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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

In re:

THE ROMAN CATHOLIC BISHOP OF OAKLAND, a California corporation sole,

Debtor.

Case No. 23-40523

Chapter 11

DEBTOR'S REPLY TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS' OBJECTION TO THE DEBTOR'S THIRD AMENDED DISCLOSURE STATEMENT

Judge: Hon. William J. Lafferty

Date: April 1, 2025
Time: 10:30 a.m.
Place: United States Bankruptcy Court
1300 Clay Street
Courtroom 220
Oakland, CA 94612

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The Roman Catholic Bishop of Oakland, a California corporation sole and the debtor and debtor in possession (the "Debtor") in the above-captioned chapter 11 bankruptcy case (the "Chapter 11 Case"), hereby files its reply (this "Reply") to the *Objection* [Docket No. 1846], filed by the Official Committee of Unsecured Creditors (the "Committee"). This Reply is filed in support of the Debtor's *Third Amended Disclosure Statement for Debtor's Third Amended Plan of Reorganization* dated March 17, 2025 [Docket No. 1831] (the "Third Amended Disclosure Statement" and together with all schedules and exhibits thereto, and as may be modified, amended, or supplemented from time to time, the "Disclosure Statement"), and in support of Debtor's approval motion [Docket No. 1453] and the supplement to same [Docket No. 1835] (the "Supplement").[1] Each of the Debtor's replies to prior Committee objections are incorporated by reference as if fully set forth herein. *See* Docket Nos. 1541, 1629, and 1781.

I. INTRODUCTION

During approximately the last 20 years, not less than 20 Catholic dioceses and/or archdioceses have reorganized pursuant to chapter 11 of the Bankruptcy Code for the purpose of providing compensation to survivors of child sexual abuse while continuing their Catholic missions. Other non-profit entities facing claims of historic child sexual abuse, such as the Boys Scouts of America and Madison Square Boys & Girls Club, Inc., have reorganized pursuant to chapter 11. Still other corporate entities have reorganized pursuant to chapter 11 for the purpose of providing compensation to persons asserting claims for various non-sexual personal injury torts (in some cases including wrongful death claims). The Bankruptcy Code does not discriminate or provide rules uniquely applicable to general unsecured creditors whose claims are rooted in child sexual abuse. To the contrary, the protections afforded to any debtor under chapter 11 are equally afforded to Catholic dioceses who avail themselves of the Bankruptcy Code seeking to compensate in a single forum survivors of child sexual abuse.

Bishop Michael C. Barber was installed as Bishop of the Debtor in 2013. Nearly two years ago Bishop Barber initiated a bankruptcy filing on behalf of the Debtor through which the Debtor could pay

[1] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Disclosure Statement the Motion, the Supplement, and the *Debtor's Third Amended Plan of Reorganization* dated March 17, 2025 [Docket No. 1830] (together with all schedules and exhibits thereto, the "Third Amended Plan" and as may be modified, amended, or supplemented from time to time, the "Plan").

the claims of hundreds of individuals who assert claims of sexual abuse within the Diocese of Oakland. In so doing, Bishop Barber sought to compensate all survivors in an equitable manner. Indeed, the only way for the Debtor to do so is through the chapter 11 process. The alternative is individual state court trials over the course of many years – a (marathon) race-to-the-courthouse where the first claimant to trial is awarded compensation and where the majority of claimants are left behind with nothing.

It is the policy of chapter 11 to promote equality of treatment to similarly situated creditors, as contrasted with the race-to-the-courthouse approach of state-court litigation. *See, e.g.*, *Czyzewski v. Jevic Holding Corp.*, 580 U.S. 451 (2017) (noting that the fundamental purpose of the bankruptcy code is to "set[] forth a basic system of priority [among interested parties, particularly creditors], which ordinarily determines the order in which the bankruptcy court will distribute assets of the estate."); *In re Crown Vantage, Inc.*, 421 F.3d 963, 977 (9th Cir. 2005) (holding that the bankruptcy court properly enjoined a Delaware state action from continuing because allowing it to proceed would have resulted in "a race to the courthouse … [which is] exactly that type of multiple litigation and resulting conflict that the bankruptcy process is designed to avoid."). Chapter 11 therefore provides a single forum for a debtor to pay claims of multiple personal injury tort claimants, so long as a debtor satisfies the requirements of the Bankruptcy Code for: (i) approval of a disclosure statement, following which the debtor is permitted to solicit votes for its proposed plan of reorganization, and (ii) confirmation of its plan of reorganization.

The Committee's Objection repeats Disclosure Statement *and* Confirmation objections already argued before this Court (in many cases, *verbatim* – see **Exhibit A** hereto). Additionally, so determined is this Committee to block solicitation and prevent any creditor from casting his or her individual vote on the Plan the Committee now also resorts to wild accusations and outright falsehoods to try to convince this Court to block the Debtor from moving forward to solicit votes on its Plan. As just one example, the Committee repeats (now for the *fourth* time in objecting to the Disclosure Statement) the falsehood that Bishop Barber "publicly announced that the Diocese *needs to close* approximately 30 parishes to right size the Diocese, reduce operational costs and monetize real estate for the benefit of survivors." [Objection at 11 (emphasis added)]. The Committee's statement to this Court about what Bishop Barber said is

patently false. Nevertheless, the Committee, whose charge appears to be to delay or block solicitation of this Plan no matter what, continues to repeat it.

It must not be forgotten the Committee represents the interests of all general unsecured creditors in this case. There was no separate committee formed for non-sexual abuse general unsecured creditors. Thus, notwithstanding that it is comprised of nine abuse survivors, the Committee also represents the interests of other creditors who have an interest in voting on the Plan, such as the individual personal injury/tort claimants (Class 6 in the Plan) and trade creditors (Class 3 in the Plan). And yet, the Committee's Objection focuses exclusively on the interests of the Survivors. But chapter 11 does not so discriminate, and all creditors in this chapter 11 case should be entitled to review the Debtor's Plan and decide—each individually—whether to vote for or against the Plan.

