

Amy Eddy, Asbestos Claims Court Judge  
 Department No. 1  
 Flathead County Justice Center  
 920 South Main Street, Suite 310  
 Kalispell, Montana 59901  
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IN THE ASBESTOS CLAIMS COURT OF THE STATE OF MONTANA

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| IN RE ASBESTOS LITIGATION,<br><br><i>Consolidated Cases</i> | Cause No. AC 17-0694<br><br>ORDER CREATING RECEIVERSHIP FOR<br>ROBINSON INSULATION COMPANY |
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Plaintiffs have moved for the appointment of Nancy Gibson as a receiver, pursuant to §27-20-101 et seq., MCA, for Robinson Insulation Company (hereinafter “Robinson”). The appointment of a receiver is sought (a) to protect the insurance assets of Robinson for the benefit of Plaintiffs with respect to their claims herein and other litigants with claims against Robinson that are covered by insurance policies of Robinson; (b) to provide a vehicle to protect Robinson’s defenses to such claims and its right to the insurers’ defense with respect to such claims; and (c) to assure an orderly preservation and administration of such insurance assets for the benefit of all interested persons with such claims.

Upon consideration of the motion and the rationale therefore, the court finds as follows:

- (1) Robinson is a now defunct corporation which incorporated on January 1, 1937 and existed under the laws of Montana until it was voluntarily dissolved on October 24, 1989.
- (2) Robinson operated a vermiculite expansion plant in Cascade County, Montana. Robinson received milled vermiculite ore from the Libby Zonolite/W.R. Grace mine and mill operation. The vermiculite ore was contaminated with amphibole asbestos. The asbestos contaminated vermiculite ore was processed by expansion, and subsequently packaged, transported and sold as a consumer product. The products and ore Robinson processed, manufactured and sold contained asbestos. Plaintiffs allege in numerous cases before this Court that Robinson was negligent and otherwise liable in its acts of transporting, loading, processing, manufacturing, developing, marketing, packaging, labeling, distributing, and/or selling ore and products containing Libby vermiculite, and its failure to warn, and is alleged to be liable for the resulting asbestos exposures.
- (3) Claims for personal injury from exposure to asbestos have been asserted in this and other actions against Robinson. Previous attempts at service of process against Robinson have been unsuccessful.

- (4) The Montana Supreme Court has held in *Allen v. Atlantic Richfield Co.* 329 Mont. 230, 124 P.3d 132 (2005) that, notwithstanding its dissolution, Robinson may continue to be sued for liabilities arising during its existence.
- (5) Robinson's liability is alleged to be insured under multiple liability insurance policies covering the claims of the plaintiffs and other asbestos claimants.
- (6) Plaintiffs and similarly situated claimants may have a vested right in insurance coverage for their claims. *McLane v. Farmers Insurance Exchange*, 150 Mont. 116, 432 P.2d 98 (1967); *J. G. Link & Co. v. Continental Cas. Co.*, 470 F.2d 1133 (9th Cir.1972).
- (7) Plaintiffs allege that Robinson's liability insurers have not attempted to provide a defense or to settle plaintiffs' claims or the claims of similarly situated asbestos claimants.
- (8) As third-party claimants, Plaintiffs have a clear legal right in insurance coverage and claim adjustment under Robinson's insurance policies.
- (9) There is no other adequate remedy to protect Plaintiffs' interest in Robinson's insurance coverage and claim adjustment.
- (10) In the absence of the appointment of a receiver, Plaintiffs will be unable to protect or secure their interests in Robinson's insurance coverage and claim adjustment thereunder, and will sustain irreparable damage to those interests.
- (11) Pursuant to §27-20-101 et seq., MCA Robinson's liability insurance constitutes property and a fund subject to the claims of Plaintiffs and similarly situated asbestos claimants.
- (12) In the absence of the appointment of a receiver pursuant to §27-20-101 et seq., MCA, this property and fund of liability insurance is in danger of being lost or materially injured by (a) the absence of insurance defense, indemnification and/or claim adjustment or settlement, and/or (b) by the risk that the limited fund of insurance coverage may be depleted should individual settlements be reached between Robinson's insurers and some claimants.

WHEREFORE, IT IS HEREBY ORDERED:

- (1) Nancy Gibson is appointed as a receiver for Robinson Insulation Company, with the following powers and authority:
  - (a) To be sued on behalf and in the name of Robinson in any actions alleging personal injury from exposures to asbestos, including the power to accept service of process and other papers;

- (b) To tender to insurers the defense of this and any other asbestos-related liability claims and actions against Robinson;
  - (c) To present demand upon the insurers to attempt to settle any and all asbestos claims within policy limits and to make reasonable good faith offers to settle such claims upon their merits; and
  - (d) To be sued on behalf of Robinson in any coverage disputes with Robinson's insurers, and to serve and accept service of process and other papers.
- (2) In addition, the receiver is hereby granted power, *exercisable only upon court approval of specific proposals* for any of the following:
- (a) Filing and prosecution and/or defending on behalf of Robinson any litigation to resolve any coverage disputes between Robinson and its insurers which litigation shall be the responsibility of counsel for the Plaintiffs in this case;
  - (b) Authorizing an insurer's settlement of an asbestos claim upon demonstration that a limited fund, if any exists, is adequately protected for Plaintiffs and all similarly situated claimants;
  - (c) Holding proceeds of insurance liability coverage for the benefit Plaintiffs and similarly situated asbestos claimants, and make distributions upon application to this Court; and
  - (d) To otherwise act, with respect to Robinson's insurance coverage for asbestos injury, in the mutual best interests of the Plaintiffs and similarly situated asbestos claimants as informed by counsel for such Plaintiffs and similarly situated claimants.

The receiver shall be compensated at her usual hourly rate of \$340.00 per hour which amount shall be paid by counsel for the Plaintiff presenting this petition. The receiver may be replaced with a substitute receiver upon motion.

DATED this 23<sup>rd</sup> day of March, 2018.

/s/ Amy Eddy

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Amy Eddy, Asbestos Claims Court Judge

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