

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:) Chapter 11
)
COLLINS & AIKMAN CORPORATION, et. al.,¹) Case No. 05-55927 (SWR)
) (Jointly Administered)
Debtors.)
) (Tax Identification #13-3489233)
)
) Honorable Steven W. Rhodes
)
) **Hearing Date (if necessary): August 17, 2006 at 2:00 p.m.**
) **Objection Deadline: August 15, 2006 at 4:00 p.m.**

**FINAL APPLICATION OF LATHROP & GAGE L.C. FOR ALLOWANCE AND
PAYMENT OF FEES AND REIMBURSEMENT OF EXPENSES FOR SERVICES
RENDERED AS SPECIAL COUNSEL TO DEBTORS**

Lathrop & Gage L.C. (“L&G”), special litigation counsel for the above-captioned debtors (the “Debtors”), hereby applies (the “Final Application”) for entry of an order finally allowing L&G (a) contingent fees in the amount of \$962,500 for services L&G has rendered to the Debtors and (b) the expenses that L&G incurred in the amount of \$7,982.97, pursuant to section 328(a) of the Bankruptcy Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”), Rule 2016 of the Federal Rules of Bankruptcy Procedure, Rules 2016-1 and 9014-1 of the Local Rules of the

¹ The Debtors in the jointly administered cases include: Collins & Aikman Corporation; Amco Convertible Fabrics, Inc., Case No. 05-55949; Becker Group, LLC (d/b/a/ Collins & Aikman Premier Mold), Case No. 05-55977; Brut Plastics, Inc., Case No. 05-55957; Collins & Aikman (Gibraltar) Limited, Case No. 05-55989; Collins & Aikman Accessory Mats, Inc. (f/k/a the Akro Corporation), Case No. 05-55952; Collins & Aikman Asset Services, Inc., Case No. 05-55959; Collins & Aikman Automotive (Argentina), Inc. (f/k/a Textron Automotive (Argentina), Inc.), Case No. 05-55965; Collins & Aikman Automotive (Asia), Inc. (f/k/a Textron Automotive (Asia), Inc.), Case No. 05-55991; Collins & Aikman Automotive Exteriors, Inc. (f/k/a Textron Automotive Exteriors, Inc.), Case No. 05-55958; Collins & Aikman Automotive Interiors, Inc. (f/k/a Textron Automotive Interiors, Inc.), Case No. 05-55956; Collins & Aikman Automotive International, Inc., Case No. 05-55980; Collins & Aikman Automotive International Services, Inc. (f/k/a Textron Automotive International Services, Inc.), Case No. 05-55985; Collins & Aikman Automotive Mats, LLC, Case No. 05-55969; Collins & Aikman Automotive Overseas Investment, Inc. (f/k/a Textron Automotive Overseas Investment, Inc.), Case No. 05-55978; Collins & Aikman Automotive Services, LLC, Case No. 05-55981; Collins & Aikman Canada Domestic Holding Company, Case No. 05-55930; Collins & Aikman Carpet & Acoustics (MI), Inc., Case No. 05-55982; Collins & Aikman Carpet & Acoustics (TN), Inc., Case No. 05-55984; Collins & Aikman Development Company, Case No. 05-55943; Collins & Aikman Europe, Inc., Case No. 05-55971; Collins & Aikman Fabrics, Inc. (d/b/a Joan Automotive Industries, Inc.), Case No. 05-55963; Collins & Aikman Intellimold, Inc. (d/b/a M&C Advanced Processes, Inc.), Case No. 05-55976; Collins & Aikman Interiors, Inc., Case No. 05-55970; Collins & Aikman International Corporation, Case No. 05-55951; Collins & Aikman Plastics, Inc., Case No. 05-55960; Collins & Aikman Products Co., Case No. 05-55932; Collins & Aikman Properties, Inc., Case No. 05-55964; Comet Acoustics, Inc., Case No. 05-55972; CW Management Corporation, Case No. 05-55979; Dura Convertible Systems, Inc., Case No. 05-55942; Gamble Development Company, Case No. 05-55974; JPS Automotive, Inc. (d/b/a PACJ, Inc.), Case No. 05-55935; New Baltimore Holdings, LLC, Case No. 05-55992; Owosso Thermal Forming, LLC, Case No. 05-55946; Southwest Laminates, Inc. (d/b/a Southwest Fabric Laminators Inc.), Case No. 05-55948; Wickes Asset Management, Inc., Case No. 05-55962; and Wickes Manufacturing Company, Case No. 05-55968.