The Debtor requests this Court overrule the Committee's objections and approve the Debtor's Disclosure Statement. By any measure, the Disclosure Statement contains adequate information about the Plan. After nearly two years in chapter 11 and following numerous failed mediation sessions with offers by the Debtor to try to reach a global settlement with the Committee and Insurers, it is time for the Debtor's Plan to go to the creditors for an up-or-down vote.

II. BACKGROUND

A. The Disclosure Statement Process to Date

On November 8, 2024, the Debtor filed Debtor's Plan of Reorganization [Docket No. 1444] (the "Original Plan") and accompanying Disclosure Statement for the Debtor's Plan of Reorganization [Docket No. 1445] (the "Original Disclosure Statement"). On November 13, 2024, the Debtor filed the Approval Motion. [Docket No. 1453].

Following hearings at which the Court heard argument regarding the disclosure statement (hearings being held December 18, 2024, and January 16, 21, and 30, 2025), the Debtor filed three sets of amended Plans and Disclosure Statements – on January 3, February 18 and March 17, 2025, respectively [Docket Nos. 1594, 1595 (Amended); 1757, 1763 (Second Amended); and 1830, 1831 (Third Amended)].

Consistent with prior practice, on March 17, the Debtor also filed a Notice [Docket No. 1834] attaching redlines to prior versions and a description of the changes to date. Like previous versions, the

Third Amended Disclosure Statement reflects the Debtor's ongoing, good faith attempts to resolve concerns raised by the Committee and the Court while satisfying the section 1125(b) standard of "adequate information." Each Amended Disclosure Statement contained prominent, significant insertions subsequently carried through to the present, including, but not limited to:

- Additional disclosure regarding the "why" of the Debtor's proposed Plan, including specific contributions from the Debtor (e.g. different real estate holdings to be liquidated or put up as collateral for its exit facility) and other entities to support a finding that the Plan is fair and equitable, Disclosure Statement at 2, Art. I(A)(ii);
- References to and detailed descriptions of the unresolved legal issues with respect to the fate of extracontractual claims against the Insurers following the Insurance Assignment, which such language is set forth in more detail below, *id*. at Art. I(A)(iii), XVIII(A);
- Information regarding the mechanics of the Plan, including Immediate Payments, the Initial Determination and Claims Scoring process, and the impact on distributions of a Trust Claimant's decisions; *id*. at Art. (I)(C)(i)-(iii).

These insertions are in addition to multiple technical or clarifying changes.

B. <u>The Committee's Attempts to Block Solicitation</u>

The Committee objected to approval of the Original Disclosure Statement and subsequent Amended Disclosure Statement(s) on various bases, pivoting each time by raising, abandoning, and re-raising different objections, even after some were rejected by this Court. The Committee also requested that, should the Court ultimately approve the Disclosure Statement, the confirmation hearing be delayed significantly while the Committee pursued: (1) various litigation filed in support of its alternative vision for the case, and (2) additional discovery.

Having failed thus far in its litigation efforts, the Committee is left with obstructing solicitation at all costs, filing its Objection with arguments that fall into four categories (outlined in Exhibit A hereto):

(1) Arguments repeating previous objections, sometimes word-for-word;

(2) Arguments it could have and should have raised previously but now raises *for the first time*, such as the argument relating to the RCWC contribution despite that structure being unchanged since the original plan was filed in November;

(3) Arguments already resolved either by revisions or comments of the Court during oral argument, such as relating to Committee interlineation of the Disclosure Statement; and,

(4) (A few) arguments raised in connection with recent changes/the current version of the Plan and Disclosure Statement.

While the Debtor strongly disputes the merits of the objections, the Debtor acknowledges it is appropriate for the Committee to argue its objections to *unresolved* issues and ***new*** terms. The other

categories of arguments however, regarding already-resolved issues and new objections the Committee could have asserted previously (to language and structures which are unchanged since November) but did not, *demonstrate the Committee is using this objection process to multiply rather than narrow issues* in hopes of indefinitely delaying solicitation.

Significantly, the Committee continues to argue *confirmation* objections at the *disclosure statement* stage, even where they could not possibly rise to the level of patent unconfirmability. This time, the Committee focuses on three main arguments:

1. That the "Insurance Assignment violates state law;"
2. That the "Plan's claims allowance mechanism violates applicable law and is otherwise inherently flawed;" and,
3. That the "Plan is not proposed in good faith because it attempts to manufacture impaired consenting classes" through treatment of Unknown Abuse Claims and OPF.

[Objection at 1]. The Committee seeks additional delay in the form of at least six months for discovery and pre-trial preparation before what the Committee assumes will be a contested confirmation hearing. This request, and each of the Committee's objections to the Disclosure Statement, should be overruled.

III. THE DISCLOSURE STATEMENT SHOULD BE APPROVED.

A. The Disclosure Statement Provides Adequate Information.

The Committee's arguments regarding the Disclosure Statement should be overruled.

1. *The Committee Misrepresents The Prepetition Mission Alignment Process*

Previously, the Committee raised the Debtor's prepetition Mission Alignment Process in the context of § 1129(a)(3) as an attack against the Debtor's good faith in proposing the Plan. In the context of the Second Amended Disclosure Statement, the Committee pivoted, making inadequate disclosure arguments that it now repeats:

> Creditors should be informed why the Debtor has chosen not to implement the Mission Alignment Process as previously contemplated and whether the Debtor plans to implement it over the next five to ten years. Doing so will help creditors understand the good faith within which the Plan is proposed and the feasibility of the Plan.

[Objection at 11-12]. As an initial matter, the Committee's statement is plainly wrong. The Disclosure Statement now expressly articulates the Debtor's intent to monetize *all* existing vacant real estate titled in its name, twelve parcels on which Churches currently operate, and significant additional property.

[Disclosure Statement at 4-5].[2] The Debtor added this additional detail directly in response to this Court's comments concerning "the Why" and how and why the Debtor is funding the Plan. The Committee's focus on MAP and its insistence on the Debtor "closing" additional Churches (places where parishioners exercise their freedom of worship) is not an issue of disclosure—the Committee simply disagrees with Bishop Barber's decisions and argues "more" churches should be closed to contribute more money to a plan of reorganization. And even still, the Committee never states how much it would accept—it just keeps saying it wants more.

