

## Dura Auto Agrees To Creditors' Ch. 11 Discovery Requests

By **Vince Sullivan**

Law360, Wilmington (December 20, 2019, 3:47 PM EST) -- Car parts manufacturer Dura Automotive Systems agreed Friday to provide documents requested by the official committee of unsecured creditors in its Chapter 11 case, telling a Delaware judge that it would begin production almost immediately.

During a hearing in Wilmington, debtor attorney Justin Alberto of Bayard PA told the court that Dura had been engaged with the committee over the past two days to come to an agreement on the committee's motion under Rule 2004 of the federal bankruptcy procedure seeking to take broad discovery from the debtor.

"The parties have burned a lot of midnight oil over the last 36 hours and I'm pleased to report that the one matter that is up on the agenda today I believe has been resolved," Alberto said.

The committee sent discovery requests to the debtor in late November seeking documents related to the value of its assets, potential recoveries to creditors, settlements of claims, the preparation for its bankruptcy filing and its post-petition sale process, among others. The requests were formalized in a Rule 2004 motion filed Dec. 12.

By Friday, committee attorneys said an agreement had been reached for the debtor to provide the requested documents pending agreement on relevant search terms and document custodians.

"The debtors have agreed to respond to all of the document requests on a rolling production which will begin almost immediately in the coming days," James R. Irving of Bingham Greenebaum Doll LLP told the court.

The production will continue up to a Jan. 15, 2020, deadline, he said, which is not ideal for any party given the concurrently running asset sale process. That deadline couldn't be helped due to the constraints of the calendar given the intervening holidays.

Irving said the committee may seek to extend the sale process timeline, which currently calls for a Jan. 22 bid deadline and a Feb. 11 sale hearing date. To provide additional time to address its timeline concerns, the committee said it would be moving its deadline to file a motion seeking the extension from Dec. 24 to Dec. 29, ahead of a Jan. 8 hearing on the bidding procedures.

Debtor attorney Casey McGushin of Kirkland & Ellis LLP said the debtor is already involved in discussions with its post-petition lender about extending the sale timeline.

"We're always open to it and those conversations will keep going," he said.

U.S. Bankruptcy Judge Karen B. Owens said it sounded as though the parties were in agreement about the discovery matters and that the court would be available to adjudicate any disputes that arise before the Jan. 8 hearing. She also agreed to extend the committee's deadline to file the sale extension motion to Dec. 29.

Dura file for Chapter 11 protection in October in the Middle District of Tennessee, but its close

relationship with equity holder The Zohar Funds led Judge Owens to bring the case to Delaware, where the funds' own Chapter 11 cases have been pending since March 2018.

Both entities are controlled by Lynn Tilton and her affiliated investment fund, Patriarch Partners. A Tennessee bankruptcy judge overseeing the initial stages of the Dura case balked at the multiple roles Patriarch proposed playing in the proceedings. It initially served as the debtor-in-possession lender, the stalking horse bidder and the equity owner of the company, but a ruling in Tennessee forced Dura to find an alternate DIP lender, Bardin Hill Investment Partners LP.

The 105-year-old, Michigan-based company makes parts such as control systems and structural frameworks, and has about 7,400 employees worldwide and \$1.1 billion in annual global sales, according to its bankruptcy filings. Dura operates eight manufacturing plants in the U.S., along with 21 plants in Latin America, Europe and Asia operated by foreign subsidiaries that are not part of the bankruptcy, the company said.

Dura is represented by Justin R. Alberto, Erin R. Fay and Daniel N. Brogan of Bayard PA and James H.M. Sprayregen, Ryan Blaine Bennett, Gregory F. Pesce and Casey McGushin of Kirkland & Ellis LLP.

The committee is represented by Jennifer R. Hoover, Kevin M. Capuzzi and John C. Gentile of Benesch Friedlander Coplan & Aronoff LLP, Oscar N. Pinkas, Lauren Macksoud and Sam J. Alberts of Dentons US LLP and James R. Irving of Bingham Greenebaum Doll LLP.

The case is In re: DURA Automotive Systems LLC, case number 1:19-bk-12378, in the U.S. Bankruptcy Court for the District of Delaware.

--Additional reporting by Rose Krebs and Jeff Montgomery. Editing by Bruce Goldman.