

EXHIBIT A
Cook Affidavit

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	
	:	Chapter 11
QUIGLEY COMPANY, INC.,	:	Case No. 04-15739 (SMB)
	:	
	:	Civil Action No.
	:	1:09-cv-00117 (CM) (DFE)
Debtor.	:	
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**AFFIDAVIT OF MICHAEL L. COOK IN SUPPORT OF RESPONSE OF QUIGLEY
COMPANY, INC. OPPOSING MOTION OF AD HOC COMMITTEE OF TORT
LAWYERS FOR ORDER PARTIALLY WITHDRAWING REFERENCE**

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

MICHAEL L. COOK, being duly sworn, deposes and says:

1. I am a member of Schulte Roth & Zabel LLP, counsel to Quigley Company, Inc. ("Quigley"), the debtor and debtor in possession in the above-captioned bankruptcy case (the "Bankruptcy Case"). I submit this affidavit in support of the response opposing the motion of the Ad Hoc Committee of Tort Lawyers (the "AHC"), filed in the bankruptcy court on January 6, 2009 (Docket No. 1), seeking to withdraw the reference in the Bankruptcy Case to allow this Court to preside simultaneously with the bankruptcy court over

the hearing to confirm Quigley's Fourth Amended and Restated Plan of Reorganization (the "Plan").

Original Motion to Withdraw the Reference

2. The AHC's request to withdraw the reference has already been raised, litigated, and resolved. Quigley and its parent, Pfizer Inc. ("Pfizer"), previously moved on April 19, 2006, seeking partial withdrawal of the reference of the Bankruptcy Case to allow the district court to preside over Quigley's plan confirmation hearing concurrently with the bankruptcy court and issue an order confirming Quigley's Plan (the "Original Motion"). A copy of the Original Motion is attached as Exhibit A. The Original Motion was assigned to Judge Preska of the United States District Court for the Southern District of New York (Case No. 06 CV 03077 (LAP)) in 2006.

3. Quigley's insurers objected to the Original Motion. Century Indemnity Company, Insurance Company of North America, Highlands Insurance Company, Westchester Fire Insurance Company, Central National Insurance Company of Omaha, through its managing general agent Cravens Dargan & Co., Pacific Coast, and Motor Vehicle Casualty Company through its managing general agent Cravens Dargan & Co., Pacific Coast (collectively, the "ACE Insurers") objected to Quigley's motion to withdraw the reference on May 3, 2006. Quigley and Pfizer responded to the ACE Insurers' objection on May 10 and, on May 11, 2006, the ACE Insurers requested oral argument. First State Insurance Company, Hartford Accident and Indemnity Company, New England Insurance Company, and Twin City Fire Insurance Company (collectively, the "Hartford Insurers") joined in the ACE Insurers' objection on July 10, 2006, and Continental Casualty Company and the Continental Insurance Company (together, "CNA")

joined in the ACE Insurers' objection on July 19, 2006. OneBeacon America Insurance Company joined in the other parties' objections on March 27, 2008.

4. Despite having been served with the Original Motion, the AHC never joined or otherwise responded to the Original Motion. A copy of the relevant pages of the affidavit of service for the Original Motion is attached as Exhibit B.

5. While Quigley and other parties in interest worked to modify Quigley's previously filed plan of reorganization and to resolve issues over that plan, Quigley and Pfizer asked Judge Preska by letter dated January 16, 2007 to hold the Original Motion in abeyance pending Quigley's submission of the modified plan to the bankruptcy court. A copy of the January 16, 2007 letter to Judge Preska is attached as Exhibit C. Judge Preska, by letter endorsement dated January 22, 2007 granted Quigley and Pfizer's request: "The April 19, 2006 motion of Quigley seeking partial withdrawal of the reference [dkt. No 1] is deemed withdrawn, subject to reinstatement by letter at the appropriate time." See Exhibit C.

6. Because of other developments in the Bankruptcy Case, no further action was taken by Quigley or Pfizer as to the Original Motion until March 27, 2008, when in response to a March 11, 2008 district court order requesting a status report, Quigley asked the district court by letter dated March 27, 2008 for a chambers conference to discuss the appropriate procedure for resolving the Original Motion. Copies of the March 11, 2008 district court order requesting a status report and the March 27, 2008 letter to Judge Preska are attached as Exhibit D.

7. A chambers conference was scheduled for April 30, 2008 with Judge Preska, but she later referred the matter to Judge Bernstein. A copy of the order referring the matter to Judge Bernstein is attached as Exhibit E. By order dated April 28, 2008, Judge Preska

cancelled the April 30th conference “after conferring with Judge Bernstein” and ordered Judge Bernstein to “schedule a conference with the parties to receive their proposals as to the most efficient way to resolve these proceedings.” See Exhibit E.

8. Quigley and Pfizer conferred with counsel for the ACE Insurers, the Hartford Insurers, CNA, and OneBeacon. As directed, Judge Bernstein held a hearing in open court on May 23, 2008 (the “May 23rd Hearing”) to resolve how the confirmation hearing would proceed. The AHC appeared at the May 23rd Hearing by its counsel, who actively participated. The relevant pages of the transcript for the May 23rd Conference are attached as Exhibit F.¹

9. Quigley told the bankruptcy court on May 23 that Quigley and Pfizer, after discussions with other parties in interest, were willing to have the bankruptcy court conduct the entire plan confirmation hearing, with any party having the right to appeal from an adverse ruling. 5/23 Tr., at 4:17-19. The Court agreed that this would be an efficient method for proceeding with confirmation: “It just sounds like the easiest thing may be for me to try everything and then you can argue about what’s subject [to the] clearly erroneous [rule] and what’s de novo . . . up in the district court.” 5/23 Tr., at 14:13-16. Counsel for the AHC (Mr. Weisfelner) even agreed that this procedure would be the most efficient:

MR. WEISFELNER: . . . I think Your Honor’s expertise and knowledge of the case and its background would probably be very useful to the district court. In that regard, I sort of see, . . . the benefit of having Your Honor and Judge Presca [sic] presiding, but
--

THE COURT: Yea, but in a multi-day trial, it’s just -- it’s really not a very efficient way. I mean, another possibility is for me to simply do it and then you can argue before the district court what’s a recommendation and what’s, you know, what I heard and determined and what I reported and recommended.

¹ References to the transcript of the May 23rd Conference are cited as 5/23 Tr., at ____.

MR. WEISFELNER: Right.

THE COURT: Which has been done, I know, in other cases.

5/23 Tr., at 8:1-14. The matter resolved, Judge Preska signed an order on October 16, 2008, acknowledging Quigley's withdrawal of the Original Motion. A copy of the October 16, 2008 order is attached as Exhibit G.

Second Motion to Withdraw the Reference

10. Despite consensual resolution, the AHC filed a motion in the bankruptcy court on January 6, 2009, also seeking to withdraw the reference in the Bankruptcy Case to allow this Court to preside over Quigley's plan confirmation hearing concurrently with the bankruptcy court (the "Second Motion"). The Second Motion seeks the same relief as the Original Motion.

11. Before filing the Second Motion, the AHC renewed the request to withdraw the reference at a hearing before the bankruptcy court on October 21, 2008² -- five months after the May 23rd Hearing -- and raised the issue of a separate U.S. district judge hearing the issue:

MR. WEISFELNER: . . . on the issue of how this case ultimately gets tried, Your Honor will recall that once upon a time the debtor filed a motion for partial withdrawal of the reference.

THE COURT: At my urging.

MR. WEISFELNER: . . . As we consider the sort of issues that may be tried if we get to a confirmation hearing in March, we become more and more convinced that maybe the thing ought to be tried the way the Keane (phonetic) case was tried and the way the debtor originally suggested.

We will consult with the debtor on this issue before we move forward.

THE COURT: Okay. I -- actually, I got an inquiry from Judge Preska in terms of what was happening because that motion had

² The relevant pages of the transcript of the October 21 are attached as Exhibit H. References to the October 21 hearing transcript are cited as 10/21 Tr., at __:__.

not been closed or whatever in the district court. It turns out she had endorsed a memo I think back in January of 2007 or endorsed a letter deeming the motion withdrawn.