Second, the Committee cites no authority suggesting a proposed plan of reorganization can be found to be not proposed in good faith under section 1129(a)(3) on the basis that a statement the Debtor made pre-petition is allegedly different from the proposed plan. Nor could any such authority conceivably exist. Section 1129(a)(3) "directs courts to look only to the proposal of the plan, not the terms of the plan" in determining whether the plan was proposed in good faith. *Garvin v. Cook Investments NW, SPNWY, LLC*, 922 F.3d 1031, 1034-1035 (9th Cir. 2019) (emphasis added). Again, the Committee has acknowledged on the record, before this Court, the good faith of all parties who participated in more than eight months of mediation (in 2024 alone) in this case. The Committee still offers no explanation for how the Plan is not proposed in good faith or was proposed in a manner forbidden by law.

Third and most importantly, the Committee continues to intentionally misrepresent Bishop Barber's actual statements in 2022 as part of the MAP process (itself a fluid review).[3] Rather than quoting him, the Objection repeats its description of what Bishop Barber said:

> While the Disclosure Statement discusses the "Mission Alignment Process," through which the *Bishop publicly announced the that the Diocese* ***needs to close*** *approximately 30 parishes to right size the Diocese, reduce operational costs and monetize real estate for the benefit of survivors*, it omits any discussion of the fact that the Debtor is not seeking to implement the process as previously outlined by Bishop Barber.

[Objection at 11 (emphasis added)]. The Committee knows this is a false representation of Bishop Barber's statements and should be admonished by this Court for making it. Bishop Barber's said the following:

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[2] Additional discussion of the changes made in the Second Amended Disclosure Statement are set forth in the Debtor's *Reply* [Docket No. 1781] in support of same filed February 26, 2025.

[3] A true and correct transcript containing Bishop Barber's *complete* comments is attached as Exhibit 1 to the Declaration of Shane J. Moses filed concurrently herewith. The Committee previously filed the same transcript under seal as Exhibit B to the *Declaration of Brent Weisenberg* on December 11, 2024 [Docket. No. 1520].

> And so one of the problems is we don't have enough people attending mass in each of our churches to keep them all going. I don't have enough priests to keep a priest in every parish. We have 81 parishes right now. We don't have 81 priests in the pipeline to replace those who are retiring. And also, we don't have enough money to pay the bills in every parish. So it's parishioners, priests and also financial resources.
>
> I'll just give you an example. This year, 2022, three pastors have asked me if they could retire, and they're of the age. Next year, two pastors have already asked to retire in 2023, and that's just so far. That's five pastors I'm losing in the next 18 months. And how many priests are we ordaining for our diocese? This year, we're happy to ordain one new priest. 2023, we're looking at ordaining one new priest. That doesn't replace the five we're losing, and it's projected to keep going that way into the future. We ***may have to structure down*** from 81 parishes that what we have now to 50 plus parishes, 50, 54, something like that. So we're going to have to make some pretty strong changes in our diocese, but I know we can do it because we want to make a church that's stronger, that's better able to serve you, not a church that's scrambling to live from hand to mouth.

[Moses Decl., Ex A, emphasis added]. Note Bishop Barber's use of the word "may", expressing parish consolidation as a possibility, not a necessity as misrepresented by the Committee in its Objection. He also framed the concept as "structur[ing] down," **which the Committee knows is different from "closing,"** based on further comments in the same meeting. Immediately after the statement misquoted by the Committee, Bishop Barber described three options: clustering, merging, and, as the last option, closing parishes. As Bishop Barber's remarks made clear, clustering and merging would not include *closing* Churches. Regarding clustering, he said:

> Clustering means taking two or more parishes. The parishes remain separate and retain their names, but they share one priest and one administration. So you cluster together and have one CCD program, one First Communion program, one Confirmation, one youth group, one marriage prep program. So you're combining forces, but you keep your identity even though you may not be able to have your own priest at each of the churches in a cluster model.

[Moses Decl., Ex A]. Regarding merging, he said:

> [T]hat is where two or even three parishes merge together and form one new parish with a new name, **and they usually try and keep each of the churches open** as a shrine or a place to continue to have a Sunday Mass. And this is a little more formal. The advantage is you can rent out unused property and the new parish shares in the financial income of a merged model.

Id. (emphasis added). Bishop Barber then described prior *mergers* of parishes in the Diocese, which in each case involved keeping both parish Churches open,[4] and closed by stating:

[4] These include the St. Anthony-Mary Help of Christians Parish in Oakland, which includes St. Anthony and Mary Help of Christians Churches; Devine Mercy Parish, which includes St. Paschal Baylon and St. Lawrence O'Toole Churches in Oakland; and Our Lady of Guadalupe Parish in Fremont.

> So please do ***consider*** that. It's not easy, but when you consider in the future, and this is our reality, our dioceses [sic] will be smaller, but it will be stronger and it will be more united. Because it's not just each parish trying to look out for itself, but it's extending hands across parish boundaries to our brothers and sisters that are around us and saying, "How can I not just serve myself, but how can we serve all Catholics and families that are living in our area?" So, in your love and charity and brotherhood and sisterhood for one another, ***please consider that. So clustering, merging, and even closing some parishes.***"

Id. (Emphasis added).

Thus, Bishop Barber's actual statements are a far cry from the Committee's misrepresentation that he "*publicly announced the that the Diocese* ***needs to close*** *approximately 30 parishes to right size the Diocese, reduce operational costs and monetize real estate for the benefit of survivors."* Rather, he described three different options to consider to reduce administrative overhead, overcome a shortage in priests, and enhance the experience of parishioners. Bishop Barber's remarks reflect a request for the deaneries within the diocese to discuss options as part of the MAP and provide "charitable recommendations to me for our future," not a statement of any decision or pre-conceived absolutes and were not directed toward payment of Survivor claims.

2. *The Livermore Property*

The Committee next argues the Plan reduces the amount paid to Survivors due to the exclusion of the Livermore Property assignment. While the Committee does not actually argue that this is a basis to deny approval of the Disclosure Statement, it requires a response.

