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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 WJL

Chapter 11

DEBTOR'S MEMORANDUM OF LAW IN SUPPORT OF CONFIRMATION OF DEBTOR'S MODIFIED FOURTH AMENDED PLAN OF REORGANIZATION

Judge: Hon. William J. Lafferty

Date: June 15, 2026
Time: 9:00 a.m. (Prevailing Pacific Time)
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 submits this memorandum of law (the "Memorandum") (a) in support of the request for entry of an order confirming the *Debtor's Modified Fourth Amended Plan of Reorganization Dated March 27, 2026* [Docket No. 2758] (including the Plan Supplement and all exhibits and other supplements thereto, and as modified, amended, or supplemented, the "Plan"). In support hereof, the Debtor relies upon (a) the proposed form of order confirming the Plan (as the same may be amended, modified and/or supplemented from time to time, the "Confirmation Order") previously filed; (b) the *Declaration of Andres A. Estrada with Respect to Solicitation and the Tabulation of Votes on the Debtor's Third Amended Plan of Reorganization* [Docket No. 2040] (the "Original Voting Declaration") prepared by the Debtor's solicitation and balloting agent, (c) the *Supplemental Declaration of Andres A. Estrada with Respect to Solicitation and the Tabulation of Votes on the Debtor's Modified Fourth Amended Plan of Reorganization* [TO BE FILED] (the "Supplemental Voting Declaration," and, together with the Bardos Declaration and the Original Voting Declaration, the "Supporting Declarations") and (d) the applicable certificates of service filed by Verita in connection with the Plan solicitation [Docket Nos. 1978 and 3051] (the "Solicitation Affidavit").

I.

PRELIMINARY STATEMENT

The Debtor respectfully requests confirmation of the Plan. It provides $180 million in aggregate contributions to a Survivors' Trust over three and a half years, including $47.7 million on the Effective Date. It gives every Survivor[1] the right to pursue insurance recoveries through the Litigation Option with no gatekeepers and no exceptions. It will deliver the highest per-claim average payout of any similarly-sized diocesan bankruptcy case in the United States while also including some of the most forward-thinking and substantial protocols for the protection of children from future abuse of any diocese or

[1] Holders of Abuse Claims are referred to herein as "Abuse Claimants" or "Survivors," and these terms are used interchangeably.

religious order in the country. And it will put money in the pocket of every Survivor within months of the Effective Date. Accordingly, it has been proposed in good faith and is fair and equitable.

The Plan is the product of three years of litigation, dozens of mediation sessions, and four successive iterations—each one responding to the guidance of this Court and the concerns of creditors in an attempt to drive toward a consensual resolution. Along the way, the Debtor has agreed to sell thirteen houses of worship,[2] twelve vacant parcels, portions of eighteen additional properties, and five residential homes. It has secured $55 million in exit financing from RCC (including the refinance of $15 million in debtor in possession financing). It has obtained RCWC's agreement to contribute $30 million. It has obtained Adventus's commitment of the Livermore Property proceeds, if and when that property is reentitled for residential development and sold. The Debtor has made real, meaningful cuts to its operations and placed all or substantially all of its non-mission-critical assets on the table to provide a record recovery that will be available to *all* claimants, subject to the review of the Abuse Claims Reviewer. These cuts will fundamentally restructure the Debtor's operations post-emergence from bankruptcy and are the result of Bishop Barber's thoughtful, good-faith balancing of competing interests: the right of all Survivors to receive fair compensation under the circumstances; and the right of 500,000 Catholics to continue to practice their faith. The Plan includes the decision to close and liquidate some 13 worship sites, including 12 churches and a pastoral center, a decision that has understandably been deeply unpopular and upsetting to parishioners in the affected places of worship, none of whom bear responsibility for the reprehensible acts of abuse that resulted in this bankruptcy. The evidence will show that the Debtor has already received multiple passionate pleas for reconsideration of the Debtor's decision to close and sell these sites and anticipates many more as the process continues.[3]

The Committee's position is that the Plan should not be confirmed and that the case should be dismissed. The Committee said so in its *Notice of Withdrawal* filed at Docket No. 2854. It said so in its letter to Survivors. And its objection to confirmation, stripped of rhetoric, asks this Court to do the same

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[2] The Debtor publicly announced its intention to "close [12] parish sites and [a] pastoral center, and provide welcoming accommodation of all affected parishioners at another convenient location" on April 28, 2026. https://www.oakdiocese.org/aligning-our-reality-with-our-mission/. RCBO App. Ex. 1.

[3] RCBO App. Exs. 2-17.

thing: deny confirmation and send more than 330 people back into the state-court system to wait years for recovery that, for most of them, may never come. The Committee cannot dispute that dismissal creates a race to the courthouse. It cannot dispute that the Debtor's finite assets almost certainly cannot satisfy all claims in full. It cannot dispute that those at the back of the line—which is most Survivors—will receive significantly less than those at the front, or nothing, from the Debtor. The Committee's answer to this problem is that it is not a problem, because insurance is available. But that is already addressed under this Plan. The Litigation Option is available to all. Every Survivor who wants to pursue state-court litigation and insurance recovery may do so. The Committee's alternative adds nothing except risk, delay, and inequity.

