Debtor's Fourth Motion For An Order Pursuant To 11 U.S.C. § 1121(d) Extending Debtors' Exclusive Periods In Which To File A Chapter 11 Plan And To Solicit Votes Thereon, Dkt. No. 981, pp. 3-4, In re The Flintkote Co., No. 04-11300 (JKF) (Bankr. D. Del. July 25, 2005).
53. Shortly after the bankruptcy filing, Quigley and Pfizer were able to obtain an injunction staying all pending and future asbestos-related claims against Pfizer during the pendency of Quigley's bankruptcy case. Injunction Pursuant to 11 U.S.C. §§ 105(a) and 362(a) and Federal Rule of Bankruptcy Procedure 7065, Dkt. No. 122, Quigley Co. v. A.C. Coleman (In re Quigley Co.), Adv. No. 04-04262 (Bankr. S.D.N.Y. Dec. 17, 2004).
54. See, e.g., Motion for Order Under 11 U.S.C. Sections 105(a) and 502 and Fed. R. Bankr. P. 2002(a)(7), 3003(c), 9007 and 9008 Establishing Deadline For Filing Proofs of Claims and Approving Form and Manner of Notice Thereof, Dkt. No. 378, In re Quigley Co., No. 04-15739 (PCB) (Bankr. S.D.N.Y. June 22, 2005).
55. The district court also noted that the recusal movants had not made the necessary showing for the court to exercise its discretion to grant the movants leave to appeal.
56. See Quigley Company, Inc. Third Amended Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, Dkt. No. 505, In re Quigley Co., No. 04-15739 (PCB) (Bankr. S.D.N.Y. Oct. 6, 2005); Third Amended Disclosure Statement With Respect To Quigley Company, Inc. Third Amended Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, Dkt. No. 504, In re Quigley Co., No. 04-15739 (PCB) (Bankr. S.D.N.Y. Oct. 6, 2005).
57. See, e.g., Objection to Motion of Quigley Company, Inc. for an Order Under 11 U.S.C. 1121(d) Further Extending Exclusive Period to Solicit Acceptances of Plan of Reorganization, Dkt. No. 394, In re Quigley Co., No. 04-15739 (PCB) (Bankr. S.D.N.Y. July 20, 2005),
58. See Affidavit of Service regarding service of Fourth Amended Disclosure Statement; Amended Ex. J to Fourth Amended Disclosure Statement; and Supplemental Quigley & Pfizer Response, Exhibit C, Dkt. No. 520, In re Quigley Co., No. 04-15739 (PCB) (Bankr. S.D.N.Y. Oct. 19, 2005).
59. In re A.P.I., Inc., No. 05-30073 (GFK) (Bankr. D. Minn. Jan. 6, 2005).
60. Notice of Hearing and Motion for Interim and Final Orders Authorizing Use of Cash Collateral, ¶¶ 8, 11, Dkt. No. 11-2, In re A.P.I., Inc., No. 05-30073 (GFK) (Bankr. D. Minn. Jan. 6, 2005).
61. Press Release dated Jan. 7, 2005, *API, Inc. Plans to Reorganize Company Under Chapter 11 Bankruptcy Code [sic]*, available at <http://www.apiconst.com/docs/api-inc-reorganization.pdf>, last visited May 31, 2005.
62. Second Amended Plan of Reorganization of A.P.I., Inc., Dkt. No. 286, In re A.P.I., Inc., No. 05-30073 (GFK) (Bankr. D. Minn. May 3, 2005).
63. See Order Determining Certain Uncontested Requirements for Confirmation of Debtor's Plan, Dkt. No. 372, In re A.P.I., Inc., No. 05-30073 (GFK) (Bankr. D. Minn. Oct. 15, 2005); Order on Debtor's Motion for Summary Judgment in Proceedings on Confirmation of Debtor's Plan Re: Issues Relating to Plan's Effect on Insurers' Rights, Insurers' Standing, and Exoneration of Third Parties, Dkt. No. 373, In re A.P.I., Inc., No. 05-30073 (GFK) (Bankr. D. Minn. Oct. 15, 2005); and Order Determining Certain Contested Confirmation Requirements As a Matter of Law, Dkt. No. 374, In re A.P.I., Inc., No. 05-30073 (GFK) (Bankr. D. Minn. Oct. 15, 2005).