Bankruptcy Court for the Eastern District of Michigan (the “Local Rules”), and the L&G Order (as defined below). In support of its Final Application, L&G respectfully states as follows:

Background

1. On May 17, 2005 (the “Petition Date”), the above-captioned Debtors (“Debtors”) filed their Voluntary Petitions for Relief under Chapter 11 of the Bankruptcy Code.²
2. The Court has jurisdiction over this Final Application pursuant to 28 U.S.C. §§ 1334 and 157(b). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue in this District is appropriate pursuant to 28 U.S.C. §§ 1408 and 1409.
3. Pursuant to the Order Authorizing the Employment and Retention of Lathrop & Gage L.C. as Special Litigation Counsel to the Debtors (the “L&G Order”), the Court approved the Debtors’ continued employment of L&G as special litigation counsel for the Debtors to represent the Debtors’ interests in the environmental insurance litigation described below pursuant to the terms of an engagement letter dated November 18, 2003 (the “Engagement Letter”).
4. For nearly three years L&G has been pursuing, on behalf of the Debtors, recovery of environmental expenses from certain of the Debtors’ insurance providers, including OneBeacon America Insurance Company (“OneBeacon”) and National Indemnity Company (“NICO”), regarding claims for insurance coverage for costs expended in connection with twenty-eight environmental sites across the country, including, but not limited to, sites in: Beardstown, Illinois; Bowling Green, Ohio; Chase, Michigan; Mancelona, Michigan; and Stringfellow, California (collectively, the “Environmental Insurance Litigation”).
5. The L&G Order granted, among other things, the L&G Employment Application

² Capitalized terms used but not otherwise defined in this Final Application have the meanings set forth in the Debtors’ Application for Order Authorizing The Employment And Retention of Lathrop & Gage L.C. As Special Litigation Counsel [Docket No. 2542] (the “L&G Employment Application”).

and approved the contingent fee agreement set forth in the Engagement Letter.

6. The L&G Employment Application provides in part that:

L&G will file interim and final fee applications for reimbursement of any fees and the Postpetition Costs pursuant to the terms of the Administrative Order Establishing Procedures for Monthly Compensation and Reimbursement of Expenses for Professionals and Official Committee Member entered on June 9, 2005 [Docket No. 290] (the "Interim Compensation Order), as modified by the following paragraph.

The Debtors request that L&G only be required to file an application for allowance and payment of contingent professional fees in connection with the Environmental Insurance Litigation that: (a) briefly summarizes the nature of the professional services rendered to the Debtors in connection with the Environmental Insurance Litigation; (b) identifies the total dollar amount of the Debtors' recovery; and (c) calculates L&G's contingent fee.³

See L&G Employment Application ¶¶ 16 and 17.

Summary of the Nature of Professional Services

7. On April 1, 2003, Debtors filed a lawsuit in the United States District Court for the Western District of North Carolina, Charlotte Division, Case No. 3:03CV142-mck, against OneBeacon and NICO involving the Environmental Insurance Litigation (the "North Carolina Action").

8. In response to the North Carolina Action, on April 3, 2003, OneBeacon filed a declaratory judgment action, also involving the Environmental Insurance Litigation, in the Supreme Court of the State of New York, County of New York, Index No. 03601053, against the Debtors (the "New York Action").

9. The Debtors engaged L&G in 2003 to represent the Debtors' interests in the North Carolina Action and the New York Action. During the last three years, L&G provided the following professional services to the Debtors:

³ L&G provides this information below.

a. L&G reviewed and analyzed the Debtors' claims against OneBeacon and NICO arising from their refusal to defend or indemnify the Debtors for costs the Debtors had incurred in connection with 28 hazardous waste sites located in eleven states, including significant research and investigation into archival records and factual information dating back decades, and recommended to the Debtors a litigation strategy for the Environmental Insurance Litigation.

b. L&G prepared and prosecuted successfully the Debtors' motion to dismiss the New York Action and defended OneBeacon's separate motion to dismiss the North Carolina Action. Because of its unfavorable late notice and lost policies jurisprudence, New York is considered a "pro-insurer" state, and OneBeacon preferred to litigate the issues in New York. Consequently, it was critical to the Debtors' position that the New York Action be dismissed and the North Carolina Action be preserved. Moreover, the costs of litigation in the New York Action would have been much greater for the Debtors because the Debtors maintain no offices in New York and none of the relevant documents or witnesses are in New York. To support the Debtors' motion to dismiss the New York Action, L&G engaged in extensive factual investigation, including researching the location of relevant documents and witnesses, interviewing numerous former employees, and preparing several witness affidavits. L&G also briefed and argued the Debtors' motion to dismiss the New York Action.

