

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
TK HOLDINGS INC., <i>et al.</i> ,)	Case No. 17-11375 (BLS)
)	(Re: Docket Nos. 4750, 4756)
Debtors. ¹)	
)	

**MEMORANDUM ORDER REGARDING MOTIONS
INVOLVING SEATBELT CLAIMANTS²**

Before the Court are a series of related motions and objections³ concerning the treatment of personal injury or wrongful death claims allegedly caused by defective seatbelts manufactured by the Debtors. Following briefing and a full hearing, the record reflects the following:

1. On June 25, 2017, the Debtors filed voluntary Chapter 11 bankruptcy petitions, and on February 21, 2018, the Court entered an Order⁴ confirming the Fifth Amended Joint Chapter 11 Plan of Reorganization of TK Holdings Inc. and Its Affiliated Debtors (the “Plan”).⁵ The Plan became effective on April 10, 2018 (the “Effective Date”).⁶

¹ The Debtors in these chapter 11 cases are Takata Americas, TK Finance, LLC; TK China, LLC; TK Holdings Inc.; Takata Protection Systems Inc.; Interiors in Flight Inc.; TK Mexico Inc.; TK Mexico LLC; TK Holdings de Mexico, S. de R.L. de C.V.; Industrias Irvin De Mexico, S.A. de C.V.; Takata de Mexico S.A. de C.A.; and Strosshe-Mex, S. de R.L. de C.V. (the “Debtors” or “Takata”).

² This Memorandum Order constitutes the Court’s findings of fact and conclusions of law pursuant to Fed. R. Bankr. P. 7052. This Court has jurisdiction to decide this matter pursuant to 28 U.S.C. § 157 and § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (B).

³ Docket Nos. 4750, 4756, 4766, 4771, and 4784.

⁴ Docket No. 2120.

⁵ Docket No. 2116. All capitalized terms not defined herein are defined in the Plan.

⁶ Docket No. 2646.

2. The Plan divides personal injury and wrongful death claims related to Takata Products sold or supplied prior to the Petition Date into two classes:
 - (i) Class 5 PSAN PI/WD Claims for claims relating to an injury or death allegedly caused by a PSAN Inflator; and
 - (ii) Class 7 Other PI/WD Claims for claims other than PSAN PI/WD Claims, arising out of or relating to an injury or death allegedly caused by a Takata Product, which includes seatbelts developed, manufactured, marketed or sold by the Debtors.⁷
3. Upon the Effective Date, the Takata Airbag Tort Compensation Trust Fund (the “TATCTF”) was established by the PSAN PI/WD Trust Agreement dated March 26, 2018 (the “Trust Agreement”) to, among other things, “administer, process, settle, resolve, liquidate and pay Other PI/WD Claims . . . and only to the extent of the funds available in the segregated accounts established for such purpose”⁸ Eric D. Green (the “Trustee”) was appointed as Trustee of the TATCTF.
4. On August 23, 2021, the Trustee filed a Motion for Entry of an Order (I) Approving Allowance Procedures for Seat Belt Claims and (II) Disallowing and Expunging Certain Seatbelt Claims (the “Seatbelt Claims Procedures Motion”),⁹ which sought Court approval of a claims evaluation process for any personal injury or wrongful death claims allegedly caused by a Takata Product (specifically a Takata seatbelt) (the “Seatbelt Claims”).

⁷ Any other unsecured claim other than a Class 5 PSAN PI/WD Claim or a Class 7 Other PI/WD Claim is classified as a Class 6 Other General Unsecured Claim.

⁸ Trust Agreement at Section 1, ¶ 1.2(iv). Docket No. 2505, Ex. M.

⁹ Docket No. 4520.

5. The Seatbelt Claims Procedures Motion included the following provisions:

Plan Section 4.4(f) provides that holders of Allowed Other PI/WD Claims against the TKH Debtors shall receive its Pro Rata Share of the funds allocated to the TKH Other PI/WD Fund. Plan § 4.4(f)(i). Under the Plan the TKH Other PI/WD Fund was funded with cash in accordance with the Distribution Formula and contributions from non-debtors ((i) original equipment manufacturers (“OEMs:”), (ii) the parent company; and (iii) the Plan Sponsor) in accordance with the Contributions Distribution Formula. *See id.* at § 1.1, p. 41. **The Contributions Distribution Formula requires that a portion of eligible contributions be designated to Allowed Class 7 Claims, up to an allowed aggregate claim limit of \$10 million.** *See id.* at § 6.3(a). As a result of the Contributions Distribution Formula and the existing amounts of funds in the TKH Other PI/WD Fund as a result of the initial Distribution Formula, Allowed Class 7 Claimants may receive significantly larger distributions than such claimants would otherwise be entitled to under the general unsecured creditor waterfall. Given the relatively large amount of funds available in the TKH Other PI/WD Fund for distribution for Allowed Class 7 Claims, together with the relatively small number of remaining potentially allowable Class 7 Claims, the Trustee seeks the Court’s approval of the Seatbelt Claim Allowance Procedures to equitably address the remaining Seatbelt Claims in accordance with the Plan.¹⁰