In making this argument, the Committee reverses the positions it has consistently taken for the past four months—that the Debtor overvalues the Livermore Property, that any value that might result from rezoning the Livermore Property is tenuous at best, and that contributing the Livermore Property to the Survivors' Trust would shift the risks to the Survivors' Trust. Most recently, the Committee also stated in its proposed Committee Letter that "the Committee values the Livermore property between $10 to $15 million." [Docket No. 1773 at 24]. And it was specifically because of the Committee's positions and statement of value that the Third Amended Plan proposed a solution: remove the Livermore Property from the Survivors' Trust Assets but increase the cash contribution from the Debtor by $12 million.

Having obtained exactly what it asked for—its asserted value for the Livermore Property in cash—the Committee still objects. Its new argument is that based on the *Debtor's* valuation of the Livermore Property, the Debtor decreased the amount being contributed to the Survivor's Trust. The Committee

cannot have it both ways. Having objected over and over to the Debtor's valuation of the Livermore Property as being too high and inherently speculative and having expressly stated that it values the Livermore Property at $10 - $15 million, the Committee cannot in good faith now rely on the *Debtor's* valuations to manufacture a Disclosure Statement objection.[5]

3. *Committee Interlineation*

The Committee repeats its request to interlineate its position at various points in the Disclosure Statement, as exhibited in the blue-lined Disclosure Statement attached as Exhibit B to the Objection. It has apparently forgotten that: 1) the Debtor *agreed on the record* the Committee could draft and attach a letter to be transmitted with the Disclosure Statement upon solicitation; 2) the Debtor *agreed on the record* to cite and hyperlink to that letter where necessary in the Disclosure Statement; and 3) the Court's approved this solution and gave the parties related instructions *on the record*. Specifically, more than three months ago, at the first hearing on the Disclosure Statement, the Court indicated a separate letter would be appropriate. [*See* 12/18/24 Hrg. Tr. at 116:4-117:4]. It was only after the Committee committed itself to providing such a letter in January and failed to do so that it re-urged the same argument. The Court then proposed the hyperlink solution, and the Debtor agreed. [*See* 1/21/25 Hrg. Tr. at 28:2-30:7].

What's more, the nature and placement of the Committee's edits are wholly inappropriate. The Committee is seeking to usurp the Debtor's disclosure statement by forcing the Debtor to include the Committee's criticism of the Plan in the Debtor's document. Among other things, the Committee proposes inclusion of a statement in all caps at the ***top*** of the Executive Summary, not just referencing the Committee Letter, but also reciting the Committee's encouragement to vote to reject the Plan. This is a transparent effort to discourage creditors from reading the Executive Summary at all. It is more than

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[5] The Committee also slings mud at the Debtor over the pace of progress of rezoning the Livermore Property. The Debtor has been transparent that rezoning is necessary to maximize the value of the Livermore Property, and that it is actively pursuing rezoning. To wit, in the latest iteration of the Disclosure Statement, the Debtor stated the following:

> On or about February 23, 2025, the Livermore City Council unanimously approved a request by the city's planning staff to negotiate a housing development agreement in relation to the Livermore Property. The Debtor hopes that these negotiations will lead to a re-zoning of the Livermore Property to allow residential use.

[Disclosure Statement at 4]. It is difficult to imagine how re-zoning could occur if it was not requested.

sufficient that the Debtor has agreed to include the Committee's letter,[6] with hyperlinks to the Committee's position on specific issues in the electronic distribution of the Solicitation Package, which the Debtor and Committee have agreed will be emailed to counsel of record for each Abuse Claimant, if any.

4. *RCWC Contribution*

For the first time, the Committee argues the Disclosure Statement is unclear as to how RCWC's contribution will be calculated based on opt-outs from releases of RCWC by Abuse Claimants. The Plan's language regarding the structure of the RCWC contribution has not changed since the first draft of the Plan filed November 8, 2024, other than the increase in the maximum possible RCWC contribution from $14.25 million to $28.5 million in the Third Amended Plan. Yet, the Committee has never raised this objection before now. The Committee should not be permitted to continue to multiply issues by raising new objections that it could have raised multiple times before if it regarded the issue as significant.

The Debtor acknowledges that the calculation of RCWC's contribution will necessarily have to be resolved in connection with Plan confirmation. RCWC and the Debtor are actively working to reconcile their analyses and determine the total number of Abuse Claims whose Holder have asserted liability against RCWC. In the context of RCWC receiving access to unredacted proofs of claim, the Committee and Debtor have provided RCWC with their respective lists of Abuse Claims that each believe implicates RCWC. Ultimately, the Debtor and Committee identified a *combined* total of approximately 120 Claims that *may* implicate RCWC. RCWC only obtained the right to review claims through the Court's order entered on March 21, 2025 [Docket No. 1842] and is continuing to review the claims to complete its own analysis. Prior to confirmation of the Plan, the Debtor will meet and confer with RCWC and the Committee to seek agreement on the appropriate list of claims for calculation of RCWC's contribution. To the extent that any disputes remain as to specific claims, they can be resolved by the Court at confirmation. Accordingly, the specter that the Committee raises of "mischief" is a phantom. This confirmation objection, to the extent it even exists, should be overruled at this stage.

[6] The Debtor believes the Committee Letter contains significant inaccuracies; however, the Debtor has weighed the costs and benefits to objecting to it at this time and does not lodge an objection now because the Debtor prioritizes seeking approval of the Disclosure Statement, even if that means the Committee Letter is included without changes.

At this stage, the issue is whether Disclosure Statement provides adequate information. It does. Abuse Claimants are fully informed that the $28.5 million maximum contribution is based on releases from all Holders of Abuse Claims that "have asserted liability against RCWC in connection with an Abuse Claim ('RCWC Claimants')." They are also fully informed that the contribution will be proportionally reduced to the extent any RCWC Claimants do not release RCWC.

