Neutral Citation Number: [2022] EWHC 2412 (Ch)

Case No: CR-2022-002875

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES COURT (ChD)

IN THE MATTER OF ASTORA WOMEN'S HEALTH LLC
AND IN THE MATTER OF THE CROSS-BORDER INSOLVENCY REGULATIONS 2006

Royal Courts of Justice
Rolls Building
EC4A 1NL

Date: 27 September 2022

Before :

INSOLVENCY AND COMPANIES COURT JUDGE BURTON

- -

Mark Thomas Bradley **Applicant**

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- -

Adam Al-Attar (instructed by **Skadden, Arps, Slate, Meagher & Flom (UK) LLP**) for the **Applicant**

Hearing date: 16 September 2022

- -

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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INSOLVENCY AND COMPANIES COURT JUDGE BURTON

Insolvency and Companies Court Judge Catherine Burton :

1. This morning I considered an application by Mark Thomas Bradley by way of Application Notice dated 1 September 2022 (the "**Recognition Application**") for the recognition of U.S. bankruptcy proceedings under Chapter 11 of the U.S. Bankruptcy Code (the "**Chapter 11 Proceedings**") in respect of Astora Women's Health LLC ("**Astora**" or the "**Company**"). At 11.31 a.m. I made an order recognising the Chapter 11 Proceedings as "foreign main proceedings" under Article 17 of Schedule 1 to the Cross-Border Insolvency Regulations 2006/1030 (the "**CBIR**"). I set out in this judgment, my reasons for doing so.

2. The Applicant, Mr Bradley is the Chief Financial Officer of Astora, its affiliates and their collective parent company Endo International plc ("**Endo**"). The Recognition Application is supported by Mr Bradley's first affidavit dated 31 August 2022 and the first affidavit of George Panagakis, a partner at Skadden, Arps, Slate, Meagher & Flom LLP, the firm advising Mr Bradley in relation to the Chapter 11 Proceedings.

Background

3. Astora is a Delaware limited liability company which is operated and managed from Wilmington, Delaware, USA. Astora has no on-going business operations or assets. Since 2008, it has been subject to over 30,000 litigation claims brought by patients who received implantable surgical mesh products for the treatment of conditions including urinary incontinence and pelvic organ prolapse, such implants having been manufactured and distributed by Astora or its predecessor entities. The vast majority of the claims have been brought in the United States, with some additional claims having also been brought in Australia, Canada, Ireland and the Netherlands, and of relevance to today's application, 13 claims have been brought in the courts of England and Wales and 56 in Scotland (these latter two being the "**GB Claims**").

4. On 16 August 2022, Astora, Endo and 76 members of the Endo group filed petitions in the United States Bankruptcy Court for the Southern District of New York to commence bankruptcy proceedings under chapter 11 of title 11 of the United States Code. No order has been made for substantive consolidation of each of the Chapter 11 cases, but for procedural convenience, they are being jointly administered under Docket Number 22-22549.

5. By his Recognition Application, Mr Bradley seeks to stay the GB Claims with a view to the claimants in such cases pursuing their claims, instead, against Astora in the Chapter 11 Proceedings.

6. To date, Astora has paid more than US$3 billion by way of settlement payments funded from the proceeds of a sale of its men's health business and credit provided to the Endo group. Following the commencement of the Chapter 11 Proceedings, the Endo group is not under any obligation to continue to fund Astora. The Chapter 11 Proceedings contemplate a sale of Endo group's remaining business pursuant to section 363 of the US Bankruptcy Code in which the group's first lien secured lenders will provide a stalking horse credit bid.

7. Mr Bradley's first affidavit explains that he considers that a stay of the proceedings in Great Britain will reduce the time and cost burden of Astora defending litigation in GB

jurisdictions thus helping to preserve the value of its business for the benefit of those of its stakeholders who may ultimately be entitled to a distribution.

Legal principles – the Cross Border Insolvency Regulations 2006

8. The CBIR were introduced pursuant to section 14 of the Insolvency Act 2000 in order to give effect, in Great Britain, to UNCITRAL's Model Law on Cross-Border Insolvency. Schedule 1 to the CBIR sets out the Model Law as it takes effect in Great Britain (the "**Model Law in GB**"). Each of the articles referred to below are to articles of the Model Law in GB.