c. L&G developed the analysis and strategy for, and prosecuted, the Debtors' amended complaints in the North Carolina Action. This included developing allegations against both OneBeacon and NICO regarding their bad faith claims handling practices, which required extensive corporate research relating to the complicated corporate history

of OneBeacon (the ultimate successor to various members of the Commercial Union group of insurance companies) and the history of NICO's reinsurance and takeover of the handling of certain of the Commercial Union Insurance group of insurance companies' liabilities.

d. L&G engaged in extensive discovery, including numerous discovery disputes, with OneBeacon and NICO. The insurers' discovery requests were sweeping, and the effort to review, gather, and prepare the production of hundreds of boxes of documents relating to the relevant sites was an enormous undertaking.

e. During the pendency of the North Carolina Action, the United States District Judge assigned to the case unexpectedly passed away. L&G analyzed several alternatives available to the Debtors to avoid costly delays that reassignment to another judge could have on the litigation.

f. L&G reviewed extensive documentation that the insurers produced during discovery and other documentation that included policy evidence and claims correspondence relating to other OneBeacon policies that potentially provided coverage for the Debtors' environmental liabilities.

g. L&G worked on a possible settlement analysis for the Debtors and prepared for and led the extensive settlement discussions with the insurers that ultimately resulted in the favorable settlement for the Debtors.

h. L&G analyzed the proposed settlement documentation and prepared comments and responses to the insurers' proposed alterations and revisions to the proposed settlement agreement.

Total Amount of Debtors' Recovery

10. As a result of the settlement discussions among the Debtors, OneBeacon, and

NICO, the Debtors have agreed with OneBeacon and NICO, subject to the Court's approval, to settle the Environmental Insurance Litigation for \$5,500,000 (the "Settlement Amount"). On June 28, 2006, the Debtors filed a Motion for An Order Approving the Settlement Agreement Among the Debtors, One Beacon America Insurance Company and National Indemnity Company (the "Settlement Motion"). A hearing on the Settlement Motion is currently scheduled for August 17, 2006.⁴

L&G's Contingent Fee

11. Based upon the terms of the Engagement Letter approved by the L&G Order, if the Court grants the Settlement Motion and approves the Settlement Amount, L&G's contingent fee is \$962,500 (17.5% of the Settlement Amount). In addition, L&G is entitled to reimbursement of its post-petition expenses that total \$7,982.97, which include long distance telephone (\$54.73), photocopies (\$213.69), outside copy services (\$4,571.82), travel and meals (\$2,878.69), and computerized legal research (\$264.04). Below is a calculation of the contingent fee (based on the Settlement Amount) and costs that the Debtors owe L&G:

Amount of Settlement Recovery	\$5,500,000
Applicable Contingency Percentage	17.5%
L&G's Contingent Fee	\$962,500.00
Plus Expenses	<u>\$7,982.97</u>
Total L&G Contingent Fee & Expenses	\$970,482.97

Exhibit B to this Final Application includes copies of L&G's invoices that contain additional detail supporting the calculation of L&G's post-petition expenses.

12. Except as set forth in this Final Application, no payments have been made or promised to L&G for services rendered or to be rendered in connection with these cases. Neither

⁴ If the Court does not grant the Settlement Motion on or before August 17, 2006 and the hearing on the Settlement Motion is continued to a date after August 17, 2006, L&G agrees that the hearing (if required) on this Final Application be continued to such later date.

L&G nor any member of L&G has any agreement or understanding of any kind or nature to divide, pay over, or share any portion of the fees to be awarded to L&G with any other person or attorney except as among members, associates, and of counsel attorneys at L&G.

WHEREFORE, Lathrop & Gage L.C. respectfully requests that, upon entering an order granting the Settlement Motion, the Court enter an order, substantially in the form attached to this Final Application as Exhibit A, (a) granting this Final Application, (b) authorizing and directing the Debtors to pay to Lathrop & Gage L.C. the total contingent fee of \$962,500 (or such other amount that is 17.5% of the settlement amount that the Court ultimately approves) and reimburse Lathrop & Gage L.C. expenses in the amount of \$7,982.97 all upon the Debtors' receipt of the settlement funds, and (c) granting such other and further relief as the Court deems appropriate.

Dated: July 26, 2006

Respectfully submitted,

LATHROP & GAGE L.C.

By: Brian T. Fenimore
Brian T. Fenimore MO Bar #41308
2345 Grand Boulevard, Suite 2800
Kansas City, Missouri 64108-2684
Telephone: (816) 292-2000
Telecopier: (816) 292-2001

SPECIAL COUNSEL FOR DEBTORS
AND DEBTORS IN POSSESSION