64. Order on Debtor's Motion for Summary Judgment in Proceedings on Confirmation of Debtor's Plan Re: Issues Relating to Plan's Effect on Insurers' Rights, Insurers' Standing, and Exoneration

- of Third Parties, Dkt. No. 373, In re A.P.I., Inc., No. 05-30073 (GFK) (Bankr. D. Minn. Oct. 15, 2005); Order Determining Certain Contested Confirmation Requirements As a Matter of Law, Dkt. No. 374, In re A.P.I., Inc., No. 05-30073 (GFK) (Bankr. D. Minn. Oct. 15, 2005).
65. Order Determining Certain Contested Confirmation Requirements As a Matter of Law, Dkt. No. 374, In re A.P.I., Inc., No. 05-30073 (GFK) (Bankr. D. Minn. Oct. 15, 2005).
66. In re Lac d'Amiante Du Quebec Ltee., No. 05-20521 (RSS) (Bankr. S.D. Tex. filed Apr. 11, 2005).
67. Complaint for Declaratory and Injunctive Relief, ¶¶ 7-8, Dkt. No. 14, In re Lac d'Amiante Du Quebec Ltee., No. 05-20521 (RSS) (Bankr. S.D. Tex. Apr. 11, 2005).
68. *Id.*
69. *Id.* at ¶ 8.
70. Thomas Stauffer, Joseph Barrios, and Andrea Kelly, "Asarco Seeks Bankruptcy Protection: 5-Week Strike Is Low On List Of Factors Cited," Arizona Daily Star, Aug. 11, 2005 (accessed on August 12, 2005 at [www.dailystar.com/dailystar/dailystar/88210.php](http://www.dailystar.com/dailystar/dailystar/88210.php)).
71. See Declaration of Ray L. Snow In Support of Utex Industries, Inc.'s Voluntary Petition Under Chapter 11 of Title 11 of the United States Code and First Day Motions, ¶¶ 19,22, Dkt. No. 20, In re Utex Industries, Inc., No. 04-34427 (JB) (Bankr. S.D. Tex. Mar. 26, 2004).
72. See Notice of Hearing and Motion for Order Appointing a Legal Representative for Future Unknown Asbestos Claimants, Dkt. No. 31, In re A.P.I. Inc., No. 05-30073 (GFK) (Bankr. D. Minn. Jan 10, 2005).
73. *Id.*
74. *Id.*
75. In re Skinner Engine Co., No. 01-23987 (MBM) (Bankr. W.D. Pa. filed April 15, 2001).
76. See Joint Chapter 11 Plan of Reorganization of Skinner Engine Company, Inc. Under Chapter 11 of the United States Code, Dkt. No. 144, In re Skinner Engine Co., No. 01-23988 (MBM) (Bankr. W.D. Pa. Feb. 24, 2004).
77. See Order of Court, Dkt. No. 916, In re Skinner Engine Co., No. 01-23987 (MBM) (Bankr. W.D. Pa. Aug. 16, 2005); Transcript of Hearing, Dkt. No. 927, In re Skinner Engine Co., No. 01-23987 (MBM) (Bankr. W.D. Pa. Aug. 22, 2005).
78. Motion To Stay Further Proceedings Relating to the Pending Plan and Enter Scheduling Order for Debtor to File Competing Plan, Dkt. No. 928, In re Skinner Engine Co., No. 01-23987 (MBM) (Bankr. W.D. Pa. Aug. 25, 2005).
79. Debtor's Motion for Extension of Time to File Amended Joint Plan of Reorganization, Dkt. No. 943, In re Skinner Engine Co., No. 01-23987 (MBM) (Bankr. W.D. Pa. Oct. 17, 2005).
80. Motion Of Hartford Accident & Indemnity Co. And First State Insurance Co. To Dismiss Chapter 11 Cases, Dkt. No. 780, In re Skinner Engine Co., No. 01-23987 (MBM) (Bankr. W.D. Pa. June 9, 2005).
81. SEC Form 8-K filing dated Oct. 21, 2004 of Crane Co., at p.2; *id.*, Exh. 10.3, "Master Settlement Agreement," Exh. B at p. B-3 (standards for qualifying non-malignant claimant).
82. SEC Form 8-K filing dated Jan. 24, 2005 of Crane Co., at p. 4. ■