6. The Seatbelt Procedures Motion included a chart describing the proposed Seatbelt Allowance and Liquidation Procedures and explained, in part:

Pursuant to Sections 4.4(f) and 6.2 of the Plan, holders of allowed class 7 Other PI/WD Claims will be paid a proportionate percentage of their Allowed Claim Amounts based on funds available for distribution to such claimholders. Holders of allowed Class 7 Other PI/WD Claims are not expected to receive payments in excess of approximately 10% of their allowed claim. In accordance with the Plan, the final amount paid by the TATCTF for each Seatbelt Claim will depend on the total

¹⁰ Seatbelt Claims Procedures Motion, ¶ 13 (emphasis added). The language in bold text is referred to herein as the “Disputed Language.” Section 6.3 of the Plan, entitled “Contributions Distribution Formula,” describes the formula and states, in part, “*provided, however*, that the aggregate amount of Other PI/WD Claims shall not exceed \$10 million for purposes of the Contributions Distribution Formula.” Plan, § 6.3(a).

allowance of all Class 7 Other PI/WD Claims (not solely Seatbelt Claims).¹¹

7. On September 23, 2021, the Court entered an Order approving the Seatbelt Claims Procedures Motion (the “Seatbelt Procedures Order”).¹²
8. On July 15, 2022, the Trustee filed a Motion for Entry of an Order Approving Proposed Allowed Seat Belt Claim Amounts (the “Seatbelt Claims Liquidation Motion”).¹³
9. In the Seatbelt Claims Liquidation Motion, the Trustee explained that:
 - The Trustee and TATCTF professionals reviewed and reconciled the Debtors’ books and records with the personal injury and wrongful death claims and developed a list of claims alleging person injury or wrongful death claims in connection with seatbelts manufactured by the Debtors as a basis of recovery from the TATCTF as a Class 7 Other PSAN PI/WD Claim and confirmed the presence of such a seatbelt;
 - the Trustee and the holders of the Allowed Seatbelt Claims carried out an evaluation and reconsideration process set forth in the Seatbelt Procedures Order to ascribe a proposed Allowed Amount of such claims based on the P-OEM valuation schedule approved in connection with the TATCTF;
 - the total Allowed Amount of the Allowed Seatbelt Claims in the aggregate was determined to be \$34,298,500.¹⁴

¹¹ Seatbelt Claims Procedures Motion, ¶ 17, p. 9.

¹² Docket No. 4533.

¹³ Docket No. 4750.

¹⁴ The Trustee further explained that the Allowed Amount is not the pro rata share to be distributed on account of the claims. The pro rata share shall be calculated in accordance with the Plan once the Trustee is able to determine the total amount of Allowed Class 7 Other PI/WD Claims and the total available for distribution on account of such claims under the Plan.

10. Several Seatbelt Claimants filed objections to the Seatbelt Claims Liquidation Motion, including an objection by Monique Engleman¹⁵ and an objection filed by Multiple Claimants.¹⁶
11. On July 21, 2022, Monique Engleman filed the Motion for Clarification of the Seatbelt Procedures Order (the “Clarification Motion”).¹⁷ Other Seatbelt Claimants filed responses joining in the Clarification Motion.¹⁸
12. In the Clarification Motion and the objections to the Seatbelt Claims Liquidation Motion, Ms. Engleman and the other objectors (the “Objectors”) argue, in part:
 - The Seatbelt Claims Procedures Motion appeared to state or imply that a fund of \$10 million was available for payment of Seatbelt Claims, yet now the Trustee asserts that only about \$1.2 million is available under the Plan to pay Seatbelt Claims.
 - If the Objectors were aware that only \$1.2 million was available for payment of Seatbelt Claims, the Objectors would have filed objections to the Seatbelt Claims Procedures Motion.
 - The Trustee’s current Seatbelt Claims Liquidation Motion provides for about 3% payment of the full value of a Seatbelt Claim, compared to implying that claimants would receive about 10% in the Seatbelt Claims Procedures Motion.
 - The Trustee’s procedures do not treat all injured claimants equally because the Seatbelt Claimants are receiving substantially less than the PSAN PI/WD Claims under Class 5 of the Plan.
 - The Clarification Motion seeks an order of this Court clarifying that the Seatbelt Claimants will be paid proportionately to the other injured claimants in this case.