So my understanding is there is no motion pending. If you think that the reference should be withdrawn, I think you're going to have to make a motion.

MR. WEISFELNER: . . . And then the concern is whether or not we would refer it to the same judge that's got the appeal, or whether it goes into the wheel or --

THE COURT: That's up to the district court.

MR. WEISFELNER: Understood. . . .

10/21 Tr., at 43:7 - 44:10.

12. Further, on the Civil Cover Sheet filed with the Second Motion, the AHC misrepresents that this or a similar case has not previously been filed in the district court at any time. A copy of the Civil Cover Sheet is attached as Exhibit I. The AHC also failed to mention that Judge Preska had previously been assigned to hear the issue. See Exhibit I.

Bankruptcy Case is Highly Litigious

13. Since Quigley sought chapter 11 relief more than four years ago, the AHC has generated waves of litigation, including repeated requests for document production; three motions to compel discovery filed in a two-month period; repeat deposition notices of every Quigley officer and director; an unprosecuted motion to appoint a chapter 11 trustee; an unsuccessful motion to appoint a second future claims representative; an unsuccessful objection to Quigley's exclusive right to file and solicit a plan; multiple unsuccessful objections to voting procedures; and an unsuccessful objection to Quigley's extension of its office lease. At a hearing on December 2, 2008, while discussing scheduling, Judge Bernstein noted: "This is one of the most litigious bankruptcy cases I've ever seen in fifteen years. You can fight for an [hour] over an adjournment." December 2, 2008 Tr., at 51:15-19. A copy of the relevant pages of the December 2, 2008 hearing transcript is attached as Exhibit J.

/s/ Michael L. Cook
Michael L. Cook

Sworn to before me January 21, 2009
New York, New York

/s/ Kevin Bell

Notary Public-State of New York
No: 01BE6193334
Qualified in New York County
Commission Expires September 15, 2012

EXHIBIT A
Original Motion

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	In a case under
	:	Chapter 11
QUIGLEY COMPANY, INC.,	:	Case No. 04-15739 (SMB)
	:	
Debtor.	:	Civil Action No. _____
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**MOTION OF QUIGLEY COMPANY, INC. AND PFIZER INC. FOR AN
ORDER PARTIALLY WITHDRAWING THE REFERENCE**

Quigley Company, Inc. ("Quigley") and Pfizer Inc. ("Pfizer") hereby move (the "Motion") for entry of an order under section 157(d) of title 28 of the United States Code and sections 105(a), 524(g), 1129 and 1142 of title 11 of the United States Code (the "Bankruptcy Code"), partially withdrawing the reference of Quigley's chapter 11 case. Quigley and Pfizer also request that this Court simultaneously preside with the Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") over the hearing with respect to confirmation of

the Quigley's plan of reorganization (the "Plan"). The grounds supporting the Motion are set forth in the accompanying brief, which is incorporated herein in full by this reference.

WHEREFORE, Quigley and Pfizer respectfully request that the Court enter an order:

1. Partially withdrawing the reference to Quigley's chapter 11 case to permit this Court to: (i) preside jointly with the Bankruptcy Court at the hearing with respect to confirmation of the Plan; (ii) enter the permanent injunctions under section 524(g) of the Bankruptcy Code in connection with confirmation of the Plan; and (iii) issue or affirm, as applicable, any order confirming the Plan under section 524(g)(3)(A) of the Bankruptcy Code;

2. Setting the date, time and location for the hearing to consider confirmation of the Plan, which shall be presided over jointly by this Court and the Bankruptcy Court; and

3. Granting Quigley and Pfizer such other and further relief as is just.

DATED: New York, New York
April 19, 2006

,

/s/ Lawrence V. Gelber
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	::	In a case under
	:	Chapter 11
QUIGLEY COMPANY, INC.,	:	Case No. 04-15739 (SMB)
	X	
Debtor.		Civil Action No. ____

**MEMORANDUM OF LAW OF QUIGLEY COMPANY, INC.
AND PFIZER INC. IN SUPPORT OF MOTION FOR AN
ORDER PARTIALLY WITHDRAWING THE REFERENCE**

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Quigley Company, Inc. ("Quigley") and Pfizer Inc. ("Pfizer") submit this memorandum of law in support of their joint motion (the "Motion") for entry of an order under section 157(d) of title 28 of the United States Code and sections 105(a), 524(g), 1129 and 1142 of title 11 of the United States Code (the "Bankruptcy Code"), partially withdrawing the reference of Quigley's chapter 11 case to allow this Court to issue an order confirming Quigley's plan of reorganization (the "Plan") under section 524(g)(3)(A) of the Bankruptcy Code. Quigley and Pfizer request that the reference not be withdrawn with respect to all other matters relating to Quigley's Plan. Quigley and Pfizer also request that this Court preside over Quigley's confirmation hearing concurrently with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), and respectfully state as follows:

INTRODUCTION

On September 3, 2004 (the "Petition Date"), Quigley filed with the Bankruptcy Court a petition for relief under chapter 11 of the Bankruptcy Code. Quigley's chapter 11 filing was prompted by the significant costs and expenses associated with the defense of hundreds of thousand of asbestos personal injury claims pending against it.

On October 6, 2005, Quigley filed the Plan with the Bankruptcy Court, and on October 17, 2005, Quigley filed its fourth amended disclosure statement with respect to the Plan (the "Disclosure Statement"). The creditors of Quigley's estate have voted in the requisite numbers and amounts to accept the Plan. A hearing on the confirmation of the Plan is scheduled to commence in the Bankruptcy Court on May 25, 2006 at 11:00 a.m.

The Plan seeks to implement permanent channeling injunctions under Bankruptcy Code section 524(g), enjoining all present holders of asbestos personal injury claims and holders of future asbestos demands arising from exposure to Quigley's asbestos-containing products from taking any action on account of such claims or demands against Quigley, Pfizer, various settling insurance companies and

certain other entities identified in the Plan. Pursuant to Bankruptcy Code section 524(g)(3)(A), any plan that implements an injunction under section 524(g) must be issued or affirmed by a district court.

Quigley and Pfizer request in the Motion that the Court enter an order only partially withdrawing the reference of Quigley's chapter 11 case to enable this Court to issue an order confirming Quigley's Plan, while leaving all other matters relating to Quigley's case and Plan for determination by the Bankruptcy Court. Quigley and Pfizer also request that this Court preside over Quigley's confirmation hearing concurrently with the Bankruptcy Court. A single confirmation hearing on the Plan with both this Court and the Bankruptcy Court presiding clearly is the most efficient and cost effective procedure for confirming the Plan. Further, this approach will expedite the confirmation process, conserve the assets of Quigley's estate for the benefit of Quigley's creditors and future demand holders by minimizing legal expenses, and provide this Court and the Bankruptcy Court with a unitary forum in which to hear argument, take evidence, and, ultimately, make the necessary findings under section 524(g) with respect to the Plan.

This procedure has been followed by other courts presiding over other chapter 11 cases in which the debtor sought to implement an injunction under Bankruptcy Code section 524(g), including this Court in the bankruptcy case of Keene Corporation. Moreover, the proposed approach is more efficient and cost effective than any other confirmation process, such as requesting the Bankruptcy Court to first issue findings of fact and conclusions of law and then asking this Court to subsequently affirm those findings. Quigley and Pfizer thus request that the Court (i) enter an order partially withdrawing the reference of Quigley's chapter 11 case and (ii) simultaneously preside over the confirmation hearing with the Bankruptcy Court.

STATEMENT OF FACTS

Asbestos Personal Injury Claims

Prior to 1992, Quigley was engaged in the refractories business. It developed, produced and marketed primarily monolithic refractories and related products for and to various industries, including the glass, steel and iron industries. Certain of these products contained asbestos. Over the last twenty-

five years, these asbestos-containing products have given rise to hundreds of thousands of claims against Quigley alleging personal injury or wrongful death based on exposure to asbestos. As of the date Quigley commenced its chapter 11 case, there were in excess of two hundred thousand asbestos personal injury claims pending against Quigley.