The Plan satisfies every requirement of section 1129 of the Bankruptcy Code. It was proposed in good faith—a fact this Court has recognized throughout the case. It satisfies the best interests test by providing distributions in excess of what creditors would receive in a hypothetical (but impossible) conversion to chapter 7. It does not discriminate unfairly among classes. And because the absolute priority rule does not apply to a nonprofit debtor with no equity security holders, and the Plan represents an honest effort by the Debtor to address its liabilities, the Plan is fair and equitable as a matter of law. Though voting has not yet completed, the Debtor acknowledges that Class 4 is likely to reject the Plan at the Committee's urging. The Debtor is prepared to proceed via cramdown. It anticipates that it will have the votes of Classes 1, 3, 5, and 6 in support. The Bankruptcy Code permits this result, and nothing in the Code or in any reported decision creates a different standard for this Debtor, this type of Debtor, or this case.

Most importantly, the Plan achieves the fundamental objectives of chapter 11, generally, and the Debtor, specifically, in filing this bankruptcy case: (i) maximizing value for creditors through the creation of a Survivors' Trust funded by contributions from the Debtor and affiliated entities; (ii) providing a fair and efficient mechanism for the resolution of Abuse Claims; and (iii) preserving the Debtor as a going concern to continue its vital mission. The Committee does not care about any of that, arguing that a collective remedy is no longer appropriate. In so doing, it breaks with those in all or nearly all prior diocesan bankruptcy cases; according to professor Marie T. Reilly of Pennsylvania State University, who

has published and spoken on diocesan bankruptcies: "Committees of survivors usually agree that bankruptcy is the better option, insofar as it ensures that everyone gets some form of compensation instead of just a few big payouts being limited to the quickest litigants."[4] Indeed, what the Committee actually wants—though its objection never quite says so—is either for the case to be dismissed so that "the speediest can get the spoils," as Professor Reilly calls it, or for this Court to order the Debtor to close *more* churches, sell *more* property, and pay *more* money than the Debtor has determined in its business judgment is consistent with the Debtor's continued ability to serve the spiritual needs of half a million Catholic faithful. The Committee frames this as a question of "maximizing estate value." It is not. It is, in effect, a request that a federal court override the Debtor's business judgment about which churches must close, which congregations must be merged, and which communities must lose their place of worship. The Debtor has voluntarily agreed to close and sell properties—including active churches—to fund this Plan. It has gone further than any similarly situated diocese in bankruptcy has gone before.

The standard for confirmation of a plan of reorganization in bankruptcy—including bankruptcies where the majority of claimants are Survivors—is not whether a debtor has persuaded creditors to settle. Were that the case, Survivors would essentially have a veto right over confirmation, if not a *de facto* veto right over the right of the debtor to file bankruptcy at all. No such right exists, and the Committee cannot show otherwise. Rather, in all bankruptcy cases, the duty of the debtor is to propose a plan that satisfies the Bankruptcy Code. The question before this Court is not whether the Debtor could theoretically contribute more, but whether the Plan as proposed satisfies the Bankruptcy Code. This one does.

II.

BACKGROUND

A. The Bankruptcy Filing.

The Debtor is a corporation sole organized under the laws of the State of California. The Debtor conducts its civil affairs under the laws of the State of California and the United States of America and in

[4] RCBO App. Ex. 18, Marie T. Reilly, quoted in *How Do Dioceses Pay for Bankruptcy and Abuse Settlements?*, EWTN News (noting Professor Reilly's research on Catholic Dioceses in Bankruptcy at Penn State Law) available at https://www.ewtnnews.com/world/us/how-do-dioceses-pay-for-bankruptcy-and-abuse-settlements ; *see also* Marie T. Reilly, "Catholic Dioceses in Bankruptcy," Penn State Law Dickinson Law IDEA, available at https://insight.dickinsonlaw.psu.edu/bankruptcy/.

accordance with the Code of Canon Law, the ecclesiastical law of the Roman Catholic Church. Additional information regarding the Debtor, its mission, ministries, and operations, and the events and circumstances preceding the Petition Date, is set forth in the *Declaration of Charles Moore, Managing Director of Alvarez & Marsal North America, LLC, Proposed Restructuring Advisor to the Roman Catholic Bishop of Oakland, in Support of Chapter 11 Petition and First Day Pleadings* (the "First Day Declaration") [Docket No. 19] and the *First Amended Disclosure Statement in Support of Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 2902] (the "Disclosure Statement"), which are incorporated herein by reference.

On May 8, 2023 (the "Petition Date"), the Debtor filed its voluntary petition for chapter 11 bankruptcy relief under the Bankruptcy Code. The Debtor continues to operate its ministry and manage its properties as a debtor in possession under sections 1107(a) and 1108 of the Bankruptcy Code. No trustee has been appointed in this case. On May 23, 2023, the U.S. Trustee appointed the Committee.

B. The Mediation Process.

On December 19, 2023, the Debtor and the Committee jointly filed the *Joint Motion for Entry of an Order Referring Parties to Mediation, Appointing Mediators and Granting Related Relief* [Docket No. 705] (the "Mediation Motion"). On January 22, 2024, the Court entered an order referring the parties to mediation, appointing the mediators agreed by the parties, and identifying the matters for mediation, both as between the Debtor and the Committee, and between the Debtor and its insurers [Docket No. 810] (the "Mediation Order"). The matters for mediation and the specifics of the mediation process are more fully set forth in the Mediation Order.