¹⁵ Docket No. 4766.

¹⁶ Docket No. 4771.

¹⁷ Docket No. 4756.

¹⁸ Docket No. 4784.

13. The Trustee filed a Combined Objection to the Clarification Motion and Reply in Support of the Seatbelt Claims Liquidation Motion (the “Trustee’s Combined Response”).¹⁹ The Trustee argues that the Objectors misunderstand that the Seatbelt Claims Liquidation Motion seeks only the Court’s approval of a voluntary claims liquidation process. The Trustee further contends that the objections arise from a “fundamental misunderstanding of the Plan and a misapprehension as to the Trustee’s scope of authority in carrying out his duties and responsibilities under the Plan.”²⁰
14. The Court held a hearing on the Seatbelt Claims Liquidation Motion and the Clarification Motion on September 8, 2022.

NOW, THEREFORE, upon consideration of the Seatbelt Claims Liquidation Motion, the Clarification Motion, the responses thereto, the factual findings set forth above, and after the hearing on Motions, the Court concludes as follows:

1. Neither the Plan, the Seatbelt Procedures Motion, nor the Seatbelt Procedures Order established a \$10 million fund for the Seatbelt Claimants

The Objectors argue that they understood the Disputed Language in the Seatbelt Procedures Motion, when read in context with provisions in the Plan, operated to set aside the sum of \$10 million in cash for payment of Seatbelt Claims and, for that reason, they did not object to the Seatbelt Procedures Motion.²¹ The Trustee responded to the Objectors’ concerns (including by a detailed memorandum

¹⁹ Docket No. 4785.

²⁰ The Trustee’s Combined Response, ¶ 4.

²¹ Clarification Motion, Ex. I.

dated December 8, 2021, and by holding a “Town Hall’ for claimants’ informational purposes”) to explain that the \$10 million figure is part of the Plan’s Contributions Distribution Formula that splits funds between Class 5 and Class 7 claims.²² The Trustee explained that Section 6.3 of the Plan contains the Contributions Distribution Formula, which is a formula for allocating the Settlement Contributions²³ into three “buckets” or “pools” of funds: (i) the PSAN PI/WD Funds for compensable Class 5 Claims; (ii) the Other PI/WD funds for Allowed Class 7 Claims; and (iii) the Disputed Contributions Reserve account, for claims that have not yet been allowed. As part of the formula, Section 6.3 states, in relevant part: “that the aggregate amount of Other PI/WD Claims shall not exceed \$10 million *for purposes of the Contributions Distribution Formula.*”²⁴

The Objectors, however, have rejected the Trustee’s explanations and argue that this Court should review the Trustee’s “discretionary” interpretation of the Plan and make a final decision about the Plan’s treatment of their claims.

This Court confirmed the Plan by Order dated February 21, 2018. “When a bankruptcy court enters a confirmation order, it renders a final judgment.”²⁵ “[A] confirmation order is *res judicata* as to all issues decided or which could have been decided at the hearing on confirmation.”²⁶ “Challengers must instead raise any

²² The Trustee’s Combined Response, ¶ 7 and Exh. 2.

²³ Although not a defined term in the Plan, the “Settlement Contributions” are described in Article 6.3 of the Plan as the Consenting OEM Contributions, any TKJP Contribution amount, and the Plan Sponsor Contribution Amount (collectively, the “Settlement Contributions”).

²⁴ Plan, § 6.3 (emphasis added).

²⁵ *Zardinovsky v. Arctic Glacier Income Fund (In re Arctic Glacier Int’l, Inc.)*, 901 F.3d 162, 166 (3d Cir. 2018) (citing 8 COLLIER ON BANKRUPTCY ¶1141.01[4], at 1141-11 (Richard Levin and Henry J. Sommer eds., 16th ed. 2017)).