9. Article 15(1) provides:

> "1. A foreign representative may apply to the court for recognition of the foreign proceeding in which the foreign representative has been appointed.
>
> 2. An application for recognition shall be accompanied by:
>
> (a) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative; or
>
> (b) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or
>
> (c) in the absence of evidence referred to in sub-paragraphs (a) and (b), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.
>
> 3. An application for recognition shall also be accompanied by a statement identifying all foreign proceedings, proceedings under British insolvency law and section 426 requests in respect of the debtor that are known to the foreign representative.
>
> 4. The foreign representative shall provide the court with a translation into English of documents supplied in support of the application for recognition."

10. Article 16(1) provides:

> 'If the decision or certificate referred to in paragraph 2 of article 15 indicates that the foreign proceeding is a proceeding within the meaning of sub-paragraph (i) of article 2 and that the foreign representative is a body or person within the meaning of sub-paragraph (j) of article 2, the court is entitled to so presume.'

11. Article 17 provides:

> "1. Subject to article 6, a foreign proceeding shall be recognised if:

> (a) it is a foreign proceeding within the meaning of sub-paragraph (i) of article 2;
>
> (b) the foreign representative applying for recognition is a person or body within the meaning of sub-paragraph (j) of article 2;
>
> (c) the application meets the requirements of paragraphs 2 and 3 of article 15; and
>
> (d) the application has been submitted to the court referred to in article 4.
>
> 2. The foreign proceeding shall be recognised:
>
> (a) as a foreign main proceeding if it is taking place in the State where the debtor has the centre of its main interests; or
>
> (b) as a foreign non-main proceeding if the debtor has an establishment within the meaning of sub-paragraph (e) of article 2 in the foreign State."

12. The term "foreign proceeding" is defined in article 2(i) as:

> "a collective judicial or administrative proceeding in a foreign State, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs or the debtor are subject to control or supervision by a foreign court, for the purpose of reorganisation or liquidation".

13. Article 2(j) provides:

> "'foreign representative' means a person or body, including one appointed on an interim basis, authorised in a foreign proceeding to administer the reorganisation or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding".

14. Recognition under article 17 is expressly subject to article 6 which provides:

> "Nothing in this Law prevents the court from refusing to take an action governed by this Law if the action would be manifestly contrary to the public policy of Great Britain or any part of it."

15. Article 20 sets out various mandatory consequences of recognition of foreign main proceedings including a stay on the commencement or continuation of actions or proceedings concerning the debtor's assets, rights, obligations and liabilities. Article 20(2) provides that the stay shall be the same in scope and effect as if the debtor had been made the subject of a winding-up order under the Insolvency Act 1986.

16. It is relevant to note at this juncture that section 130(2) of the Insolvency Act 1986 provides:

> "When a winding-up order has been made … no action or proceeding shall be proceeded with or commenced against the company or its property, except by leave of the court and subject to such terms as the court may impose."

17. Article 21 sets out additional, discretionary relief that may be granted, inter alia, on recognition of a foreign proceeding. No such relief is sought by Mr Bradley in his Recognition Application.

18. Regulation 2(2) of the CBIR provides:

> "(2) Without prejudice to any practice of the court as to the matters which may be considered apart from this paragraph, the following documents may be considered in ascertaining the meaning or effect of any provision of the UNCITRAL Model Law as set out in Schedule 1 to these Regulations:
>
> (a) the UNCITRAL Model Law;
>
> (b) any documents of the United Nations Commission on International Trade Law and its working group relating to the preparation of the UNCITRAL Model Law; and
>
> (c) the Guide to Enactment of the UNCITRAL Model Law (UNCITRAL document A/CN.9/442) prepared at the request of the United Nations Commission on International Trade Law made in May 1997 ("**Guide to Enactment**")."

19. Regulation 7 of the CBIR provides:

> "(1) An order made by a court in either part of Great Britain in the exercise of jurisdiction in relation to the subject matter of these Regulations shall be enforced in the other part of Great Britain as if it were made by a court exercising the corresponding jurisdiction in that other part.
>
> (2) However, nothing in paragraph (1) requires a court in either part of Great Britain to enforce, in relation to property situated in that part, any order made by a court in the other part of Great Britain.
>
> (3) The courts having jurisdiction in relation to the subject matter of these Regulations in either part of Great Britain shall assist the courts having the corresponding jurisdiction in the other part of Great Britain.

Recognition of the Chapter 11 Proceedings under the CBIR

20. In order to be recognised, the Chapter 11 Proceedings must be found to constitute a "*foreign proceeding*" within the meaning set out in article 2(i) of the Model Law in GB.