The Committee and the Debtor each met individually with mediators Judge Christopher Sontchi and Jeff Krivis, exchanged initial proposals, and participated in the first round of mediation on March 18 and 19, 2024. Additional in-person mediation sessions were held on April 15-16, May 13-14, and June 18-19. Counsel for the Debtor and Committee held virtual one-hour meetings approximately each week in July 2024. Further in-person mediation sessions with the Committee were held on August 13, September 10- 11 and 30, and October 1 and 16-17, 2024. These sessions resulted in multiple proposals

from each side culminating in multiple written term sheets and/or proposals submitted by the Debtor and responses from the Committee.

In addition, the Debtor commenced mediation with the Insurers in June 2024. Debtor's counsel met independently with mediators Judge Randall Newsome and Tim Gallagher in March to prepare for the mediation related to the insurance coverage action pending in the District Court. Mediation sessions with both the Committee and insurers were held in-person on June 18-19 and October 22. A virtual mediation was held on October 31. The Debtor and the Insurers held a virtual mediation session on November 6. All Insurers were represented at each mediation session.

On February 23-24, 2025, the Debtor, Committee, and Insurers held a further joint mediation session in person in San Francisco with Mediators Sontchi, Gallagher, and Newsome. The mediation ended without a resolution between the Debtor and Committee. All-told, between March 2024 and, as described in more detail below, January 2026, the Debtor, Committee, and Insurers (or some combination thereof) have participated in dozens of mediation settings and informal settlement conferences.

C. The Debtor's Plan Process.

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"). The Debtor's *Motion for Order (I) Approving Disclosure Statement; and (II) Establishing Procedures for Plan Solicitation, Notice, and Balloting* [Docket No. 1453] (the "Approval Motion") followed a few days later.

In response to various objections raised by the Committee and directions from the Court at an initial hearing on the Approval Motion conducted on December 18, 2024, the Debtor filed an amended Plan and Disclosure Statement on January 3, 2025. Thereafter, the Bankruptcy Court held additional hearings on January 16, 21, and 30, and set a further hearing for March 3, 2025, directing the Debtor to file a further amended Plan and Disclosure Statement not later than February 18, 2025. The Debtor did so, filing its Second Amended Plan and Disclosure Statement on that date [Docket Nos. 1757 and 1763, respectively]. The March 3, 2025 hearing was converted to a status conference, at which the Debtor informed the Bankruptcy Court it intended to file a Third Amended Plan and Disclosure Statement on

March 17, 2025, which it did. [Docket No. 1830 and 1831, respectively]. The Debtor further revised the Third Amended Disclosure Statement on April 3, 2025 [Docket No. 1874].

On April 4, 2025, the Bankruptcy Court approved the Third Amended Disclosure Statement and permitted the Debtor to solicit acceptances on the Third Amended Plan [Docket No. 1877] (the "Original Disclosure Statement Order"). The deadline to vote on the Third Amended Plan was May 30, 2025. Ultimately, the majority of Class 4 Claimants voted against the Third Amended Plan, though other classes voted in favor of it. *See* Original Voting Declaration.

After solicitation of the Third Amended Plan, the Debtor and the Committee engaged in extensive and costly discovery regarding confirmation of the Third Amended Plan. Due to the escalating costs of Plan-related discovery and its financial position, the Debtor filed its *Motion to Continue Confirmation Hearing and to Reset Confirmation Schedule* [Docket No. 2147] (the "Motion to Continue"). This motion was necessary due to the unexpected high costs of litigation regarding the Third Amended Plan, to allow the Debtor sufficient time to sell certain real estate and other assets to generate needed cash reserves for professional fees and effective date obligations. Following a hearing on July 18, 2025, the Bankruptcy Court granted the Motion to Continue and set a status conference regarding Plan confirmation for November 12, 2025. [Docket No. 2162].

D. The Debtor's Motion to Dismiss the Bankruptcy Case.

After the Debtor determined that the cost of pursuing a contested confirmation on the Third Amended Plan was too high, and that the prospects of settlement with either the Insurers or the Committee were not favorable in the short term, and after extensive discussions with its professional advisors, the Debtor determined that remaining in the Bankruptcy Case was not in its best interests at that time. Therefore, on September 9, 2025, the Debtor filed its Motion to Dismiss Chapter 11 Case [Docket No. 2293] (the "Motion to Dismiss Case"). The Committee did not oppose dismissal of the case but argued that the dismissal should be with prejudice, meaning that the Debtor would not be able to file a future bankruptcy case. [Docket No. 2329]. The Debtor responded on October 20, 2025 [Docket No. 2413], following which the Committee further responded on October 27, 2025 [Docket No. 2423]. On October 29, 2025, the Bankruptcy Court held a hearing regarding dismissal, granting the Motion to Dismiss Case

without prejudice and concluding that "it has not been presented with any evidence of bad faith by the Debtor which would cause the Bankruptcy Court to dismiss the Chapter 11 Case with prejudice or with a bar to the Debtor filing another bankruptcy case." [Docket No. 2467]. Ultimately, dismissal was to be effective as of November 26, 2025 unless the Debtor filed a settlement term sheet "signed by the Debtor and any party who is in support of that term sheet."

After the Bankruptcy Court's ruling, the Debtor, the Committee, the Insurers, and the Mediators continued their efforts to negotiate a consensual resolution to the case. The November 26, 2025 dismissal date was then extended several times at the request of either the parties or the Mediators, and on December 11, 2025, the Debtor filed its first Non-Binding Term Sheet. [Docket No. 2504]. The December 11 term sheet was updated on December 17 with additional proposed contributions from (at that time, proposed) Settling Insurers, and the December 17 term sheet [Docket No. 2521], as well as subsequent discussions with various parties, formed the basis of what would become the Debtor's Fourth Amended Plan.