While Pfizer, Quigley's parent company, never manufactured or sold any of Quigley's products, it has been named as a defendant in numerous actions for personal injuries allegedly arising from exposure to Quigley's asbestos products. As of the Petition Date, over one hundred thousand claimants had pending asbestos personal injury claims naming Pfizer as a defendant.

Over the years, Quigley funded the majority of the costs associated with defending and settling hundreds of thousands of asbestos personal injury claims with insurance coverage purchased by Pfizer under which Quigley is an additional named insured. In the years leading up to the filing of Quigley's chapter 11 case, Pfizer and Quigley were forced to draw down on the shared insurance coverage at an accelerating rate in connection with the defense and resolution of an ever-increasing number of asbestos personal injury claims. Eventually, in the months leading up to Quigley's chapter 11 filing, the demands on Quigley's remaining assets, particularly the shared insurance, began to escalate, with the likelihood that the only source of paying legitimate claims would be rapidly depleted.

Prepetition Negotiations

Pfizer and Quigley sought to effectuate, through a prearranged Quigley chapter 11 case, a global resolution of those asbestos personal injury claims against Quigley and Pfizer that are based on alleged use of or exposure to Quigley's products. By using chapter 11, and more specifically, by establishing a trust under section 524(g) of the Bankruptcy Code to pay present and future asbestos personal injury claims, Quigley could propose a plan of reorganization to maximize the value of its remaining assets and treat present and future claimants fairly and equitably.

Shortly before the commencement of Quigley's chapter 11 case, Pfizer entered into settlement agreements (the "Pfizer Settlements") with law firms representing holders of a substantial majority of current asbestos personal injury claims against both Pfizer and Quigley. Specifically, these settling law

firms represent more than 80% of the holders of current claims asserted against Quigley. The Pfizer Settlements, however, only resolved the settling plaintiffs' claims against Pfizer -- they did not resolve or release any claims the settling plaintiffs hold against Quigley. Under the terms of the Pfizer Settlements, Pfizer agreed, subject to the satisfaction of certain conditions precedent, to pay the settling claimants -- from Pfizer's own assets -- the aggregate amount of approximately \$430 million on account of the settling plaintiffs' claims against Pfizer. In exchange, the settling claimants agreed to provide Pfizer and certain other identified parties (but not Quigley) with full releases from their asbestos and other personal injury claims. While the settling plaintiffs retained all of their claims against Quigley, as described more fully below, they did also agree to reduce their distributions to 10% of the distributions to be received by nonsettling claimants and future demand holders.

Prior to Quigley's bankruptcy filing, Pfizer and Quigley also engaged in extensive discussions with Albert Togut, who was selected by Quigley to serve as the representative of holders of future asbestos personal injury demands against Quigley. Over the course of approximately three months, Mr. Togut, Quigley and Pfizer spent considerable time negotiating the general terms of Quigley's and Pfizer's contributions under Quigley's chapter 11 plan and the terms of the trust distribution procedures that will govern the administration of the 524(g) trust to be established under the Plan. During these negotiations, Mr. Togut insisted that the assets of Quigley's estate be maximized for the benefit of future demand holders. Accordingly, he insisted that, if the assets in the 524(g) trust are insufficient to satisfy 100% of the claims of all claimants, the settling plaintiffs must agree to reduce their distributions to 10% of the distributions to be received by nonsettling claimants and future demand holders. Pfizer acceded and agreed to require this provision from the settling plaintiffs during the prepetition settlement negotiations.

Quigley's Chapter 11 Case

On September 3, 2004, Quigley filed with the Bankruptcy Court a petition for relief under chapter 11 of the Bankruptcy Code. By Standing Order of Referral of Cases to Bankruptcy Court Judges of the District Court of the Southern District of New York, dated July 10, 1984 (Ward, Acting C.J.), Quigley's chapter 11 case was automatically referred to the Bankruptcy Court and assigned to the Honorable

Prudence Carter Beatty. On January 24, 2006, Quigley's chapter 11 case was reassigned to the Honorable Chief Judge Stuart M. Bernstein.

On September 22, 2004, the United States Trustee appointed an official committee of unsecured creditors (the "Creditors' Committee"). The Bankruptcy Court approved, on September 27, 2004, the appointment of Mr. Togut as the representative for holders of future asbestos personal injury demands against Quigley (the "Futures' Representative").

Stay Proceedings

To preserve the shared insurance, on the Petition Date, Quigley commenced an adversary proceeding seeking a temporary restraining order and preliminary injunction against the commencement or continuation of all actions against Pfizer that allege personal injury or wrongful death based on alleged exposure to asbestos, silica, mixed dust, talc or vermiculite. On September 7, 2004, the Bankruptcy Court entered a temporary restraining order staying all pending and future personal injury claims against Pfizer based on alleged exposure to asbestos, silica, mixed dust, talc or vermiculite, and prohibiting any party from taking any action against property shared by Quigley and Pfizer, including the shared insurance. After a series of hearings, the Bankruptcy Court on December 17, 2004, entered a preliminary injunction order, which is to remain in effect during the pendency of Quigley's chapter 11 case.

On December 27, 2004, an Ad Hoc Committee of Tort Victims and Reaud, Morgan & Quinn, L.L.P., each of which had previously objected to the issuance of the preliminary injunction, moved for leave to appeal from the Bankruptcy Court's preliminary injunction order. The motions for leave to appeal were assigned to United States District Court Judge Victor Marrero. In a decision and order dated April 8, 2005, Judge Marrero held that the preliminary injunction order was not a final, appealable order and denied the motions for leave to appeal.

Quigley's Plan of Reorganization

On October 6, 2005, Quigley filed the Plan, and on October 17, 2006, the Disclosure Statement. The Bankruptcy Court entered an order on January 23, 2006, approving, among other things, the form and content of Quigley's Disclosure Statement and Quigley's proposed procedures for solicitation of votes to

accept or reject the Plan. That order set March 31, 2006, as the deadline to vote to accept or reject the Plan. Quigley believes that it has received the requisite votes necessary to present the Plan for confirmation. Among approximately 202,000 votes that were cast by claimants with asbestos personal injury claims, approximately 172,000 claimants accepted the Plan, representing approximately 85% of the asbestos claimants who cast a ballot. A hearing on the confirmation of the Plan is scheduled to commence in the Bankruptcy Court on May 25, 2006, at 11:00 a.m.

Under Quigley's Plan, all present asbestos personal injury claims and future asbestos personal injury demands against Quigley, Pfizer and certain other entities identified in the Plan that arise out of alleged exposure to asbestos products manufactured or sold by Quigley will be permanently channeled to the section 524(g) trust.

Once the asbestos personal injury claims and demands are channeled to the section 524(g) trust, these claims will be liquidated and paid pursuant to the trust distribution procedures, as established under Quigley's Plan and as implemented by the section 524(g) trust. The trust distribution procedures, among other things, (a) establish criteria for payment of asbestos personal injury claims; (b) describe the evidentiary proof that must be submitted to the section 524(g) trust in support of asbestos personal injury claims; (c) establish liquidated values for the disease categories that are compensated by the section 524(g) trust; and (d) establish the process by which the asbestos personal injury claims will be reviewed and approved. The terms of the trust distribution procedures have been agreed to by Quigley, Pfizer, the Futures' Representative, and the Creditors' Committee.

The Plan also provides that both Quigley and Pfizer, on behalf of itself and its affiliates, will make contributions to the section 524(g) trust and to reorganized Quigley. In particular, Quigley will contribute: (a) all of its rights under various insurance policies it shares with Pfizer that are or will be available to pay for asbestos personal injury claims; (b) certain amounts of cash contained in an insurance settlement trust fund established by Quigley and Pfizer, under which Quigley and Pfizer are the sole beneficiaries; and (c) certain cash in Quigley's possession.