21. For the purposes of article 16, this Court notes that on 18 August 2022, the Honourable James L. Garrity, Jr, a United States Bankruptcy Judge considering case number 22-22549 (JLG) in the United States Bankruptcy Court in the Southern District of New York made an order (the "**US Order**") providing, inter alia, for:

> "Mr. Mark Bradley is hereby authorized to act as the UK Foreign Representative and Australian Foreign Representative on behalf of the Debtors' estates in connection with the UK and Australian Proceedings. As Foreign Representative, Mr. Mark Bradley shall be authorized and shall have the power to act in any way permitted by applicable foreign law, including, but not limited to, (a) seeking recognition of the Chapter 11 Cases and this Court's orders in the UK and Australian Proceedings, (b) requesting that the UK and Australian Courts lend assistance to this Court in protecting the property of the Debtors' estates, and (c) seeking any other appropriate relief from Courts in the UK and Australia that Mr. Mark Bradley deems just and proper in the furtherance of the protection of the Debtors' estates.
>
> 5. The Court requests the aid and assistance of the UK Court to recognize the Chapter 11 Cases as a "foreign main proceeding" or "foreign non-main proceeding," as applicable, and Mr. Mark Bradley as a "foreign representative" pursuant to the CBIR, and to recognize and give full force and effect to this Order and any other orders for which recognition is sought throughout the UK."

22. In my judgment, the US Order comprises evidence within the scope of article 15(2)(c) which, for the purposes of article 16(1) indicates with sufficient clarity that the Chapter 11 Proceedings are a foreign proceeding within the meaning of article 2(i) and that Mr Bradley is a foreign representative within the meaning of article 2(j) for this Court to be entitled so to presume. Subject therefore to Mr Bradley's compliance with the remaining procedural requirements, in my judgment, there is sufficient evidence before the Court to oblige the Court, pursuant to article 17, to recognise the Chapter 11 Proceedings, leaving only the question of whether there are any public policy considerations that should be taken into account and, subject thereto, whether they should be recognised as main or non-main proceedings.

23. However, as Mr Bradley did not, for reasons that I can readily anticipate, rely on the presumption set out in article 16 that the Chapter 11 Proceedings are a *foreign proceeding* within the meaning of article 2(i), but instead brought before the Court all the evidence he considered the Court might reasonably and proportionately require to be satisfied that the requirements of the CBIR are met, I shall proceed now to consider that evidence.

A foreign proceeding?

24. For the purposes of article 2(i) a *foreign proceeding* must be (a) a collective judicial or administrative proceeding (b) pursuant to a law relating to insolvency, where (c) the assets and affairs of the debtor are subject to control or supervision by a foreign court (d) for the purposes of reorganisation or liquidation.

25. The Guide to Enactment (2014) explains that when:

> "evaluating whether a given proceeding is *collective* for the purpose of the Model Law, a key consideration is whether substantially all of the assets and liabilities of the debtor are dealt with in the proceeding, subject to local priorities and statutory exceptions, and to local exclusions relating to the rights of secured creditors. A proceeding should not be considered to fail the test of collectivity purely because a class of creditors' rights is unaffected by it."

26. UNCITRAL's guide for judiciary, "The Model Law on Insolvency: The Judicial Perspective" (2013) explains the requirement for proceedings to be "*collective*":

> "The UNCITRAL Model Law was intended to apply only to particular types of insolvency proceedings. The Guide to Enactment and Interpretation indicates that the notion of a "collective" insolvency proceeding is based on the desirability of achieving a coordinated, global solution for all stakeholders of an insolvency proceeding. It is not intended that the Model Law be used merely as a collection device for a particular creditor or group of creditors who might have initiated a collection proceeding in another State, or as a tool for gathering up assets in a winding up or conservation proceeding that does not also include provision for addressing the claims of creditors."

27. The Chapter 11 Proceedings comprise "debtor-in-possession" proceedings; unlike an administration or liquidation in this jurisdiction where an independent insolvency practitioner is appointed to take over control of the company's business and affairs, in the ordinary course of Chapter 11 proceedings, the Company's management retains control.