On January 16, 2026, the Mediators convened another mediation session involving the Debtor, the Committee, and the Insurers. That mediation did not yield a settlement between the Debtor and the Committee, the Committee and the Insurers, or all three parties globally.

On January 20, February 4, and February 17, 2026, the Bankruptcy Court convened status conferences regarding the Chapter 11 Case, the Motion to Dismiss Case, and the Plan process, generally. Prior to and during the February 4 status conference, the Debtor announced its intention to move forward with a Fourth Amended Plan rather than seek dismissal at this time. The Debtor filed its Fourth Amended Plan and certain other documents were filed on February 20, 2026, following which they were modified by the filing of the current Plan.

On March 29, 2026, the Debtor filed the Plan [Docket No. 2758]. On May 8, 2026, the Debtor filed the *First Amended Disclosure Statement in Support of Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 2902] (the "Disclosure Statement"). On May 8, 2026, the Court entered an *Order (I) Approving the Debtor's Disclosure Statement and (II) Establishing Procedures for Solicitation, Notice and Balloting for the Plan* [Docket No. 2910] (the "Disclosure Statement Order").

E. Summary of the Debtor's Plan.

1. Establishment of the Survivors' Trust.

On the Effective Date, the Plan establishes a Survivors' Trust funded with $180 million in aggregate cash contributions from the Debtor ($150 million) and RCWC ($30 million) over a three-and-a-half-year period. The Initial Debtor Contribution of $40 million is paid on the Effective Date, funded through a $55 million exit facility from RCC. RCWC contributes $7.7 million on the Effective Date into the RCWC Escrow. Additional contributions follow on a defined schedule, secured by deeds of trust on real property valued at no less than 100% of remaining post-Effective Date obligations. On the Effective Date, the Restricted Assets Adversary Proceeding is assigned to the Survivors' Trust; any assets later declared unrestricted accelerate—but do not increase—the Debtor's contribution schedule. Upon the Effective Date, all Abuse Claims are channeled to the Survivors' Trust pursuant to the Channeling Injunction, and may thereafter be asserted only against the Survivors' Trust or, for Litigation Claimants, through the Litigation Option framework described below. The Survivors' Trust will be overseen by a Survivors' Trust Advisory Committee initially comprised of five members selected by the Committee.

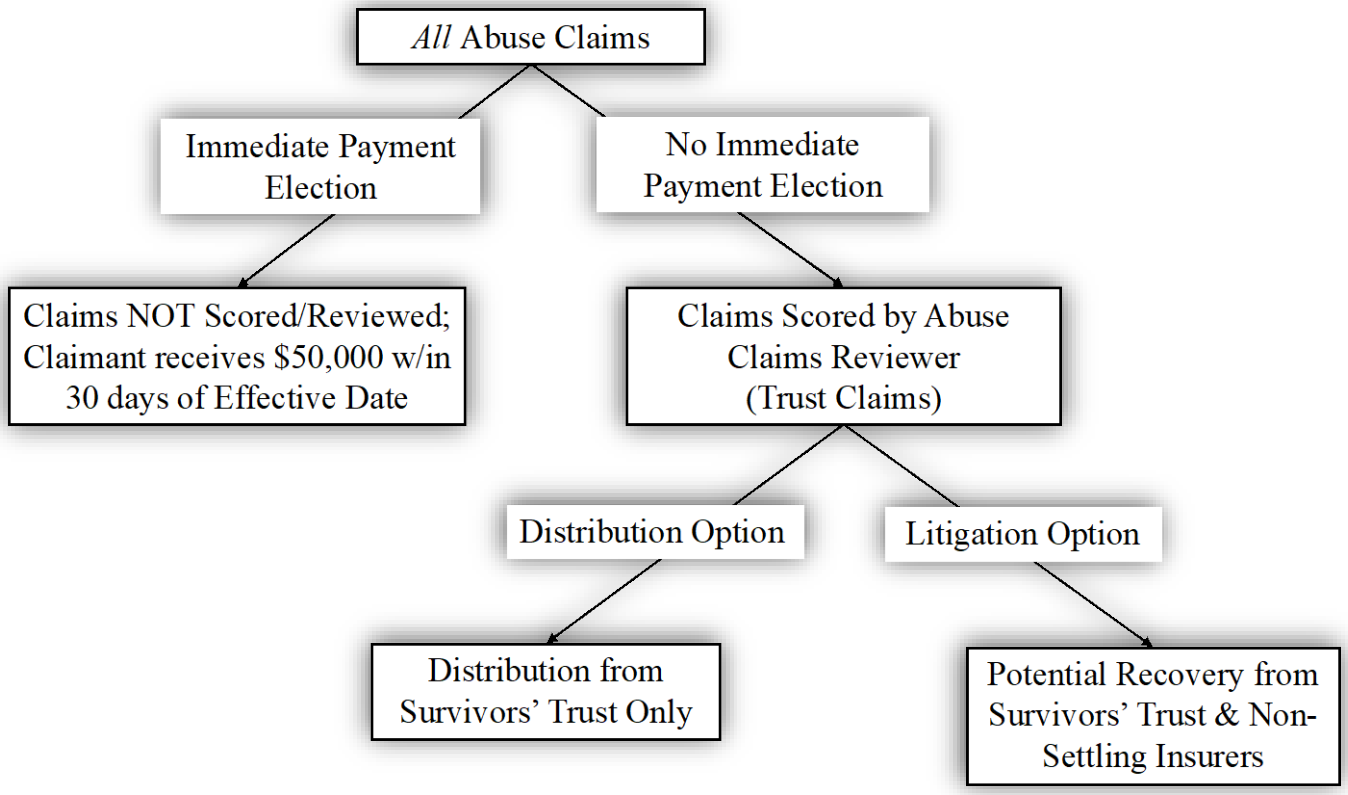
2. The Insurance Assignment.