Pfizer will be relinquishing for the benefit of the 524(g) trust its rights to certain insurance it shares with Quigley that provides for the payment of asbestos personal injury claims. Pfizer will also contribute, among other things: (a) a \$405 million note payable over 40-years; and (b) forgiveness of \$30 million of secured debt. Finally, Pfizer will contribute to Quigley an irrevocable, perpetual, royalty-free license in the United States to, among other things, make and sell four pharmaceutical products owned by Pfizer and certain of its affiliates.

ARGUMENT

THE COURT SHOULD PARTIALLY WITHDRAW THE REFERENCE OF QUIGLEY'S CHAPTER 11 CASE TO ISSUE AN ORDER CONFIRMING QUIGLEY'S PLAN UNDER SECTION 524(g)(3)(A) OF THE BANKRUPTCY CODE

A. A District Court Must Issue or Affirm an Order Confirming a Plan that Contains a Section 524(g) Injunction

The Court should partially withdraw the reference of Quigley's chapter 11 case, because section 524(g)(3)(A) of the Bankruptcy Code requires that a district court "issue or affirm" an order confirming a plan containing a permanent channeling injunction under section 524(g) of the Bankruptcy Code. Section 524(g) states, in relevant part:

If the requirements of paragraph (2)(B) are met and the order confirming the plan of reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization case, then after the time for appeal of the order that issues or affirms the plan –

(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph 6.

11 U.S.C. § 524(g)(3)(A) (emphasis added).

This Court has previously partially withdrawn the reference of a chapter 11 case when the debtor's plan was seeking to implement a section 524(g) injunction. See In re Keene Corp., Case No. 93-46090 (Bankr. S.D.N.Y. 1993) (Order Withdrawing the Reference, dated June 12, 1996). Courts in other districts also have withdrawn the reference when the debtor was proposing a plan of reorganization containing a section 524(g) injunction. See, e.g. Rutland Fire Clay Co., Case No. 99-11390 (Bankr. D.

Vt. 1999) (Order Withdrawing the Reference, dated Nov. 17, 2000); In re JT Thorpe Co., (Bankr. S.D. Tex. 2002) (Order Orally Withdrawing the Reference, at 2003 WL 23354129, *1 (Jan. 30, 2003)).

As in those cases, Quigley's Plan seeks to implement permanent channeling injunctions under Bankruptcy Code section 524(g), enjoining all present holders of asbestos personal injury claims and holders of future asbestos personal injury demands arising from exposure to Quigley's products from taking any action against Quigley, Pfizer, certain settling insurance companies and certain other entities identified in the Plan on account of such claims or demands. Because Bankruptcy Code section 524(g) requires that an order confirming such a plan be issued or affirmed by the district court, this Court should partially withdraw the reference to Quigley's case with respect to Plan confirmation as required by section 524(g)(3)(A) of the Bankruptcy Code. The reference should not, however, be withdrawn with respect to all other matters relating to the Plan or to Quigley's case in general.

B. The Court Should Preside Over Confirmation
Concurrently with the Bankruptcy Court
in the Interests of Efficiency and Judicial Economy

Quigley and Pfizer submit that this Court and the Bankruptcy Court should hold a joint confirmation hearing on Quigley's Plan because this procedure both promotes judicial economy and preserves the assets of Quigley's estate. Indeed, in Keene, this Court did precisely that, withdrawing the reference for the limited purpose of jointly considering with the Bankruptcy Court confirmation of the plan and all related matters. See In re Keene Corp., Case No. 93-46090 (Bankr. S.D.N.Y. 1993) (Order Withdrawing the Reference, dated June 12, 1996). This Court and the Bankruptcy Court jointly presided over Keene's confirmation hearing and jointly issued an order confirming Keene's plan, which contained a permanent channeling injunction. Other courts also have withdrawn the reference for the purpose of having both the district court and bankruptcy court preside over a confirmation hearing involving a plan of reorganization seeking a section 524(g) injunction.¹ See Rutland Fire Clay Co., Case No. 99-11390

¹ In certain other asbestos related chapter 11 cases involving section 524(g), the district court did not withdraw the reference but nonetheless conducted a joint confirmation hearing with the bankruptcy court and entered a joint

(Bankr. D. Vt. 1999) (Order Withdrawing the Reference dated Nov. 17, 2000); In re JT Thorpe Co., (Bankr. S.D. Tex. 2002) (Order Orally Withdrawing, the Reference at 2003 WL 23354129, *1).

A joint confirmation hearing is particularly appropriate because Bankruptcy Code section 524(g) requires a court to make numerous findings to confirm a debtor's reorganization plan. For example, with respect to Quigley's Plan, this Court must find, among other things, that Quigley's section 524(g) trust:

- assumes Quigley's wrongful death, personal injury and property damage liabilities for exposure to asbestos products;
- is funded by Quigley's securities and its obligation to make future payments;
- owns, or is entitled to own upon the occurrence of certain contingent events, a majority of the voting shares of Quigley; and
- uses its assets or income to satisfy claims and demands.

See 11 U.S.C. §§ 524(g)(2)(B)(i)(I) – (IV). The Court also must find that:

- Quigley is likely to be subject to substantial future demands, which are unknown as to their amount and timing, and which threaten the Plan's purpose to deal equitably with claims and future demands;
- the terms of the permanent channeling injunction(s) are set out in the Plan;
- 75% of the class or classes of asbestos personal injury claimants who actually cast votes elect to approve the plan;
- the section 524(g) trust will be able to pay present claims and future demands that involve similar claims in substantially the same manner; and
- a legal representative has been appointed to protect future claimants' rights in the proceedings and that applying the permanent channeling injunctions to the holders of future demands is "fair and equitable".

See 11 U.S.C. §§ 524(g)(2)(B)(i)(I-V); 524(g)(4)(B)(i)-(ii).

Quigley must present evidence in support of each of the above findings at the confirmation hearing. Thus, the confirmation hearing will involve extensive testimony, cross-examination, and physical evidence, as well as inquiry by the Court to ascertain whether the Plan satisfies the requirements

confirmation order. See In re Eagle-Picher Industries, Inc., 203 B.R. 256, 259 (D. Ohio 1996); In re M.H. Detrick Co., Case No. 02-00301 (N.D. Ill. 1998) (Confirmation Order, dated August 21, 2002).

of section 524(g). Quigley and Pfizer submit that both judicial economy and Quigley's estate will be best served by having a single confirmation hearing with both this Court and the Bankruptcy Court presiding and participating. Quigley and Pfizer do not believe these interests are served by having the Bankruptcy Court conduct the confirmation hearing, only to repeat the process, in whole or in part, before this Court to affirm the Bankruptcy Court's confirmation order. Moreover, no party in interest will be prejudiced by a partial withdrawal of the reference as requested by the Motion. For these reasons, this Court should partially withdraw the reference and preside over the confirmation hearing concurrently with the Bankruptcy Court.

CONCLUSION

For all of the foregoing reasons, Quigley and Pfizer request that this Court: (i) enter an order partially withdrawing the reference of Quigley's chapter 11 case to approve Quigley's Plan under section 524(g)(3)(A) of the Bankruptcy Code, (ii) preside over Quigley's confirmation hearing concurrently with the Bankruptcy Court, and (iii) grant such other and further relief as is just.