28. Mr Al-Attar explained that in light of this Court having, in other cases, recognised Chapter 11 proceedings pursuant to the CBIR, Mr Bradley did not consider it would be proportionate to incur the costs of obtaining an expert opinion regarding the nature and effect of proceedings under Chapter 11 of the US Bankruptcy Code. Two such reported cases sprang to mind during the course of the hearing: *Re 19 Entertainment Limited* [2016] EWHC 1545 (Ch) and the Court of Appeal's judgment in *Rubin & Ors v Eurofinance SA* [2011] Ch 133. In *Rubin* the Court noted that there was no cross-appeal to the first instance decision of the deputy judge to recognise, in this jurisdiction, the Chapter 11 proceedings affecting The Consumer Trust as foreign proceedings. In *19 Entertainment Limited*, with the benefit of expert evidence from Mathew Feldman, an attorney qualified to practice in several United States jurisdictions, including New York, Jeremy Cousins QC (sitting as a Deputy Judge of the High Court) determined the Chapter 11 proceedings in that case to constitute "foreign proceedings".

29. In this case, Mr Panagakis sets out in his first affidavit his experience advising parties in relation to Chapter 11 proceedings and explains:

> "The Bankruptcy Code is federal law of the United States. It provides various procedures by which companies, individuals

> and municipalities which are or may become insolvent may restructure their liabilities, or through which the assets of debtors may be managed or liquidated for the benefit of creditors. Chapter 11 is one such procedure, providing a route for individuals and entities to restructure their liabilities."

30. At paragraph 11 of his affidavit he states:

> "I believe that Chapter 11 can be characterised as a 'collective' proceeding because:
>
> (a) the purpose of Chapter 11 is to restructure the debtor's liabilities for the benefit of the debtor's creditors as a whole (11 U.S.C. § 1123);
>
> (b) all creditors are entitled to participate in the restructuring process, including by appearing and making representations to the Bankruptcy Court (11 U.S.C. § 1109(b)), voting in relation to a proposed Plan of Reorganisation (subject to certain presumptions regarding votes from classes of creditors that are unaffected, or fully compromised under the terms of the proposed Plan) (11 U.S.C. §§ 502 and 1126), and receiving distributions or new rights under any Plan or Reorganisation (in accordance with their rights as creditors and the applicable priorities) (11 U.S.C. § 1142); and
>
> (c) creditors vote by class on any proposed Plan of Reorganisation, with a vote of 66 2/3 by value and a majority by number of those voting required for a class to approve a plan, and a Plan of Reorganisation may only be confirmed by the Court if it is approved by at least one class of impaired creditors and certain statutory rules are complied with. (U.S.C. § 1126)."

31. The CBIR require the collective proceedings also to be *judicial or administrative* and *subject to control or supervision by a foreign court*.

32. The Guide to Enactment states:

> "74) The Model Law specifies neither the level of control or supervision required to satisfy this aspect of the definition nor the time at which that control or supervision should arise. Although it is intended that the control or supervision required under subparagraph (a) should be formal in nature, it may be potential rather than actual. As noted in paragraph 71, a proceeding in which the debtor retains some measure of control over its assets, albeit under court supervision, such as a debtor-in-possession would satisfy this requirement.
>
> Control or supervision may be exercised not only directly by the court but also by an insolvency representative where, for example, the insolvency representative is subject to control or

> supervision by the court. Mere supervision of an insolvency representative by a licensing authority would not be sufficient."

33. Mr Panagakis explains in his first affidavit that:

    i) conduct of a Chapter 11 case is in all respects subject to the supervision of the Bankruptcy Court;

    ii) all creditors of the debtor company and the US Trustee have standing to appear before the Bankruptcy Court regarding orders relating to the conduct of the Chapter 11 case (11 U.S.C. § 1109(b));

    iii) actions outside the company's ordinary course, including dispositions of property may only be taken with the approval of the Bankruptcy Court (11 U.S.C. § 363); and

    iv) the Bankruptcy Court may make orders regarding the debtor company's use of secured property, including cash collateral, and protections to be provided to secured creditors in respect of such use (11 U.S.C. § 364).

34. The overall supervision of the Chapter 11 Proceedings by the US Bankruptcy Court, in the manner described by Mr Panagakis, in my judgment, renders those Proceedings "*judicial*" and *"subject to the control or supervision by a foreign court"* within the meaning of Article 2(i) of the Model Law in the GB.

35. If and to the extent that this court could have any doubt whether Chapter 11 of the Bankruptcy Code should properly be regarded as being "pursuant to a law relating to insolvency", in my judgment, this is adequately addressed in those passages from Mr Panagakis' affidavit set out at paragraphs 29 and 30 above.