On the Effective Date, the Debtor's rights and interests in the Non-Settling Insurer Policies—including coverage rights, defense obligations, and existing extracontractual claims asserted in the Coverage Action—are assigned to the Survivors' Trust free and clear of all claims, liens, and encumbrances pursuant to section 363(f) of the Bankruptcy Code. The Insurance Assignment does not transfer the policies themselves; it transfers the Debtor's right to receive proceeds and remedies that are available under those policies for the benefit of Abuse Claimants. Critically, the assignment does not impair, alter, expand, or modify the terms, conditions, or coverage of any Non-Settling Insurer Policy, nor does it impose any obligation on any Non-Settling Insurer that does not already exist under the applicable policy and non-bankruptcy law. Non-Settling Insurers retain every defense—coverage defenses, cooperation defenses, policy exclusions, deductibles, and self-insured retentions—that they would have had against the Debtor outside of bankruptcy. All coverage disputes are resolved under applicable non-bankruptcy law in courts of competent jurisdiction. The Insurance Assignment simply puts the Survivors'

Trust and, through the Litigation Option, individual Survivors, in the Debtor's shoes for purposes of pursuing insurance recovery, without altering the rules of engagement. It is this mechanism that makes the Litigation Option possible: because the Debtor's insurance rights now reside in the Survivors' Trust, any Survivor who obtains a judgment against the Debtor as a nominal party may pursue that judgment directly against the responsible Non-Settling Insurer under California Insurance Code § 11580 and applicable law.

3. Distributions to Survivors and the Litigation Option.

Under the Plan, Survivors have three successive choices as to their ultimate distributions. These choices are summarized in the chart below, which was included in the Debtor's Disclosure Statement:



First, a Survivor may elect to receive an Immediate Payment of $50,000 while foregoing all additional entitlement to recovery from any other source. In return, their claims are never reviewed or scored in any way. Those immediate payments could go out within weeks of the Effective Date. Thereafter, for all remaining claims (defined in the Plan as "Trust Claims"), an independent Abuse Claims

Reviewer—Judge Daniel Buckley (ret.)—evaluates each such claim using the Survivors' Trust Distribution Plan and assigns a point value reflecting the nature, severity, frequency, and impact of the alleged abuse. Each Trust Claimant receives a notice of Initial Determination, including a projected recovery. Claimants have 30 days to request re-review with additional documentation; if sought, the Review Determination becomes the Final Determination.

Following the Final Determination, every Trust Claimant elects one of two paths. Under the Distribution Option, the claimant accepts distributions solely from the Survivors' Trust. Payments are final and irrevocable. Under the Litigation Option, the claimant receives the same pro rata distributions from the Survivors' Trust—on the same schedule as Distribution Claimants—and additionally pursues state-court litigation against the Debtor (in name only) to establish liability and damages, solely for the purpose of recovering from Non-Settling Insurers. No authorization from the Survivors' Trustee is required. The claimant decides. The election must be made by the later of 90 days after the Initial Determination or the first anniversary of the Effective Date. Assuming the allocation process proceeds speedily, initial distributions to either Distribution Claimants (electing the Distribution Option) or Litigation Claimants (electing the Litigation Option) could begin in a matter of months from the Effective Date.

The Litigation Option works as follows:

- The claimant files or resumes litigation in state court, naming the Debtor as a nominal defendant. Non-Settling Insurers retain all coverage defenses available under their policies and applicable law.
- If the litigation yields a judgment covered by insurance, the Non-Settling Insurer pays the judgment amount directly to the claimant.
- As to the Survivors' Trust's liability:
  - If the Judgment Amount is lower than the Final Determination, the Judgment Amount controls and any excess previously distributed by the Trust is recoverable;
  - Conversely, if the Judgment Amount is higher than the Final Determination, the Final Determination controls—meaning the Survivors' Trust's exposure is capped, but the claimant retains the full benefit of insurance recovery above that amount.
- In no event may a Litigation Claimant receive more than the total of his or her judgment from all sources combined.

If the Survivors' Trust negotiates a global Insurance Settlement Agreement covering a Litigation Claimant's claim before that claimant's case concludes, the claimant receives a Claim Enhancement—an additional distribution ranging from 25% to 100% of the claimant's Trust allocation, depending on the stage of litigation at which the settlement occurs. The further the case has progressed, the greater the Enhancement.

After final resolution of all Trust Claims—including those pursued through the Litigation Option—and monetization of all Survivors' Trust Assets, the Survivors' Trustee makes a Final Distribution of remaining reserves on a pro rata basis to all Trust Claimants. Any residual amount is transferred to a charity supporting sexual abuse survivors. The result: every Survivor receives a cash distribution. Every Survivor who wants to pursue insurance may do so—on their own terms, in their own case, without asking anyone's permission. In sum, the Litigation Option allows Survivors to augment—perhaps significantly—their recovery through pursuit of the Debtor's Insurers. Indeed, as the Committee's financial expert has conceded—discussed in more detail below—the pursuit of recoveries from the Debtor's Insurers may allow Survivors to *make themselves whole*.