Dated: New York, New York
April 19, 2006

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Attorneys for Debtor and Debtor-in-Possession

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x		
In re	:	In a case under
	:	Chapter 11
QUIGLEY COMPANY, INC.,	:	Case No. 04-15739 (SMB)
	:	
Debtor.	:	Civil Action No. _____
----- x		

ORDER PARTIALLY WITHDRAWING THE REFERENCE

THIS MATTER having been presented to the Court upon the motion, dated April 19, 2006 (the "Motion"),¹ of Quigley Company, Inc. ("Quigley") and Pfizer Inc. ("Pfizer") for entry of an order under section 157(d) of title 28 of the United States Code and sections 105(a), 524(g), 1129 and 1142 of title 11 of the United States Code (the "Bankruptcy Code"), partially withdrawing the reference of Quigley's chapter 11 case to allow this Court to issue an order confirming Quigley's plan of reorganization (the "Plan") under section 524(g)(3)(A) of the Bankruptcy Code; and the Court having considered the Motion, the brief in support of the Motion, and any opposition to the Motion; and it appearing that notice of the Motion was good and sufficient under the particular circumstances; and no further or other notice need be given; and upon the record herein; and after due deliberation thereon; and good cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion be, and it hereby is, **GRANTED**.
2. The reference of Quigley's chapter 11 case is partially withdrawn to permit this Court to: (i) preside jointly with the Bankruptcy Court at the hearing with respect to confirmation of the Plan (the "Confirmation Hearing"); (ii) enter the permanent injunctions

¹ All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Motion.

under section 524(g) of the Bankruptcy Code in connection with confirmation of the Plan; and
(iii) issue or affirm, as applicable, any order confirming the Plan under section 524(g)(3)(A) of
the Bankruptcy Code.

3. The Confirmation Hearing is scheduled for __:__ [].m. New York City
Time on _____, 2006, at _____, New York, New York.

4. The reference shall remain with the Bankruptcy Court with respect to all
other matters relating to the Plan and Quigley's case.

5. Entry of this order is without further prejudice to Quigley's right to seek a
further order withdrawing the reference with respect to other issues.

Dated: New York, New York
_____, 2006

UNITED STATES DISTRICT JUDGE

EXHIBIT B
Affidavit of Service

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

_____	:	Chapter 11
In re	:	
	:	Case No. 04-15739 (SMB)
QUIGLEY COMPANY, INC.,	:	
	:	
Debtor.	:	
_____	:	

AFFIDAVIT BY THE TRUMBULL GROUP, LLC

I, Brendan Halley, certify as follows:

1. I am over the age of majority.
2. I have personal knowledge of the facts contained herein.
3. I am the Notice Coordinator for The Trumbull Group, LLC, the court-appointed claims and noticing agent of the above-captioned debtor.
4. On Wednesday, April 19, 2006, I caused to be served, via United States Postal Service, by first class mail, postage prepaid, the Letter from Schulte Roth & Zabel LLP to the Bankruptcy Court, attached hereto as Exhibit A, Motion for Admission to Practice, Pro Hac Vice, attached hereto as Exhibit B, and Motion of Quigley Company, Inc. and Pfizer

I declare under penalty of perjury that the foregoing is true and correct.


Brendan Halley
Notice Coordinator
The Trumbull Group, LLC

STATE OF CONNECTICUT) ss: Windsor
COUNTY OF HARTFORD)

The Trumbull Group, LLC on the 20th



Notary Public
My Commission Expires:

CHRISTINE M. SIROIS
NOTARY PUBLIC
MY COMMISSION EXPIRES JAN. 31, 2008

EXHIBIT D

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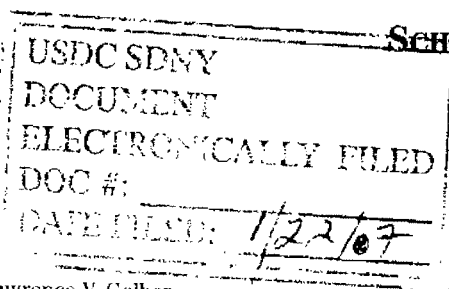
EXHIBIT D

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TOTAL CREDITORS: 59

*** End of Service List ***

EXHIBIT C
Letter dated January 16, 2007



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January 16, 2007

E-mail
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VIA HAND DELIVERY

Honorable Loretta A. Preska
United States District Judge
United States District Court for the
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1610
New York, New York 10007-1312

Re: Quigley Company, Inc., *et al.* Case No. 1:06-cv-3077 (LAP);
Quigley Company, Inc. (Ch. 11 Case No. 04-15739 (SMB))

Dear Judge Preska:

We refer to the Court's order, dated November 27, 2006, holding in abeyance the April 19, 2006 motion of Quigley Company, Inc. ("Quigley"), debtor and debtor in possession in the above-referenced chapter 11 case, and its corporate parent Pfizer Inc. ("Pfizer"), seeking partial withdrawal of the reference of Quigley's chapter 11 case to allow this Court to issue an order confirming Quigley's plan of reorganization under Bankruptcy Code section 524(g)(3)(A) (the "Motion").

As we previously advised the Court, the bankruptcy court issued a memorandum opinion on August 9, 2006 regarding the appropriate means of tabulating the votes cast by certain holders of asbestos personal injury claims to accept or reject Quigley's plan. Quigley and Pfizer moved on August 21, 2006 for reconsideration of the bankruptcy court's August 9 order. On September 28, 2006, the bankruptcy court denied the reconsideration motion.

At a January 9, 2007 status conference regarding the still pending re-tabulation issue, Quigley advised the bankruptcy court that it intends to file in approximately 30 days a modified plan of reorganization designed to moot the tabulation issue and streamline the confirmation process. Once Quigley submits its modified plan to the bankruptcy court, it will next seek to establish a schedule and various procedures to govern the plan confirmation process. This Court's future consideration of the Motion will be an integral part of formulating the confirmation schedule. Accordingly, Quigley and Pfizer respectfully request that the Court hold the Motion in abeyance pending Quigley's submission of a modified plan to the bankruptcy court.

The April 19, 2006 motion of Quigley seeking partial withdrawal of the reference [Ch. 11 Case No. 04-15739 (SMB)] is deemed withdrawn subject to reinstatement by letter at the appropriate time.

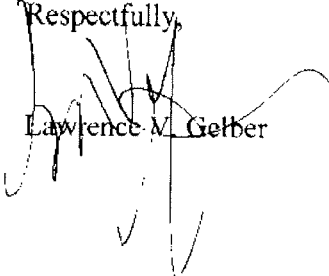
January 22, 2007

Loretta A. Preska
LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE

Hon. Loretta A. Preska
January 16, 2007
Page 2

We are available at the Court's convenience to discuss, or to respond to any questions the Court may have, regarding this matter.

Respectfully,


Lawrence M. Gelber

Enclosure

cc: Elihu Inselbuch, Esq.
Ronald E. Reinsel, Esq.
Tracy Hope Davis, Esq.
Scott E. Ratner, Esq.
Bruce R. Zirinsky, Esq.
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EXHIBIT D
Order dated March 11, 2008 &
Corresponding Letter dated March 27, 2008

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 3/12/08

06 CV 3077 (LAP)

V.

Loretta A. Preska
LORETTA A. PRESKA, U.S.D.J.

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MAR 27 / 2008

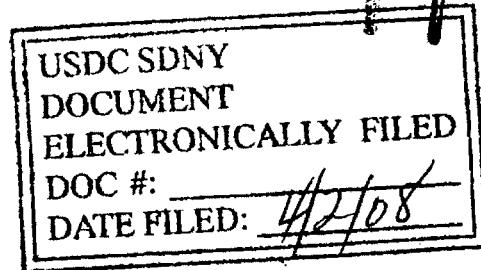
LORETTA A. PRESKA
U. S. DISTRICT JUDGE
S. D. N.Y.

Writer's E-mail Address
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March 27, 2008

VIA HAND DELIVERY

Honorable Loretta A. Preska
United States District Judge
United States District Court for the Southern District of
New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1610
New York, New York 10007-1312



Re: Quigley Company, Inc., et al, Case No. 1:06-cv-3077 (LAP);
Quigley Company, Inc. (Ch. 11 Case No. 04-15739) (SMB)

Dear Judge Preska:

We refer to the Court's order, dated March 11, 2008, asking the parties to confer and inform the Court of the status of this action.

