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Asbestos Corp. Gets Ch. 15 Nod Over Claimants' Concerns

By **Ben Zigterman**

Law360 (October 30, 2025, 2:11 PM EDT) -- A New York bankruptcy judge granted Chapter 15 recognition for Asbestos Corp. Ltd.'s Canadian restructuring over the objection of personal injury claimants and a Chapter 7 trustee, finding that the corporation's business activity in Canada outweighs its management of litigation in the U.S.

In a **decision filed Thursday**, U.S. Bankruptcy Judge Martin Glenn said that Asbestos Corp.'s center of main interest is still in Canada, noting the corporation's headquarters and executives are based there.

"It is clear that ACL's headquarters are in Canada, specifically in Québec," Judge Glenn wrote. "ACL's executives are located in Canada, its employees live in and work in Canada, it's bank accounts are in Canada, the company owns extensive real estate and mines in Canada, and the company's current projects are focused on extracting minerals from residual mining tailings located in Canada."

While the asbestos claimants argued that Abestos Corp.'s primary business is managing the litigation activity in the U.S., Judge Glenn said, "This argument falls flat."

He continued: "For one, the asbestos parties have failed to indicate any case law where ongoing litigation against a debtor has alone moved a company's headquarters for the purpose of the COMI analysis when the company maintains a business foothold in its country of incorporation."

ACL, a Quebec mining company, filed for Chapter 15 recognition **in May** of its Canadian Companies' Creditors Arrangement Act case.

The asbestos miner filed for Chapter 15 to freeze pending personal injury and insurance litigation in 14 states across the U.S. that could drain its limited resources, said Ayman Chaaban, the court-appointed monitor in ACL's Canadian proceedings, in a first-day declaration.

A South Carolina judge in 2023 sanctioned ACL for not complying with discovery requests in personal injury litigation **and appointed** a receiver to oversee its insurance assets in the U.S.

The South Carolina Supreme Court **upheld that decision** in May, **rejecting ACL's position** that the Quebec Business Concerns Records Act prevented it from responding to discovery efforts.

Chaaban alleged in his declaration that the receiver, Peter D. Protopapas, has not followed terms of a 1998 settlement between ACL, its excess insurers and its former indirect majority owner, General Dynamics on how to allocate personal injury defense costs and indemnity payments. Chaaban alleged that Protopapas has not acted in the interest of ACL or its insurers and said the

Canadian restructuring would be the best route to resolve the litigation.

Protopapas has disputed ACL's characterization of the circumstances leading to his appointment.

In September, the group of personal injury claimants and the bankruptcy liquidation trustee of National Service Industries Inc., a company **that held legacy asbestos** insulation claims, **called the Chapter 15 petition** an effort to dodge U.S. bankruptcy safeguards for asbestos mass tort cases.

In his decision, Judge Glenn said that it is premature to consider whether the Canadian proceeding would lack protections and would be more appropriate to determine when a restructuring plan has been proposed in the Canadian case.

"What the asbestos parties are asking this court to do is judge a hypothetical plan on its potential lack of protections," he wrote. "There is nothing in the record to suggest that the exact protections, or even better protections, will not be put in place in a plan confirmed by the Canadian court."

Trey Branham of Dean Omar Branham Shirley LLP, an attorney representing the asbestos claimants, noted Judge Glenn's point that this is the first step in the process and told Law360 that the claimants "look forward to working with the monitor to ensure ... that the U.S. asbestos victims are protected and fully compensated."

"This is an unprecedented use of Chapter 15 to recognize foreign proceedings initiated and funded by insurance companies to protect themselves from paying contract benefits for liability in U.S. courts where every identified claimant is a U.S. citizen," he said. "This is also the first asbestos foreign proceeding recognized under Chapter 15 that attempts to circumvent asbestos-specific protections required by Congress."

Representatives of the other parties did not immediately respond Thursday to requests for comment.

Asbestos Corp. is represented by Evan C. Hollander, Daniel A. Rubens, David Litterine-Kaufman, Michael Trentin and Jenna MacDonald Busche of Orrick Herrington & Sutcliffe LLP.

The asbestos claimants are represented by Matthew T. Richardson of Wyche PA and Trey Branham of Dean Omar Branham Shirley LLP.

The National Services Industries Inc. Chapter 7 trustee is represented by Cullen D. Speckhart, Michael Klein, Olya Antle and Jeremiah P. Ledwidge of Cooley LLP.

Peter D. Protopapas is represented by Jason R. Alderson and Brady Edwards of Morgan Lewis & Bockius LLP.

General Dynamics Corp. is represented by Frances E. Bivens, James I. McClammy and Darren S. Klein of Davis Polk & Wardwell LLP.

The case is In re: Asbestos Corp. Ltd., case number 1:25-bk-10934, in the U.S. Bankruptcy Court for the Southern District of New York.

--Additional reporting by Clara Geoghegan. Editing by Amy French.

Update: This article has been updated with a comment from an attorney representing the

asbestos claimants.

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