4. The Child Protection Protocols.

Finally, the Plan requires the Reorganized Debtor to implement comprehensive Child Protection Protocols—among the most expansive adopted or proposed by any diocese in the United States—no later than the Effective Date. The Protocols establish an independent Compliance Monitor for an initial five-year term, chosen by the Committee in consultation with the diocesan bishop, with authority over investigations and enforcement of child-safeguarding measures. They reconstitute and enlarge the Minor Diocesan Review Board to include three Survivors, a licensed psychologist specializing in childhood sexual abuse, a law enforcement member, an educator, and a lay minister. They create a Compliance Advisory Board of five volunteers over whom Bishop Barber and his successors have no authority. And they impose comprehensive requirements for background checks, safe-environment training, mandatory reporting to civil authorities, independent investigations of all accusations, outreach and assistance for survivors, annual compliance auditing, and binding arbitration of disputes. As such, the Plan does not

merely compensate survivors for past harm—it commits the Debtor to additional structural reform designed to enhance existing measures and prevent future harm from ever occurring again.

F. The Committee's Plan.

At the status conference on February 17, the Committee indicated its intent to file a competing plan of reorganization. On March 6, it did so, filing its *Notice of Filing of the Official Committee of Unsecured Creditors' Plan of Reorganization* [Dkt. No. 2705]. The Court then conducted additional status conferences on March 10, 13, 20, and 25 to discuss, among other things, potential confirmation scheduling and additional filings. On March 27, 2026, the Committee filed *The Official Committee of Unsecured Creditors' Plan of Reorganization, Dated March 27, 2026* [Docket No. 2752] and a Disclosure Statement [Docket No. 2753] in support thereof. On April 6, the Court entered a scheduling order outlining the competing plan process. *See* Docket No. 2790.

On April 9, 2026, the Committee filed its *First Amended Disclosure Statement* at Docket No. 2812, indicating it would amend its original plan of reorganization accordingly. Then, following an additional status conference on April 10, the Committee filed its *Second Amended Disclosure Statement* [Docket No. 2833] (the "Committee Disclosure Statement") and a *First Amended Plan of Reorganization* [Docket No. 2832] (the "Committee Plan"). Generally, the Committee Plan sought $195.2 million from the Debtor and included a similar insurance assignment to that of the Plan. The Litigation Option differed in that Survivors needed approval from the Survivors' Trustee (under the Committee Plan) to proceed in litigation.

On April 24, the Committee filed its *Notice of Withdrawal of (I) Official Committee of Unsecured Creditors' First Amended Plan of Reorganization, Dated April 15, 2026 and (II) Second Amended Disclosure Statement for the Official Committee of Unsecured Creditors' Plan of Reorganization, Dated April 15, 2026* [Docket No. 2854] (the "Committee Withdrawal"). Notably, the Committee withdrew its plan within forty-eight hours following a $16 million jury award in the state court action against RCBO brought by Steven Woodall, the Committee Chair.

On April 29, 2026, the Debtor filed its *Notice Regarding Filing of Proposed Order Confirming Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 2866].

G. The Objections to the Plan

The deadline for all holders of claims entitled to vote on the Plan to cast their ballots is June 10, 2026. The deadline to file objections to the Plan was May 8, 2026 for the Committee and May 13, 2026 for certain Insurers.[5]

The following are objections filed to the Plan:

- On May 8, 2026, the United States Trustee filed its *Objection and Reservation of Rights to Confirmation of Debtor's Plan of Reorganization* [Docket No. 2901] (the "UST Objection").
- On May 8, 2026, the Committee filed its *Objection to Confirmation of the Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 2912] (the "Committee Objection").
- On May 13, 2026, Federal Insurance Company, ACE American Insurance Company, Executive Risk Indemnity Inc., Westchester Surplus Lines Insurance Company, Pacific Indemnity Company and/or any of their respective U.S.-based affiliates and successors (collectively, and solely in their capacities as non-abuse insurers for the above-captioned debtor, the "Federal Companies") filed their *Limited Objection to Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 2942] (the "Federal Companies Objection").
- On May 13, 2026, Travelers Casualty and Surety Company f/k/a The Aetna Casualty & Surety Company filed its *Objection and Reservation of Rights to Confirmation of the Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 2946] (the "Travelers Objection").
- On May 13, 2026, Certain Underwriters at Lloyd's, London, and Certain London Market Insurers (collectively, "LMI") filed its *Objection to Debtor's Modified Fourth Amended Plan of Reorganization Dated March 27, 2026* [Docket No. 2951] (the "LMI Objection").
- On May 13, 2026, Westport Insurance Corporation f/k/a Employers Reinsurance Corporation ("Westport"); Continental Casualty Company ("Continental"); and Pacific Indemnity Company, Pacific Employers Insurance Company, Insurance Company of North America, and Westchester Fire Insurance Company (the "Pacific Insurers," and collectively with Westport and Continental, the "Certain Insurers") filed their *Joint Objection to Confirmation of the Debtor's Modified Fourth Amended Plan of Reorganization Dated March 27, 2026* [Docket No. 2958] (the "Westport Objection").
- On May 13, 2026, the Pacific Insurers filed their *Objection to Confirmation of the Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 2961] (the "Pacific Insurers Objection").
- On May 18, 2026, United States Fire Insurance Company filed its Joinder in Certain Insurers' Joint Objection to Confirmation of the Debtor's Modified Fourth Amended Plan of Reorganization Dated March 27, 2026 [Docket No. 2979] (the "United States Fire Insurance Joinder");

[5] The Insurers requested and were granted an extension of the deadline to file objections to the Plan until May 13, 2026. *See* Docket No. 2907.