B. Risks, if Any, Associated with the Insurance Assignment Are Adequately Disclosed.

In a single-sentence argument pointing only to previous briefing on the issue, the Committee again argues the Plan is patently unconfirmable because the Insurance Assignment violates applicable law. This is not only incorrect but also misses the point. The question before the Court—as framed by the Court itself—is not whether the Plan should be confirmed. It is whether the Disclosure Statement should be approved. The Debtor previously responded to the exact same argument in its *Reply* [Docket No. 1781] to the Committee's objection to the Second Amended Disclosure Statement, filed February 26, 2025. [*See id*. at 4:3-7:6]. The Debtor incorporates all prior briefing on this issue as if fully set forth herein.

To address this issue, the Debtor made significant insertions in the Second Amended Disclosure Statement that were carried forward into the Third.[7] Primarily, in a section entitled "Risks Associated with the Insurance Assignment," the Debtor set forth the relative position of the parties on this issue in detail. [*See id*. at 86-87, Art. XVIII(A)]. The Executive Summary, at the very beginning of the Disclosure Statement, includes a specific reference to and direction to read this Risk Factor language, so it cannot be missed [*See* Disclosure Statement at 5, Art. 1(A)(iii)]. These combined insertions provides more than adequate information to apprise claimants of the supposed risks of the Insurance Assignment, and the Committee does not explain why it is insufficient.

Additionally, following agreement with the Insurers, the Debtor amended sections 5.14 and 8.7 of the Second Amended Plan to defray any possibility that the Plan could be argued to preclude claims against Insurers for bad faith failure to pay a judgment. *See* Plan at 30, 46]. Any objection that the Plan be its terms precludes extracontractual damages otherwise available under the *Hand* decision is moot.

[7] For ease of reference, the language at issue is included in the attached **Exhibit B**.

IV. THE COMMITTEE'S CONFIRMATION OBJECTIONS SHOULD BE OVERRULED.

The Debtor has previously set forth the standards applicable to the confirmation objections raised at the disclosure statement stage. Courts throughout the country recognize that unless the disclosure statement "describes a plan of reorganization which is so fatally flawed that confirmation is ***impossible***" (*i.e.,* the plan is patently unconfirmable), a bankruptcy court should approve a disclosure statement that otherwise adequately describes the plan. *In re Cardinal Congregate I,* 121 B.R. 760, 764 (Bankr. S.D. Ohio 1990) (emphasis added). Impossibility in this context means the plan has "(1) confirmation 'defects [cannot] be overcome by creditor voting results' and (2) those defects 'concern matters upon which all material facts are not in dispute or have been fully developed at the disclosure statement hearing.'" *In re American Capital Equipment, LLC*, 688 F.3d 145, 154-155 (3d Cir. 2012) (citing *In re Monroe Well Serv., Inc.*, 80 B.R. 324, 333 (Bankr. E.D. Pa. 1987)). The Committee has consistently failed to raise any section 1129 objections to the Plan that rise to this level.

A. The Committee's Attack on the Plan's Allowance Procedures is a Confirmation Issue and Wrong.

The Debtor previously responded to this argument in its Reply in connection with the Second Amended Disclosure statement and incorporates that response as if fully set forth herein. [*See* Docket No. 1781 at 11-12]. Simply put, even if the Committee is right, this is a confirmation issue. As such the Debtor's Disclosure Statement meets the standard required by § 1125. This Court should therefore overrule the Committee's Objection.

B. The Committee's Good-Faith Challenge is a Confirmation Issue and Wrong.

The Debtor previously responded to this argument generally in its Reply in connection with the Second Amended Disclosure Statement and incorporates that response as if fully set forth herein. [*See* Docket No. 1781 at 12-13]. The Debtor responds additionally below.

1. *Unknown Claimants Representative*

The Committee has previously objected to separate classification of Class 5 Unknown Abuse Claims and voting by the Unknown Abuse Claims Representative. The crux of the Committee's objection appears to be directed to the possibility of Class 5 being used to satisfy the requirements of § 1129(a)(10).

This is appropriately addressed at confirmation, not in connection with the Disclosure Statement. By way of brief response, separate classification is appropriate given the distinct characteristics of Unknown Abuse Claims. Likewise, voting by the Unknown Abuse Claims Representative is appropriate both considering his role as representative of Unknown Abuse Claimants and pursuant to the provisions of the order approving his appointment [Docket No. 1554] (the "Appointment Order"). In particular, the Appointment Order states that: "In his capacity as the Unknown Abuse Claims Representative, Judge Hogan shall … **cast a ballot on the plan on behalf of Unknown Abuse Claimants**." [Appointment Order, ¶4 (emphasis added)]. The Committee raised no objection to this provision, even though the Original Plan was already on file when the Debtor filed its motion to appoint the Unknown Abuse Claims Representative.

Furthermore, in other diocese cases, when the court has approved the disclosure statement, the plans provided for unknown abuse claims representative to cast a single vote for the class.[8] Other disclosure statements awaiting approval describe similar provisions.[9]

2. *The OPF Claim*

Once again, the Committee is unwilling to accept success. The Original Plan and previous amendments included treatment of the scheduled claim of the Oakland Parochial Fund ("OPF" and such claim, the "OPF Claim") as Class 8. The Committee objected vociferously to the treatment and classification of the OPF Claim and filed multiple objections to the OPF Claim. Pursuant to the *Stipulation Regarding Withdrawal of Claim of Oakland Parochial Fund, Inc.* [Docket No. 1784] between the Debtor and OPF, granted by Docket No. 1796, OPF withdrew the OPF Claim in its entirety, with prejudice. The

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[8] *See In re the Roman Catholic Diocese of Syracuse*, Case No. 20-30663 (United States Bankruptcy Court for the Northern District of New York) ("Unknown Claimant Representative shall, by written notice Filed on the docket of the Chapter 11 Case on or before the Voting Deadline, elect on behalf of all, but not less than all, Unknown Abuse Claimants, to treat their respective Unknown Abuse Claims as either Consenting Abuse Claims or Non-Participating Abuse Claims."); *In re The Diocese of Rochester*, Case No. 19-20905 (United States Bankruptcy Court for the Western District of New York) ("The Unknown Claimant Representative shall … elect on behalf of all, but not less than all, Unknown Abuse Claimants, to treat their respective Unknown Abuse Claims as either Consenting Class 4 Claims or Non-Consenting Class 4 Claims."); *In re the Diocese of Camden*, Case No. 20-21257 (United States Bankruptcy Court for the District of New Jersey) ("Claims Representative shall submit a single ballot on behalf of Class 6 Claimants").