The Partial Withdrawal Motion

On April 19, 2006, Quigley Company, Inc. ("Quigley"), debtor in the above-referenced chapter 11 case, and its corporate parent, Pfizer Inc. ("Pfizer"), filed a motion (the "Motion") seeking partial withdrawal of the reference of Quigley's chapter 11 case to allow this Court to issue an order confirming Quigley's reorganization plan (the "Plan") under Bankruptcy Code section 524(g)(3)(A). Quigley and Pfizer also requested that the reference not be withdrawn with respect to all other matters relating to Quigley's Plan (e.g., the receipt of evidence relating to whether the Plan meets the confirmation requirements of Bankruptcy Code section 1129(a)), and that this Court preside over Quigley's confirmation hearing (including both the § 524(g) and § 1129(a) aspects) concurrently with the bankruptcy court (Bernstein, Ch. B. J.).

Responses

Century Indemnity Company, Insurance Company of North America, Highlands Insurance Company, Westchester Fire Insurance Company, Central National Insurance Company of Omaha, through its managing general agent Cravens Dargan & Co., Pacific Coast, and Motor Vehicle Casualty Company through its managing general agent Cravens Dargan & Co., Pacific Coast (collectively, the "ACE Insurers") objected to the Motion on May 3, 2006. Quigley and Pfizer responded to the ACE Insurers' objection on May 10 and, on May 11, the ACE Insurers requested oral argument. First State Insurance Company, Hartford Accident and Indemnity Company, New England Insurance Company, and Twin City Fire Insurance Company (collectively, the "Hartford Insurers") joined in the ACE Insurers' objection on July 10, 2006, and Continental Casualty Company and The Continental Insurance Company (together, "CNA") joined in the ACE Insurers' objection on July 19, 2006.

Hon. Loretta A. Preska
March 27, 2008
Page 2

OneBeacon America Insurance Company joined in the other parties' objections on March 27, 2008. No other party has joined or otherwise filed papers in this matter. Accordingly, the parties believe no further briefing is necessary.

Status of Reorganization Case

On February 26, 2008, after several months of briefing and hearings on the matter, the bankruptcy court issued a memorandum opinion approving Quigley's proposed procedures for soliciting votes on its Plan and directing the parties to schedule a status conference on confirmation matters. A copy of this memorandum opinion is enclosed.

At a March 6, 2008 status conference, the bankruptcy court directed Quigley to submit a proposed form of order approving its disclosure statement with balloting and solicitation procedures. Quigley spent the time following the conference updating its Plan and the accompanying disclosure statement to reflect a change in senior management and other financial projections. Quigley intends to submit a modified Plan and disclosure statement in the next few days.

Quigley believes that a chambers conference with your Honor would be an efficient way of determining the appropriate procedure for resolution of the Motion and the objections thereto, and we are prepared to coordinate a chambers conference if so directed by this Court. We have conferred with counsel for the ACE Insurers, the Hartford Insurers, CNA, and OneBeacon, who have advised us that they would not object to such a chambers conference with this Court, reserving all rights to seek adjudication of the merits of the Motion if the chambers conference does not amicably resolve the issues presented by the Motion and their objections to it.

We are available at the Court's convenience to respond to any questions the Court may have.

Respectfully,



Michael L. Cook

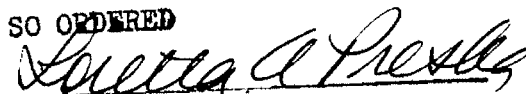
Enclosure

cc: The Honorable Stuart M. Bernstein
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Nancy L. Manzer, Esq.
Robert W. Dremluk, Esq.
Lawrence V. Gelber

April 2, 2008

*Counsel shall appear for a
conference on April 30 at 3:00 p.m.
in courtroom 12A at
500 Pearl Street.*

SO ORDERED



LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE

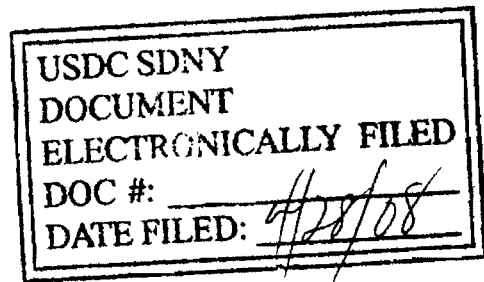
EXHIBIT E
Order dated April 28, 2008

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
:
In re Quigley Company, Inc., et al., :
:
:
-----X

06 CV 3077 (LAP)

ORDER



LORETTA A. PRESKA, United States District Judge:

After conferring with Judge Bernstein, the conference scheduled for April 30 at 3:00 p.m. is cancelled. Judge Bernstein will schedule a conference with the parties to receive their proposals as to the most efficient way to resolve these proceedings.

SO ORDERED:

Dated: April 28, 2008


LORETTA A. PRESKA, U.S.D.J.

EXHIBIT F
Relevant Portion of Hearing Transcript dated May 23, 2008

1 UNITED STATES BANKRUPTCY COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 . Chapter 11
4 IN RE: . Case No. 04-15739 (SMB)
5 .
6 QUIGLEY COMPANY, INC. . New York, New York
7 . Friday, May 23, 2008
8 Debtors. . 10:04 a.m.
9

7 TRANSCRIPT OF SCHEDULING CONFERENCE
8 BEFORE THE HONORABLE STUART M. BERNSTEIN
9 CHIEF UNITED STATES BANKRUPTCY JUDGE

9 APPEARANCES:

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12 Jessica L. Fainman, Esq.
13 SCHULTE, ROTH & ZABEL, LLP
14 919 Third Avenue
15 New York, New York 10022

16 For the Ad Hoc Committee
17 of Tort Victims: Gregory T. Arnold, Esq.
18 Edward S. Weisfelner, Esq.
19 BROWN, RUDNICK, BERLACK
20 ISRAELS, LLP
21 Seven Times Square
22 New York, New York 10036

18 (Appearances Continued)

19 Audio Operator: Electronically Recorded
20 by Chantel Greene, ECRO

21 Transcription Company: Rand Reporting & Transcription, LLC
22 80 Broad Street, Fifth Floor
23 New York, New York 10004
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24 Proceedings recorded by electronic sound recording,
25 transcript produced by transcription service.

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6 For The U.S. Trustee:

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1 (Proceedings commence at 10:04 a.m.)

2 THE COURT: Please be seated.

3 The purpose of this conference -- it's not really a
4 hearing -- is to consider how the confirmation order -- how
5 the confirmation hearing is going to proceed, given 524G and
6 the issues that come up in asbestos bankruptcies.

7 I had consulted with Judge Presca, as her order
8 indicated. I'll consult with her afterwards, so what is said
9 may or may not affect whether she withdraws the reference in
10 whole or in part. In essence, I'll probably make a
11 recommendation to her as a result of this conference or as a
12 result of conferences to follow.

13 So I'll hear from the debtor.

14 MR. COOK: Your Honor, I have to say that I must be
15 doing something wrong, but we did talk amongst ourselves and
16 other people can correct any damage I do, but I think we have
17 a consensus that Your Honor can conduct a hearing on -- the
18 entire hearing on confirmation 524 G and, consistent with the
19 statute, Judge Presca can affirm or modify if she wants.

20 THE COURT: How do you get -- I know we had this
21 issue in Keenan a long time ago. How do you -- if no one
22 appeals, in the unlikely event, how does Judge Presca affirm
23 it? I know that's what the statute says. I don't know what
24 it means. I'm not sure anybody really knows what it means.
25 Procedurally, how does she do that?

1 MR. COOK: You know, I thought about it and at least
2 my take on it is that she would -- the word "firm" is hardly
3 new. She could follow the procedure in the statute if there
4 are fact findings. She can use the same standard on review
5 if there are legal issues. I know of no other way.

6 And I think that's the fairest to everybody, unless
7 somebody wants to make an alternative proposal.

8 MR. WEISFELNER: Look, we're going to appeal Your
9 Honor's 524G decision as it relates to the injunction and my
10 guess is that goes up to Judge Presca in any event.

11 And depending on the timing of her consideration of
12 that appeal, you know, I think that ought to color, you know,
13 how we deal with confirmation hearing.

14 THE COURT: But that whole issue is moot if the plan
15 doesn't get confirmed.

16 MR. WEISFELNER: Well, I understand that, but, you
17 know, to us it's a critical legal issue and one that we think
18 we're entitled to appellate review on.