- On May 20, 2026, LMI filed its Joinder to Objections of Pacific Insurers and Travelers to Debtor's Modified Fourth Amended Plan of Reorganization Dated March 27, 2026 [Docket No. 2985] (the "LMI Joinder"); and,
- On June 1, 2026, LMI filed *Supplemental Objection to the Debtor's Modified Fourth Amended Plan of Reorganization Dated March 27, 2026* (the "LMI Supplemental Objection") [Docket No. 3034].

These objections can be organized into two primary buckets—that of the Committee and the Insurers.[6] The UST Objection is addressed separately. The Committee Objection primarily contends that: (i) the Plan does not satisfy section 1129(a)(3) because it allegedly fails to maximize estate value for the benefit of Abuse Claimants; (ii) the Plan does not satisfy section 1129(a)(7) because the Debtor's liquidation analysis allegedly understates estate assets and inflates hypothetical chapter 7 administrative expenses; (iii) the Plan does not satisfy section 1129(b) because it is allegedly not "fair and equitable" with respect to Class 4; and (iv) the Plan does not satisfy section 1129(a)(10) because the accepting impaired classes are allegedly improperly constituted. The Committee also raises objections concerning third-party releases and the claims allowance process. The Debtor respectfully submits that the Committee's objections are without merit and that the Plan satisfies all applicable requirements of section 1129 of the Bankruptcy Code, as set forth below.

The Insurers, on the other hand, contend that: (i) the Plan impermissibly alters insurance rights or coverage obligations; (ii) the Insurance Assignment expands insurer liability or adjudicates coverage; (iii) the Plan creates or expands bad-faith or extra-contractual claims; (iv) the Channeling Injunction, contribution provisions, and judgment-reduction mechanisms impair their rights; and (v) the exculpation and Plan settlement findings are improper. The UST Objection challenges the Channeling Injunction along with two other arguments. Each of these buckets of objections are addressed in more detail below.

H. Voting Results

In accordance with section 1126 of the Bankruptcy Code, only holders of claims in impaired classes receiving or retaining property on account of such claims were entitled to vote on the Plan. *See* 11 U.S.C. § 1126(g). In addition, holders of claims were not entitled to vote if their rights are unimpaired by

[6] The Insurer Objections include: 1) the Federal Companies Objection, 2) the Travelers Objection, 3) the LMI Objection, 4) the Westport Objection, 5) the Pacific Insurers Objection, and 6) the LMI Supplemental Objection, as well as the untimely United States Fire Insurance Joinder and the LMI Joinder.

the Plan. *See* 11 U.S.C. § 1126(f). As a result, the following classes of claims were not entitled to vote on the Plan, and the Debtor did not solicit votes from holders of such claims:

Class	Class Description	Number of Claimants	Status	Voting Rights
Class 2	Priority Unsecured Claims, Other Than Non-Classified Claims Set Forth In Article Iii	36	Unimpaired	Non-Voting Deemed to accept
Class 7a	Contribution And Indemnification Claims Related To Class 4 Claims	Unknown	No Recovery	Non-Voting Deemed to reject
Class 7b	Contribution And Indemnification Claims Related To Class 5 Claims	Unknown	No Recovery	Non-Voting Deemed to reject

Votes on the Plan were solicited from holders of claims in impaired classes receiving or retaining property on account of such claims. The voting deadline is Wednesday, June 10, and the Supplemental Voting Declaration will be filed on Friday, June 12.

Because voting has not yet completed, the Debtor cannot say for certain which classes have voted to accept or reject the Plan. As of the date hereof, Classes 1, 3, 5, and 6 have voted to accept the Plan or are anticipated to do so, Class 2 is unimpaired and conclusively presumed to accept the Plan, Class 4 is anticipated to vote to reject the Plan, and Classes 7A and 7B are deemed to reject the Plan. Accordingly, the Debtor will seek confirmation with respect to the rejecting classes under section 1129(b).

On Friday, May 22, 2026, the Committee filed its *Motion to Designate Certain Class 1, Class 3, and Class 6 Votes* [Docket No. 3001] (the "Designation Motion") seeking designation of certain votes in Classes 1, 3, and 6. The stated goal of the Designation Motion was to prevent the Debtor's ability to invoke the cramdown provision of 11 U.S.C. § 1129(b)(2) by eliminating certain votes in favor of the Plan. The Designation Motion will be heard on June 12, 2026 in advance of the beginning of the Confirmation Hearing on June 15. Accordingly, the presumptive results of the voting process summarized above may change.

III.

ARGUMENT

The Plan achieves the reorganization of the Debtor while providing for equitable treatment for creditors. As demonstrated below, the Debtor has satisfied each requirement for confirmation under section 1129 of the Bankruptcy Code. Finally, the Debtor requests a waiver of the fourteen-day stay imposed by the Bankruptcy Rules.