[9] *See In re The Norwich Roman Catholic Diocesan Corp.*, Case No. 21-20687 (United States Bankruptcy Court for the District of Connecticut) ("the Unknown Abuse Claims Representative shall cast a single vote, estimated at $1 for voting purposes only, to accept or reject the Plan on behalf of all Unknown Abuse Claimants.").

Third Amended Plan therefore no longer includes Class 8 or any other provision for distribution to OPF on account of the OPF Claim. Even though the Committee has received exactly what it sought through its claim objections, it has refused to withdraw the objections, keeping them on calendar, and now seeks to use the Debtor and OPF's agreement to withdraw the OPF Claim as a weapon against the Debtor.

While the Third Amended Plan no longer addresses OPF at all, the Third Amended Disclosure Statement merely states the legal reality that the Debtor may fund OPF post-confirmation. Post-confirmation, the Debtor is free to conduct its business as desired, provided it adheres to the confirmed plan and applicable laws. *In re Boise Gun Co.*, No. 15-01389-TLM, 2018 Bankr. LEXIS 72, at *12 (Bankr. D. Idaho Jan. 12, 2018) ("upon confirmation a debtor is free to conduct business…"). The Committee cannot on the one hand take the position that there is no legal distinction between assets of the Churches and assets of the Debtor, and on the other hand seek to control the Debtor's post-confirmation operations.[10] This objection should be overruled.

C. The Insurance Assignment Does Not Violate Applicable Law

To the extent necessary in the context of an objection to confirmation, the Debtor reiterates the Insurance Assignment does not violate applicable law. The Debtor incorporates the legal argument set forth in its *Brief in Response* [Docket No. 1705] on this issue, as if fully set forth herein.

V. THE CONFIRMATION HEARING SHOULD BE SET IN JUNE

The Debtor acknowledges the Committee's right to seek discovery in connection with confirmation of the Amended Plan. However, in light of both the extensive informal discovery already provided to the Committee over the course of this case and the substantial time the Committee has already had to conduct any additional discovery it believes is necessary, six months is far too long.

Within weeks of the Committee's appointment in this Chapter 11 Case, it began making requests to the Debtor for documents. Shortly thereafter, it filed an application for a 2004 examination. This application was withdrawn based on the Committee's acknowledgement of the Debtor's extensive

[10] As the Debtor has made abundantly clear, OPF maintains a Deposit and Loan Fund (the "DLF"), and investment/endowment funds for Churches. The agreements governing these funds make clear, consistent with operation of the DLF, that OPF can make loans to individual Churches or RCBO from the funds in the DLF consistent with Canon law, which is its internal governing system.

cooperation with information discovery. Over the ensuing year and half, the Debtor has voluntarily produced thousands of documents in response to more than 180 separate requests from the Committee, consistently providing everything the Committee requested in a timely and transparent manner. It is hard to imagine what *new* documents the Committee could request from the Debtor now. Certainly, the Committee may seek other written discovery, expert discovery, and depositions, but given the extensive baseline of documents already produced, this should not require more than two months.

Further, the Committee has had ample opportunity to begin any additional discovery it believes is necessary in connection with the Plan. It has elected not to do so, instead focusing on its other litigation efforts. Since the initial filing of the Plan and Disclosure Statement on November 8, this has been a contested proceeding. Nothing has prevented the Committee from conducting discovery in connection with the Plan and Disclosure Statement during the past four and a half months. The Committee cannot use its own delay as a basis to artificially obstruct the Plan confirmation process.

Finally, the Committee's proposal for a six-month discovery and pre-trial process does not consider the economic realities of this bankruptcy and is designed only to cause delay. A confirmation hearing in June provides more than sufficient time for any discovery the Committee requires.

VI. PROPOSED REVISIONS TO THE DISCLOSURE STATEMENT

The Objection identifies two issues where the Debtor believes minor revisions to the Disclosure Statement may be appropriate. These relate to language (1) regarding consequences of not returning a ballot in connection with third-party releases [Objection, p. 12-13], and (2) regarding payments to Litigation Claimants that also receive payments from third parties. [Objection at 13]. The chart attached hereto as **Exhibit C** reflects the language in the Third Amended Disclosure Statement as filed, and the Debtor's proposed revised language to be incorporated in a final Disclosure Statement. These revisions should fully resolve the Committee's Objection as to the Disclosure Statement language identified.

VII. CONCLUSION

For the reasons set forth above and based on the information submitted to the Court in connection with the hearings on this matter, the Debtor respectfully requests the Court (1) overrule the Committee's

Objection, and (2) enter the Debtor's Proposed Order approving the Debtor's Disclosure Statement and proposed Solicitation Procedures.

DATED: March 28, 2025

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Exhibit A

Argument	Committee's Objection to Disclosure Statement (Docket No. 1518)	Committee's Objection to First Amended Disclosure Statement (Docket No. 1624)	Committee's Objection to Second Amended Disclosure Statement (Docket No. 1773)	Committee's Objection to Third Amended Disclosure Statement (Docket No. 1846)
Arguments that the Committee continues to repeat				
The Insurance Assignment	"the insurance assignment language risks depriving Abuse Claimants of the ability to hold the Non-Settling Insurers liable for bad faith failure to promptly and fairly settle Abuse Claimants' claims against the Debtor." p. 11:12-12:15	"the Amended Plan risks depriving Abuse Claimants of the ability to hold the Non-Settling Insurers liable for excess judgments based on the insurers' bad faith failure to promptly and fairly settle Abuse Claimants' claims against the Debtor." p. 6:20-9:15	"For the reasons set forth in the Insurance Assignment Brief, the Plan cannot be confirmed." p. 2:21-22	"For the reasons set forth in the Insurance Assignment Brief, the Plan cannot be confirmed." p. 5:14-15.