²⁶ *Id.* (quoting *Donaldson v. Bernstein*, 104 F.3d 547, 554 (3d Cir. 1997)).

issues beforehand by objecting to confirmation.”²⁷ “A plan’s preclusive effect is a principle that anchors bankruptcy law.”²⁸

Accordingly, the terms of the confirmed Plan control the outcome of this matter. The Plan, which was extensively negotiated and confirmed more than four years ago, sets forth specific and detailed instructions and a formula for calculating the amount of “Settlement Contributions” available for distribution to Class 7 Other PI/WD Claims, which includes the Seatbelt Claims.

The language in Section 6.3 of the Plan does not establish a \$10 million fund for payment of Allowed Class 7 Claims but, instead, provides only that “for purposes of the Contributions Distribution Formula” the aggregate amount of Other PI/WD Claims shall not exceed \$10 million. In other words, the maximum claim amount is a factor used in the formula. Similarly, the Seatbelt Procedures Motion did not establish (or imply that it established) a \$10 million cash fund for Seatbelt Claimants. The Seatbelt Procedures Motion references Section 6.3 of the Plan and must be read in conjunction with the Plan.

Moreover, the Seatbelt Procedures Motion also did not establish (or imply) a specific recovery for Seatbelt Claimants. Instead, the Motion indicated that the claimants were not expected to receive payments in excess of approximately 10% of their allowed claims.

The Trustee is following the specific language in the Plan regarding the Contributions Distribution Formula. He is not using his discretion to change or

²⁷ *Id.*

²⁸ *Id.*

decrease the amount available under the Plan for Seatbelt Claims. He is bound by the terms of the confirmed Plan and the Court is satisfied with his explanation of \$10 million aggregate claim amount as a factor in the Contributions Distribution Formula.

2. The Seatbelt Claimants' request to alter or amend the Plan's treatment of Class 7 Claims is barred by *res judicata*.

The Objectors assert that limiting the recovery of the Seatbelt Claims to a pool of approximately \$1 million dollars is unjust compared to the treatment of the other injured claimants. The Objectors emphasize that many of the Seatbelt Claimants also suffered severe and catastrophic injuries. The Court is certainly sympathetic to the injuries and losses suffered on account of defective products manufactured by Takata. These considerations, however, cannot authorize or require deviation from the terms of the confirmed Plan.

In substance, the Objectors are challenging the confirmed Plan's separate classification of claims based on injuries from different Takata products and the disparate treatment of those claims. The Trustee rightly contends that the Objectors' argument is effectively a collateral attack on the Order confirming the Plan.²⁹

Whether a plan's treatment of creditors is fair and equitable or whether a plan unfairly discriminates among classes of creditors are issues to be decided at

²⁹ "By definition . . . [a] 'collateral attack' is '[a]n attack on a judgment in a proceeding other than a direct appeal.'" *In re RTI Holding Co., LLC*, No. 20-12456, 2021 WL 4994414, *4 (Bankr. D. Del. Oct. 27, 2021) (quoting *United States v. Braddy*, 837 F. App'x 112, 114 (3d Cir. 2020)).

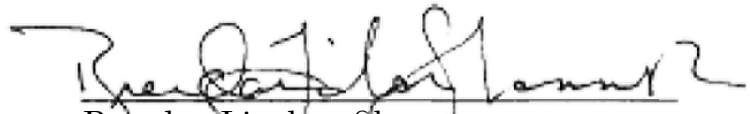
confirmation.³⁰ Because the 2018 Plan confirmation order is *res judicata* as to all issues decided or which could have been decided at the hearing on confirmation,³¹ objections to the Plan's separate classification and treatment of injured claimants needed to be addressed at the confirmation hearing. The Objectors' objection to the Seatbelt Claims Liquidation Motion on these grounds must be overruled.

Conclusion

For the reasons set forth above, the objections filed by Monique Engleman and the Multiple Claimants to the Seatbelt Claims Liquidation Motion are overruled and the Trustee is directed to file a separate Order GRANTING the Seatbelt Claims Liquidation Motion with this Court within seven (7) days hereof,

And, further, the Clarification Motion is DENIED.

Dated: October 26, 2022



Brendan Linehan Shannon
United States Bankruptcy Judge

³⁰ 11 U.S.C. § 1129(b)(1). *See, e.g., In re Nuverra Env'l Solutions, Inc.*, 590 B.R. 75, 89-90 (D. Del. 2018) *aff'd* 834 F. App'x 729 (3d Cir. 2021) (Considering whether a plan discriminated unfairly among classes of creditors in a manner that would prevent plan confirmation).

³¹ *Arctic Glacier*, 901 F.3d at 166.