

IN THE ASBESTOS CLAIMS COURT OF THE STATE OF MONTANA

IN RE ASBESTOS LITIGATION, <i>Consolidated Cases</i> (ROBINSON INSULATION COMPANY RECEIVERSHIP)	Cause No. AC 17-0694 MOTION AND RATIONALE FOR AMENDED RECEIVERSHIP ORDER
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Come now Libby Plaintiffs represented by McGarvey, Heberling, Sullivan and Lacey, P.C. and with claims consolidated in the Asbestos Claims Court, by and through their counsel and, with the concurrence of Nancy Gibson, Receiver for Robinson Insulation Company (Robinson), hereby move the Court to amend this Court's March 23, 2018, Order, which created the receivership for Robinson Insulation Company so as to assure that the Receiver can marshal Robinson's insurance assets.

This motion is made on the following grounds:

1. Robinson Insulation Company is an insured under multiple policies that provide defense and indemnity coverage for claims against it (herein "Robinson Insurance").
2. Grogan Robinson Lumber Company, an affiliated entity, which had common and/or overlapping ownership by members of the Robinson family, is also a named insured in some or all of the Robinson Insurance.
3. Like Robinson Insulation Company, Grogan Robinson Lumber Company is a now-defunct Montana corporation. Grogan Robinson Lumber Company, formerly known as Lumber Yard Supply Co. was dissolved in late 2018 according to the Rule 30(b)(6) testimony of its former registered agent, president and

CEO, Owen Robinson, and the company's interrogatory answer (attached hereto as Exhibit A).

4. While there are no known unsettled cases pending against Grogan Robinson Lumber Company, it potentially could be a defendant in future Libby Claimant lawsuits asserting conduct and liability of Grogan Robinson Lumber Company, including any joint conduct and liability with Robinson Insulation Company. Such potential lawsuits could potentially trigger coverages under the Robinson Insurance.
5. In order to achieve the purposes of the Receivership with respect to Robinson Insulation Company's coverages and rights under the Robinson Insurance, the Receiver's authority with respect to the Robinson Insurance should comprehensively address the coverage of co-insured, Grogan Robinson Lumber Company, so that the Receiver is empowered to comprehensively settle with the insurers their defense and indemnity duties under the Robinson Insurance.
6. There is no other adequate remedy to protect Plaintiffs' and Robinson Insulation Company's interest arising under the Robinson Insurance.
7. In the absence of the amendment of the March 23, 2018, Order, Plaintiffs and the Receiver for Robinson Insurance Company will be unable to fairly and adequately protect or secure their respective interests arising under Robinson Insurance, and will sustain irreparable damage to those interests.
8. Pursuant to §27-20-101 et seq., MCA, the Robinson Insurance constitutes property and a fund subject to the claims of Plaintiffs and similarly situated asbestos claimants.

The Court is requested to amend the Receivership Order to include the following provisions:

1. In addition to being the Receiver for Robinson Insulation Company, Nancy Gibson is appointed as a receiver for the dissolved affiliated entities which are co-insureds under the Robinson Insurance, including Grogan Robinson Lumber Company.

2. Receiver Nancy Gibson shall have the same power and authority with respect to Grogan Robinson Lumber Company (including with respect to claims or potential claims against Grogan Robinson Lumber Company which may be covered by the Robinson Insurance) as the Receiver has been granted with Respect to Robinson Insulation Company and its insurance rights, including the power to negotiate a proposed comprehensive settlement of the indemnity and defense duties arising under the Robinson Insurance, which proposed settlement shall be subject to this Court's approval.

A proposed form of order is submitted herewith.

DATED this 11th day of March, 2020.

McGARVEY, HEBERLING, SULLIVAN
& LACEY, P.C.

By: /s/ Allan McGarvey

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CERTIFICATE OF SERVICE

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