19 THE COURT: You may be. How does that affect,
20 though, the timing or the conduct of confirmation?

21 MR. WEISFELNER: Well, because, again, if -- what
22 the judge has to consider --

23 THE COURT: By the way, I'm not sure it will go to
24 Judge Presca. It will go to whoever is on the wheel.

25 MR. WEISFELNER: It seems to me that if -- what the

1 statute requires is district court. And I agree with you, I
2 don't know what the language necessarily means, but this
3 report has to consider 524G and the appeal is focused on 524G
4 in its scope, then, you know, I don't necessarily want to be
5 in front of district court on a record that is less than what
6 the statute and our appellate rights anticipate we're
7 entitled to in front of a district court.

8 THE COURT: I don't know what that means.

9 MR. WEISFELNER: Well, it means that I want an
10 opportunity to argue my appeal, as opposed to having the
11 Court consider under some procedure that no one is really
12 sure of what an affirmance of Your Honor's decision may
13 ultimately be. I mean, I'm presuming that Your Honor will be
14 consistent between your decision on the scope of the
15 injunction and what's proper for 524G purposes.

16 If the only consideration I get on Your Honor's
17 interpretation of 524G and the appropriate precedent is, you
18 know, some sort of affirmance consideration or review, then I
19 think I've been short changed. I want my full appellate
20 rights. I know what those are.

21 THE COURT: Well, maybe you go right to the circuit.
22 In other words, maybe -- and I know in other cases, it was
23 just a little paragraph at the end in which the district
24 court says, I affirm, at the bottom, then presumably it's a
25 decision of the district court.

1 I assume you don't want two levels of the same
2 argument. That's why they have direct appeals, or the
3 possibility of direct appeals.

4 MR. WEISFELNER: And again, Your Honor, you know,
5 we're in sort of uncharted territory here, but, you know, I'm
6 loathe to give up, you know, our appellate rights.

7 THE COURT: Look, the question really is how does
8 the hearing proceed? The statute seems to require the
9 district court to put its pen on that order in some sense.
10 And for example, when we had Keenan, it was essentially a
11 consensual confirmation hearing. We did everything in one
12 day. Both of us sat together and --

13 MR. WEISFELNER: Right.

14 THE COURT: That was not a problem, but that's not
15 this case. So for example, my question is if the district
16 court would have to decide the issues relating to the
17 settlement in order to issue the injunction. Does she have
18 to hear it? Or are there just a very finite number of issues
19 that she would have to decide in order to issue that
20 injunction?

21 MR. WEISFELNER: Yeah. I mean, look, you know, the
22 more I think about it, and the more, you know, the question
23 of good faith tinges the 524G issue, you know, one wonders
24 whether or not the district court, in effect, shouldn't
25 withdraw the reference.

1 I mean, look. I think Your Honor's expertise and
2 knowledge of the case and its background would probably be
3 very useful to the district court. In that regard, I sort of
4 see, you know, the benefit of having Your Honor and Judge
5 Presca presiding, but --

6 THE COURT: Yeah, but in a multi-day trial it's just
7 -- it's really not a very efficient way. I mean, another
8 possibility is for me to simply do it and then you can argue
9 before the district court what's a recommendation and what's,
10 you know, what I heard and determined and what I reported and
11 recommended.

12 MR. WEISFELNER: Right.

13 THE COURT: Which has been done, I know, in other
14 cases.

15 MR. WEISFELNER: But in any event, and one of the
16 other things I would ask Your Honor to consider -- I know
17 this is a status conference -- I guess our time to lodge a
18 notice of appeal would expire on Tuesday. And given the
19 holiday, under the authority of I guess Rule 803C -- 802C,
20 Your Honor is entitled to grant us an extension of time to
21 file the notice of appeal. And we were hoping for a couple
22 of days beyond Tuesday.

23 MR. WEISFELNER: Is there any objection from Pfizer?

24 MR. BAE: Your Honor, it's a two-page piece of paper
25 to file a notice of appeal. I'm not sure why Mr. Weisfelner

1 THE COURT: Okay.

2 MR. PLEVIN: So that's a long-winded way of saying
3 that we agree with the debtor that having the hearing
4 completely before Your Honor is the appropriate thing to do
5 under the law and if you want the legal background for our
6 position, as I said, we've filed a brief in the district
7 court in response to their motion and it's set forth in that
8 paper.

9 THE COURT: Well, the legal background is more of a
10 concern to Judge Presca if, you know, depending on how she
11 considers the motion. I'm just trying to figure out a way to
12 do this in an expeditious manner, which obviously runs with
13 the statute. It just sounds like the easiest thing may be
14 for me to try everything and then you can argue about what's
15 subject clearly erroneous and what's de novo and up in the
16 district court.

17 Now, in terms of the hearing, how do you foresee it
18 going forward? Because there are a lot of issues which I
19 assume are not disputed, like the 1123 issues. I can look at
20 the plan and determine whether it contains the information
21 that's necessary. I don't know if the -- the issues that are
22 necessary to actually issue the 524G injunction are disputed
23 in terms of the debtor being subject to claims. Those are
24 disputed?

25 MR. WEISFELNER: Well, I mean, the biggest dispute

EXHIBIT G
Order dated October 16, 2008

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/17/08

-----X
In Re: QUIGLEY COMPANY, INC.,

:
: 06 CV 3077 (LAP)
:
:

:
: ORDER
:
:-----X

LORETTA A. PRESKA, United States District Judge:

Because Quigley's Motion to Withdraw the Reference [dkt. no. 1] was withdrawn
[dkt. no. 36], ACE Insurers' Motion to Withdraw Their Objection to Quigley's Motion
[dkt. no. 42] is also withdrawn.

SO ORDERED:

Dated: October 16, 2008


LORETTA A. PRESKA, U.S.D.J.

EXHIBIT H

Relevant Portion of Hearing Transcript dated October 21, 2008

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: Chapter 11
Case No. 04-15739 (SMB)
QUIGLEY COMPANY, INC. New York, New York
Debtors. Tuesday, October 21, 2008
10:05 a.m.
.....

TRANSCRIPT OF MOTIONS AND STATUS CONFERENCE
BEFORE THE HONORABLE STUART M. BERNSTEIN
CHIEF UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

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1 to the US Trustee in the first place.

2 MR. WEISFELNER: And we shall. But again, just in
3 terms of calling it to your attention.

4 THE COURT: Okay.

5 MR. WEISFELNER: Finally, before I give up the
6 podium and let all of these important people take their
7 seats, on the issue of how this case ultimately gets tried,
8 Your Honor will recall that once upon a time the debtor filed
9 a motion for partial withdrawal of the reference.

10 THE COURT: At my urging.

11 MR. WEISFELNER: Okay. Your Honor, we are -- we
12 don't know which way to turn at this point. You know we have
13 an appeal pending from Your Honor's determination on the
14 scope of 524G.

15 As we consider the sort of issues that may be tried
16 if we get to a confirmation hearing in March, we become more
17 and more convinced that maybe the thing ought to be tried the
18 way the Keane (phonetic) case was tried and the way the
19 debtor originally suggested.

20 We will consult with the debtor on this issue before
21 we move forward.

22 THE COURT: Okay. I -- actually, I got an inquiry
23 from Judge Preska in terms of what was happening because that
24 motion had not been closed or whatever in the district court.
25 It turns out she had endorsed a memo I think back in January

1 of 2007 or endorsed a letter deeming the motion withdrawn.