36. Article 2(i) requires that the proceedings are for reorganisation or liquidation. Mr Bradley explains in his "First Day Declaration" in the Chapter 11 Proceedings (exhibited to his first affidavit) that:

> "84. The Debtors' objective in these Chapter 11 Cases is simple - to complete an open and transparent sale and auction process that will allow them to maximize the value of their business. To achieve this objective, the Debtors will seek to forge as much consensus as possible among their stakeholders and take certain actions designed to clear a path toward a successful sale.
>
> …
>
> 88. The Debtors have engaged Roger Frankel of Frankel Wyron LLP as future claims representative (the "Proposed FCR") to represent the interests of individuals with potential future claims relating to the Company's opioid products, transvaginal mesh products, and ranitidine products. Mr. Frankel's appointment as FCR was a result of, in part, Mr. Frankel's extensive work as future claims representative in other major cases involving substantial opioid and other liabilities. To date, the Proposed

> FCR has retained counsel, an investment banker, and a claims estimation consultant to better understand the Debtors' businesses, nature of the claims, and certain pending litigation. The Debtors have worked constructively with the Proposed FCR and his advisors over the last several weeks, including by granting them access to a data room for purposes of conducting due diligence and by continuing to provide additional documents and respond to additional diligence requests from the advisors on a rolling basis.
>
> 89. [T]he Debtors intend to file a motion seeking Court approval to launch their 363 Sale process as embodied in the RSA. In this regard, the Debtors will request a bidding procedures hearing during which the Debtors will seek this Court's approval of the Debtors' proposed sale process and the Stalking Horse Bid. The Debtors intend to conduct an open, transparent and fulsome sale and marketing process to ensure that the Debtors and their stakeholders receive the maximum value possible for their assets while preserving the Debtors' business as a going concern (as a whole or in parts)."

37. In relation to the claims being pursued against Astora in Great Britain and Australia (where Mr Bradley also intends to seek a recognition order), Mr Bradley states at paragraph 346 of the same document:

> "346. Although Astora LLC has ceased operations it continues to defend the actions, some of which are very active. Recognition would be sought in order to implement a stay of ongoing litigation, with the intention that the plaintiffs in such cases file claims in Astora LLC's bankruptcy instead of continuing with ongoing litigation. I believe that the filing and handling of such claims through Astora LLC's bankruptcy case would be substantially more efficient for the Debtors' estates than continuing to incur costs in connection with any defense of unstayed litigation in the United Kingdom and Australia. Such efficiencies would inure to the benefit of all of the Debtors' stakeholders."

38. The explanation provided by Mr Bradley persuades me that the purpose of the Chapter 11 Proceedings in this case is akin to a liquidation in England and Wales, where the business and assets of a company are realised for the benefit of creditors whose claims take the priority afforded to them by statute. In my judgment, the Chapter 11 Proceedings are therefore proceedings for reorganisation or liquidation within the meaning of Article 2(i) of the Model Law in GB.

39. In summary, in my judgment the Chapter 11 Proceedings are collective judicial proceedings, being conducted pursuant to a law relating to insolvency, in which Astora's assets and affairs are subject to the supervision and potential control of the US Bankruptcy Court for the purposes of reorganisation or liquidation and thus constitute a "*foreign proceeding*" within the meaning set out in article 2(i) of the Model Law in GB.

Is Mr Bradley a foreign representative?

40. Mr Bradley refers, in his first affidavit to (a) Astora passing a resolution on 15 August 2022 appointing him as foreign representative for the purposes of acting as a representative of the Company in this application; and (b) the US Order. In my judgment, this evidence is sufficient for this Court to be satisfied, both by virtue of the presumption set out in article 16 and otherwise, that Mr Bradley is a *foreign representative* for the purposes of article 2(j) of the Model Law in GB.

41. Having determined that I am satisfied that Astora's Chapter 11 Proceedings comprise a "foreign proceeding" and that Mr Bradley is a "foreign representative" entitled to apply to the Court for those proceedings to be recognised, subject to being satisfied that (i) there are no public policy grounds to refuse to grant such recognition; and (ii) the evidential and procedural requirements of article 15 have been met, pursuant to article 17, I am bound to recognise the Chapter 11 Proceedings.