Plan's Claims Allowance Mechanism			"These procedures create two problems: first, they grant rights to parties who would not have such rights under federal or state law and second, they are inconsistent with the Survivors' Trust Documents." "A Party Not Subject to Liability if an Abuse Claim is Allowed Has No Standing to Object to Abuse Claims Channeled to the Survivors' Trust." p. 2:24-5:22	"These procedures create at least three problems: first they grant rights to parties who would not have such rights under federal or state law, second they are inconsistent with the Survivors' Trust Documents..." "A Party Not Subject to Liability if an Abuse Claim is Allowed Has No Standing to Object to Abuse Claims Channeled to the Survivors' Trust." p. 5:16-7:17.

Unknown Abuse claims	"The Plan's concept of appointing an Unknown Claimants Representative to represent the interests…" "The Debtor's decision to classify Unknown Abuse Claims in a separate Class, and permit the Unknown Abuse Claimants Representative to cast a ballot on behalf of that Class, would empower an individual to determine whether the Debtor can obtain the vote of an impaired accepting class. Under basic principles of fairness and equity, no single individual should have this power." p. 15-16:12		"The concept of appointing an Unknown Claimants Representative to represent the interests…" "section 105 of the Bankruptcy Code…does not grant courts any power that is not expressly conferred by the Bankruptcy Code." "The Debtor's decision to classify Unknown Abuse Claims in a separate Class, and permit the Unknown Abuse Claimants Representative to cast a ballot on behalf of that Class, would empower an individual to determine whether the Debtor can obtain the vote of an impaired accepting class. Under basic principles of fairness and equity, no single individual should have this power." p. 6:21-8:9.	"The concept of appointing an Unknown Claimants Representative to represent the interests…" "section 105 of the Bankruptcy Code…does not grant courts any power that is not expressly conferred by the Bankruptcy Code." "The Debtor's decision to classify Unknown Abuse Claims in a separate Class, and permit the Unknown Abuse Claimants Representative to cast a ballot on behalf of that Class, would empower an individual to determine whether the Debtor can obtain the vote of an impaired accepting class. Under basic principles of fairness and equity, no single individual should have this power." p. 8:25-10:11.

The MAP process	"neither the Plan nor the Disclosure Statement discuss the closure of any Parishes or Churches…to fund distributions to survivors or the operational efficiencies which could be achieved by doing so." p. 9:21-10:11.		The Disclosure Statement "omits any discussion of the fact that the Debtor is not seeking to implement the process as previously outlined by Bishop Barber." "Creditors should be informed why the Debtor has chosen not to implement the Mission Alignment Process as previously contemplated…" p. 9:14-10:13.	The Disclosure Statement "omits any discussion of the fact that the Debtor is not seeking to implement the process as previously outlined by Bishop Barber." "Creditors should be informed why the Debtor has chosen not to implement the Mission Alignment Process as previously contemplated…" p. 11:8-12:1.
There should be six months for discovery and pre-trial preparation for contested confirmation.	"If this Court approves the Disclosure Statement, the Debtor's proposed Plan confirmation schedule does not provide for adequate time for the parties to prepare for a contested confirmation hearing." p. 25:10-22	"The Committee requests that it be permitted no less than six months to complete all of this discover and preparation." p. 22-23	"Based on all that needs to be accomplished, the Committee requests that it be permitted six months to complete discovery and pre-trial preparation." p. 11-12	"Based on all that needs to be accomplished, the Committee requests that it be permitted six months to complete discovery and pre-trial preparation." p. 14-15
Arguments should have been raised previously if at all, but the Committee now raises for first time				

RCWC Contribution				Disclosure Statement is unclear as to how RCWC's contribution will be calculated based on opt-outs from releases of RCWC by Abuse Claimants. p. 12:2-15
Arguments that have been resolved				
The Committee's Letter	"[T]he Committee requests that the Court …(b) direct the Debtor to include the Committee's letter with the Disclosure Statement…" p. 25:23-26:8	"Accordingly, the Committee's position should be included in the text of the Amended Disclosure Statement in certain places, including in the Executive Summary where the Debtor uses graphs which the Committee believes are highly misleading." p. 22:7-15.	"Accordingly, the Committee's position should be included in the text of the Disclosure Statement in certain places, including in the Executive Summary where the Debtor uses a chart and other analyses which the Committee believes are highly misleading." p. 10:14-26.	"Accordingly, the Committee's position should be included in the text of the Disclosure Statement in certain places, including in the Executive Summary where the Debtor uses analyses which the Committee believes are highly misleading." p. 14:1-16.

Exhibit B

The Disclosure Statement now states as follows in the Executive Summary, referring creditors to the more detailed Risk Factors discussion regarding the Insurance Assignment:

> As set forth in detail below, there are significant unresolved legal issues with respect to the Insurance Assignment. The Debtor strongly encourages all Holders of Abuse Claims to refer to the Risk Factors section below, specifically Article XVIII(A), regarding the relative positions of the parties.

[Disclosure Statement at p. 5, Art. 1(A)(iii)].

The Risk Factors discussion in Article XVIII of the Disclosure Statement now includes the following discussion regarding the Insurance Assignment:

> The Insurance Assignment effected by the Plan provides Trust Claimants who choose the Litigation Option (defined above as "Litigation Claimants") with the opportunity to liquidate their claims against the Debtor (as a nominal party) by way of a judgment in the tort system and then seek to recover the amount of their judgment under any applicable insurance policies of the Debtor. The ability of Litigation Claimants to monetize their judgment through recovery from Non-Settling Insurers on account of the Assigned Insurance Interests is a fundamental aspect of the Plan that the Debtor believes has tremendous value for such Claimants in the form of contractual rights (i.e., the potential insurance coverage for the judgement under the insurance policies) and potential extracontractual rights (i.e., through a potential future cause of action for bad faith against the Non Settling Insurers). At present, the Debtor believes that it holds no existing bad faith cause of action against any of its Insurers. Therefore, no such cause of action (as opposed to insurance rights) can or will be assigned under the Plan. However, the Debtor believes the intent of the Plan is to assign all of Debtor's rights under its insurance – including any potential future bad faith claims.
>
> The Committee contends that Litigation Claimants may, nevertheless, be able to assert potential direct bad faith claims against any of Debtor's insurers should an insurer fail in good faith to pay a covered judgment, after the Effective Date based upon the decision in *Hand v. Farmers Ins. Exchange*, 23 Cal. App.4th 1847 (1994) ("*Hand*"). Section 5.14 of the Plan reserves the rights of Litigation Claimants to try to assert such bad faith claims directly based upon potential future actions by the Insurers after the Effective Date based upon the *Hand* decision.
>
> The Insurers contest whether any bad faith claims could be successfully asserted by Litigation Claimants, whether directly or through assignment from the Debtor. The Insurers assert, *inter alia*, that the Debtor will not be negatively affected by any post Effective Date future Insurer actions and therefore will not have a bad faith cause of action against the Insurers capable of assignment post Effective date. The Insurers further contest whether Hand is a correct statement of California law such that Litigation Claimants could have a direct bad faith cause of action against any Insurers. They also assert that supposed future bad faith claims based on things that have not yet happened are entirely speculative. If the Insurers' contentions in this regard are upheld by a court in future litigation, Litigation

Claimants that obtain a covered judgment against the Debtor in name only would be able to recover money from the Non-Settling Insurers under any applicable insurance policy up to the limits of those policies, but would not be able to recover any extracontractual damages (i.e. damages in addition to the insurance coverage provided under the insurance policies) based on any future acts or omissions by the Non-Settling Insurers.

The Committee believes the Insurers' position is not an accurate statement of the law, and certain post-confirmation conduct by Insurers that allegedly violate obligations to act in good faith would survive confirmation of the Plan, such as the obligation to pay a covered judgment, and that an Insurer's violation of that obligation could give rise to a direct bad faith cause of action on the part of Litigation Claimants. The Debtor believes this is an open question of law, with strong arguments on both sides of the issue, and does not predict here how a California court would ultimately rule.

The Debtor notes that the insurance coverage rights assigned to the Litigation Claimants under the Plan have significant value standing alone even if the Insurers are correct regarding either the *Hand* decision, specifically, or bad faith claims, generally, (*i.e.*, such that there is no bad faith recovery).

In any event, as recognized by the Court in its *Memorandum Concerning Certain Issues Raised During January 21, 2025 Hearing on Approval of Disclosure Statement* [Dkt. No. 1673], the outcome of the dispute related to potential, future bad faith claims is not merely uncertain, it is unlikely to be determinable at confirmation, and likely cannot be determined until such time (if ever) that an Insurer is alleged to have acted in bad faith, which may occur, if at all, years after the occurrence of the Effective Date in this case.

[Disclosure Statement at 86-87, Art. XVIII(A)].

Section 5.14 of the Plan has been revised as shown below (additions in blue, removals in ~~red~~):

> ***5.14. Additional Terms Regarding Class 4 and Class 5 Claims.*** Except as otherwise provided herein, terms for resolution of and distribution in connection with Abuse Claims in Class 4 or Class 5 shall be as provided in the Survivors' Trust Documents. For the avoidance of doubt, (i) any such Holder of an Abuse Claim shall not recover in the aggregate from the Survivors' Trust and any Non-Settling Insurer an amount greater than the amount of the judgment issued by the applicable court of competent jurisdiction ~~in connection with~~on the underlying Abuse Claim~~.~~, (ii) any such Holder of an Abuse Claim is not barred by this Section 5.14 from seeking extracontractual damages under the holding of *Hand v. Farmers Ins. Exchange*, 23 Cal. App.4th 1847 (1994) ("*Hand*"), and (iii) all defenses and the rights of any Non-Settling Insurer to oppose any such claim by a Holder of an Abuse Claim under *Hand* are fully preserved, including that *Hand* is not a correct statement of applicable law and that it would not apply to any such asserted claim.

[Docket No. 1764], Ex. A (Redline of Second Amended Plan), p.31-32.

Exhibit C

Debtor's Proposed Further Revisions to Disclosure Statement:

Current Disclosure Statement Language	Proposed Revised Language[1]
Third Amended Disclosure Statement, p. 13, ln. 8-11:	
If the Plan is confirmed by the Bankruptcy Court and the Effective Date occurs, all Holders of Claims against the Debtor, including all Abuse Claimants, will be bound the by the terms of the Plan and the transactions contemplated thereby, including the release provisions contained therein (including Holders of Claims who do not submit Ballots to accept or reject the Plan or who are not entitled to vote on the Plan, but excluding Holders of Abuse Claims who are entitled to, and affirmatively do, opt out of the release and channeling injunction provisions contained in the Plan).	If the Plan is confirmed by the Bankruptcy Court and the Effective Date occurs, all Holders of Claims against the Debtor, including all Abuse Claimants, will be bound the by the terms of the Plan and the transactions contemplated thereby, including the release provisions contained therein (including Holders of Claims who do not submit Ballots to accept or reject the Plan or who are not entitled to vote on the Plan, but subject to the right of Abuse Claimants to not release Contributing Non-Debtor Catholic Entities as provided in Section 13.9 of the Plan and described above).~~excluding Holders of Abuse Claims who are entitled to, and affirmatively do, opt out of the release and channeling injunction provisions contained in the Plan).~~
Third Amended Disclosure Statement, p. 10, ln. 21-24:	
Following resolution of each Litigation Option case, the Survivors' Trustee will make a Litigation Distribution to each such Litigation Claimant in an amount equal to the lesser of: 1) the Reserved Amount, or 2) the Judgment Amount, both amounts being subject to reasonable reserves.	Following resolution of each Litigation Option case, and after accounting for any recovery by the Litigation Claimant from another party, such as an Insurer, the Survivors' Trustee will make a Litigation Distribution to each such Litigation Claimant in an amount equal to the lesser of: 1) the Reserved Amount, or 2) the Judgment Amount, both amounts being subject to reasonable reserves. For the avoidance of doubt, in no event can a Litigation Claimant receive more than the total amount of his or her judgment from all sources.

[1] Additions shown in blue, removals in ~~red~~.