2 So my understanding is there is no motion pending.

3 If you think that the reference should be withdrawn, I think
4 you're going to have to make a motion.

5 MR. WEISFELNER: We think that's probably right.

6 And then the concern is whether or not we would refer it to
7 the same judge that's got the appeal, or whether it goes into
8 the wheel or --

9 THE COURT: That's up to the district court.

10 MR. WEISFELNER: Understood. Your Honor, that's all
11 I have.

12 THE COURT: Okay. Thank you.

13 MR. WEISFELNER: Thank you for the time.

14 UNIDENTIFIED: Your Honor, may I just briefly
15 address one issue that Mr. Weisfelner raised?

16 THE COURT: If this is on -- is this on the
17 composition of the Committee?

18 UNIDENTIFIED: It is, Your Honor.

19 THE COURT: Okay. Very --

20 UNIDENTIFIED: And it's just to recall --

21 THE COURT: Okay. Is that your first sentence?

22 UNIDENTIFIED: -- that the composition of the
23 Committee is not of law firms, it is not of lawyers, it is of
24 individual claimants and the individual claimants appointed
25 by the US Trustee's office has not changed.

EXHIBIT I
Civil Cover Sheet

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

09CV 117

McMahon

PLAINTIFFS

Ad-Hoc Committee of Tort Victims

DEFENDANTS

Quigley Company, Inc., And Pfizer, Inc.

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CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Has this or a similar case been previously filed in SDNY at any time? No ☒ Yes ☐ Judge Previously Assigned

If yes, was this case Vol ☒ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date & Case No.

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

04-15739 # 1669 - 1/6/09 / 1/7/09

TORTS		ACTIONS UNDER STATUTES	
CONTRACT	PERSONAL INJURY	PERSONAL INJURY	FORFEITURE/PENALTY
[] 110 INSURANCE	[] 310 AIRPLANE	[] 362 PERSONAL INJURY -	[] 810 AGRICULTURE
[] 120 MARINE	[] 315 AIRPLANE PRODUCT	[] 365 MED MALPRACTICE	[] 820 OTHER FOOD &
[] 130 MILLER ACT	[] 320 LIABILITY	[] 368 PERSONAL INJURY	[] 825 DRUG
[] 140 NEGOTIABLE	[] 325 ASSAULT, LIBEL &	[] 369 PRODUCT LIABILITY	[] 825 DRUG RELATED
[] 150 INSTRUMENT	[] 330 SLANDER	[] 369 ASBESTOS PERSONAL	[] 825 SEIZURE OF
[] 150 RECOVERY OF	[] 330 FEDERAL	[] 369 INJURY PRODUCT	[] 825 PROPERTY
[] 150 OVERPAYMENT &	[] 330 EMPLOYERS'	[] 369 LIABILITY	[] 825 21 USC 881
[] 150 ENFORCEMENT	[] 340 LIABILITY	[] 370 PERSONAL PROPERTY	[] 830 LIQUOR LAWS
[] 161 OF JUDGMENT	[] 340 MARINE	[] 370 OTHER FRAUD	[] 840 RR & TRUCK
[] 161 MEDICARE ACT	[] 345 PRODUCT	[] 371 TRUTH IN LENDING	[] 850 AIRLINE REGS
[] 162 RECOVERY OF	[] 345 LIABILITY	[] 380 OTHER PERSONAL	[] 860 OCCUPATIONAL
[] 162 DEFAULTED	[] 350 MOTOR VEHICLE	[] 380 PROPERTY DAMAGE	[] 860 SAFETY/HEALTH
[] 162 STUDENT LOANS	[] 355 MOTOR VEHICLE	[] 385 PRODUCT LIABILITY	[] 860 LABOR
[] 162 (EXCL VETERANS)	[] 355 PRODUCT LIABILITY	[] 385 PROPERTY DAMAGE	[] 710 FAIR LABOR
[] 163 RECOVERY OF	[] 360 OTHER PERSONAL	[] 385 PRODUCT LIABILITY	[] 720 STANDARDS ACT
[] 163 OVERPAYMENT	[] 360 INJURY		[] 730 LABOR/MGMT
[] 163 OF VETERANS			[] 730 REPORTING &
[] 163 BENEFITS			[] 740 DISCLOSURE ACT
[] 163 STOCKHOLDERS			[] 740 RAILWAY LABOR ACT
[] 163 SUITS			[] 750 OTHER LABOR
[] 163 OTHER			[] 750 LITIGATION
[] 163 CONTRACT			[] 750 EMP RET INC
[] 163 CONTRACT			[] 750 SECURITY ACT
[] 163 PRODUCT			
[] 163 LIABILITY			
[] 163 FRANCHISE			
	ACTIONS UNDER STATUTES	PRISONER PETITIONS	IMMIGRATION
	CIVIL RIGHTS	[] 610 MOTIONS TO	[] 462 NATURALIZATION
	[] 441 VOTING	[] 610 VACATE SENTENCE	[] 463 APPLICATION
	[] 442 EMPLOYMENT	[] 610 28 USC 2255	[] 463 HABEAS CORPUS -
	[] 443 HOUSING/	[] 630 HABEAS CORPUS	[] 463 ALIEN DETAINEE
	[] 443 ACCOMMODATIONS	[] 635 DEATH PENALTY	[] 465 OTHER IMMIGRATION
	[] 444 WELFARE	[] 640 MANDAMUS & OTHER	
	[] 445 AMERICANS WITH	[] 640 CIVIL RIGHTS	
	[] 445 DISABILITIES -	[] 655 PRISON CONDITION	
	[] 445 EMPLOYMENT		
	[] 448 AMERICANS WITH		
	[] 448 DISABILITIES - OTHER		
	[] 440 OTHER CIVIL RIGHTS		
REAL PROPERTY			
[] 210 LAND			
[] 220 CONDEMNATION			
[] 220 FORECLOSURE			
[] 230 RENT LEASE &			
[] 230 EJECTMENT			
[] 240 TORTS TO LAND			
[] 245 TORT PRODUCT			
[] 245 LIABILITY			
[] 280 ALL OTHER			
[] 280 REAL PROPERTY			

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?
IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint
JURY DEMAND: ☐ YES ☐ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN x IN ONE BOX ONLY)

ORIGIN
☒ 1 Original Proceeding ☐ 2a. Removed from State Court ☐ 2b. Removed from State Court AND at least one party is pro se. ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from (Specify District) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judge Judgment

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BASIS OF JURISDICTION
☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☐ 4 DIVERSITY

IF DIVERSITY, INDICATE CITIZENSHIP BELOW. (28 USC 1322, 1441)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
CITIZEN OF THIS STATE	[]	[]	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[]	[]	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[]	[]
CITIZEN OF ANOTHER STATE	[]	[]	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[]	[]	FOREIGN NATION	[]	[]

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DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN
(DO NOT check either box if this is a PRISONER PETITION.)

DATE 1/7/09 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO
[X] YES (DATE ADMITTED Mo. June Yr. 1983)
Attorney Bar Code # EW-5581

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

J. Michael McMahon, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

EXHIBIT J

Relevant Portion of Hearing Transcript dated December 2, 2008

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: Chapter 11
Case No. 04-15739 (SMB)
QUIGLEY COMPANY, INC.
Debtors. New York, New York
Tuesday, December 2, 2008
10:03 a.m.
.....

TRANSCRIPT OF MOTION
BEFORE THE HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

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1 points, and I'm going to, frankly, blow through this because I
2 do appreciate I've been talking for too long. We make three
3 points.

4 First, as we've alluded to, I don't think that they've
5 met their burden that all of the alleged or asserted work
6 product is in anticipation of litigation or for trial. There
7 is a narrow focus to it. I accept the Alderman decision
8 (phonetic), which I think they used to say well, no, it's
9 really quite broad. It's because of litigation. I accept all
10 of that.

11 But, nevertheless, Your Honor, just harboring concern
12 about litigation in a bankruptcy case, certainly before you
13 file the bankruptcy case, and I would argue even through the
14 bankruptcy case --

15 THE COURT: You don't think this case has been one big
16 litigation? I mean, really. I'm not being facetious. This is
17 one of the most litigious bankruptcy cases I've ever seen in
18 fifteen years. You can fight for an hour over an adjournment.

19 (Laughter.)

20 MR. JONAS: No, Your Honor. I don't think you can put
21 your position and say well, yeah, back in 2004, looking forward
22 to our bankruptcy case, there was a reasonable anticipation or
23 expectation that this -- that every issue in the case was going
24 to be litigated.

25 THE COURT: But that gets me back to the specific