Article 6 and public policy considerations

42. In his written and oral submissions, Mr Al-Attar acknowledged that the burden of proof in respect of a recognition application rests with the applicant (see *Re Agrokor DD* [2018] Bus LR 64) and, of particular importance for public policy considerations and the potential consequences for third parties if a stay arises as a result of recognition, that the applicant is under a duty of full and frank disclosure (see *Re OGX Petróleo e Gás SA* [2016] Bus LR 121).

43. Astora has no assets in this jurisdiction. It is proposed that there be a sale of the Company's business within the context of the Chapter 11 Proceedings with a view to achieving a better result for its creditors as a whole, in particular by preserving such funds as may be realised by relieving Astora of the cost of defending claims in numerous jurisdictions. Mr Bradley acknowledges that Astora has no assets and Mr Al-Altar invited me to proceed on the basis of an assumption that there would be no distribution available to creditors. Against this unfortunate background, I see no public policy grounds which should prevent this Court from recognising the Chapter 11 Proceedings.

Article 15 evidential requirements

44. Each of the evidential requirements of article 15 have been met. A proceeding under Chapter 11 of the U.S. Bankruptcy Code is not opened by order, but by the filing of a petition. Mr Bradley's affidavit exhibits a certified copy of the petition filed on 16 August 2022, the resolution to file the petition to commence the Chapter 11 Proceedings, and the US Order.

45. Mr Bradley has also confirmed, in compliance with article 15(3), that to his knowledge there are no "foreign proceedings" or "proceedings" under British insolvency law or any requests to the British courts pursuant to section 426 of the Insolvency Act 1986 in respect of Astora.

Article 17(2) recognition as foreign main or non-main proceedings

46. Article 2(g) of the Model Law in GB provides that a proceeding will be a "*main proceeding*" if it is taking place in the state where the debtor has its centre of main interests ("**COMI**"). Article 16(3) provides that in the absence of proof to the contrary, a company's registered office is presumed to be the centre of its main interests.

47. Astora's registered office is at 1209 Orange Street, Wilmington, Delaware 19801, USA. This gives rise to a presumption that its COMI is in the United States. Astora is entitled to rely on this presumption. Mr Bradley's evidence explains that:

> "In accordance with Delaware law and the Astora LLC agreement, Astora LLC is managed by its 'member' and certain appointed officers. The member of Astora LLC is Endo Pharmaceuticals Inc., a Delaware incorporated entity with a registered office at 1209 Orange Street, Wilmington, Delaware 19801 USA."

48. His evidence proceeds to name Astora's appointed officers, the Chief Executive Officer of the Endo Group and Executive Vice President and President of Global Commercial Operations of the Endo Group, each of whom are residents of the United States and based in Pennsylvania. He continues:

> "Astora LLC does not have business premises, staff or any business operations outside of the U.S. Astora LLC is not and has never been managed from Endo plc's head office in Ireland. Astora LLC's only business is defending litigation, which is conducted from its registered office in Delaware."

49. It is thus apparent from Mr Bradley's evidence that there are no factors, other than litigation being conducted in jurisdictions outside the United States (which is being managed from the United States) to displace the presumption that Astora's COMI is within the United States.

50. The only remaining issue for the Court to consider is service of the application. Paragraph 21 of schedule 2 to the CBIR sets out a list of persons upon whom the application must be served, unless they are the applicant or the Court otherwise orders. Mr Al-Attar informed the Court that all of the GB Claimants have been notified of the Recognition Application and of today's hearing and that none objected to the relief sought. He drew to my attention correspondence with counsel to several of the GB Claimants regarding amendments to be made to the name and address of the Defendant in on-going proceedings and informed the Court that if recognised by this Court as foreign representative, Mr Bradley will consent to the amendments proposed by those Claimants, thus avoiding the need for any formal carve-out of the stay that would arise on recognition.

Conclusion

51. For the reasons set out above, by order made at 11.31am today, this Court recognised the Chapter 11 Proceedings, namely Case No. 22-22594 in the Bankruptcy Court for the Southern District of New York, United States in respect of Astora Women's Health

LLC commenced on 16 August 2022 as a foreign main proceeding in accordance with the UNCITRAL Model Law on Cross-Border Insolvency as set out in Schedule 1 to the CBIR.

52. Pursuant to regulation 7 of the CBIR, the order made pursuant to this judgment shall be enforced in Scotland as if it were made by the relevant court in Scotland. For the purposes of regulation 7(2), the Court notes from Mr Bradley's affidavit that Astora has no assets in Scotland.