A. The Plan Satisfies Each Requirement for Confirmation.

To confirm the Plan, the Debtor must show by a preponderance of the evidence that the Plan satisfies the applicable provisions of section 1129 of the Bankruptcy Code. *See In re PG&E Corp.*, 617 B.R. 671, 674 (Bankr. N.D. Cal. 2020) ("The Debtors have the burden of proving satisfaction of the applicable elements of section 1129(a) and (b) by a preponderance of the evidence."); *see also United States ex. rel. Farmers Home Admin. v. Arnold & Baker Farms (In re Arnold & Baker Farms)*, 177 B.R. 648, 654 (B.A.P. 9th Cir. 1994). Supported by the Bardos Declaration and other filings with the Court, and any further evidence provided at the hearing, the Debtor asserts the Plan complies with all relevant sections of the Bankruptcy Code, including sections 1122, 1123, and 1129, the Bankruptcy Rules, and applicable non-bankruptcy law. Therefore, the Plan should be confirmed.

Specifically, the Plan: (i) complies with sections 1122 and 1123 of the Bankruptcy Code by properly classifying claims and providing adequate means for implementation; (ii) was proposed in good faith and not by any means forbidden by law; (iii) satisfies the best interests test by providing distributions exceeding what creditors would receive in a hypothetical chapter 7 liquidation; (iv) is feasible; and (v) satisfies the cramdown requirements of section 1129(b) with respect to rejecting classes. Each of these requirements is addressed in detail below.

1. The Plan Complies with Section 1129(a)(1) of the Bankruptcy Code.

Section 1129(a)(1) of the Bankruptcy Code requires a plan to comply with all applicable provisions of the Bankruptcy Code, including the rules governing the classification of and the provisions dictating the contents of a plan. 11 U.S.C. §§ 1122, 1123, 1129(a)(1); *see also In re Acequia, Inc.*, 787 F.2d 1352, 1360 (9th Cir. 1986) ("Section 1129(a)(1) provides that a court may only confirm a plan where 'the plan

complies with the applicable provisions of [Title 11].'"). As demonstrated below, the Plan complies with all requirements of the Bankruptcy Code, including sections 1122 and 1123.

a. The Plan Satisfies the Classification Requirements of Section 1122(a).

Section 1122(a) of the Bankruptcy Code provides that "a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class." 11 U.S.C. § 1122(a). While section 1122 provides that dissimilar claims may not be classified together, *In re Samuel*, No. 16-21585-A-11, 2018 Bankr. LEXIS 3014, at *20 (Bankr. E.D. Cal. Sep. 27, 2018), similar claims may be classified separately if there is a "legitimate business or economic justification" for doing so. *In re Rexford Props. Ltd. Liab. Co.*, 558 B.R. 352, 361 (Bankr. C.D. Cal. 2016).

Substantial similarity, however, does not require all claims in a class to be identical or equal treatment of similar claims. Separate classification of similar claims is appropriate as long as the proponent can articulate a reasonable justification. *See Barakat v. Life Ins. Co. of Va. (In re Barakat)*, 99 F.3d 1520, 1526 (9th Cir. 1996) ("absent a legitimate business or economic reason, separate classification is not permitted."). Here, the Plan appropriately classifies claims as follows:

Class	Class Description	Number of Claimants	Status	Voting Rights
Class 1	RCC Secured Claim	1	Impaired	Eligible To Vote
Class 2	Priority Unsecured Claims, Other Than Non-Classified Claims Set Forth In Article Iii	36	Unimpaired	Non-Voting Deemed to accept
Class 3	General Unsecured Claims	71	Impaired	Eligible To Vote
Class 4	Abuse Claims	~345	Impaired	Eligible To Vote
Class 5	Unknown Abuse Claims	Unknown	Impaired	Eligible To Vote
Class 6	Non-Abuse Litigation Claims	2	Impaired	Eligible To Vote
Class 7A	Contribution And Indemnification Claims Related To Class 4 Claims	Unknown	No Recovery	Non-Voting Deemed to reject
Class 7B	Contribution And Indemnification Claims Related To Class 5 Claims	Unknown	No Recovery	Non-Voting Deemed to reject

The Plan's classification scheme satisfies the requirements of section 1122. All claims within each class have the same or similar rights. The Plan provides for separate classification of claims against the

Debtor based on differences in such claims' nature, the asserted rights against the Debtor's property, priority, or the source of distributions.

Specifically, the Debtor has sound justification for the separate classification of claims in Class 1, Class 3, Class 4, Class 5, and Class 6. Claims in Class 3 (General Unsecured Claims) all arise from the ordinary course operations of the Debtor. Claims in Class 4 and Class 5 all arise out of allegations of childhood sexual abuse, whether known or unknown at this time. Additionally, holders of Abuse Claims against the Debtor will have their claims channeled to the Survivors' Trust. *See, e.g., In re PG&E Corp.,* No. 19-30088 (Bankr. N.D. Cal. Mar. 17, 2020) (Doc. No. 6353) (classifying separately unsecured creditors whose recoveries were to come from different trusts); *In re TK Holdings Inc.,* No. 17-11375 (Bankr. D. Del. Feb. 21, 2018) (Doc. No. 2120) (same). Class 6 consists of all Non-Abuse Litigation Claims against the Debtor, which are funded from a separate Non-Abuse Litigation Reserve and capped at $250,000 per Holder. The separate classification of Abuse Claims, Unknown Abuse Claims, General Unsecured Claims, and Non-Abuse Litigation Claims is consistent with what courts have approved in similar chapter 11 cases dealing with abuse claims. *See, e.g., In re Boy Scouts of Am. and Del. BSA, LLC,* No. 20-10343 (Bankr. D. Del. Sept. 8, 2022) (Doc. No. 10316) (confirming a plan of reorganization which separately classified general unsecured and abuse claims); *In re USA Gymnastics,* No. 18-09108 (Bankr. S.D. Ind. Dec. 16, 2021) (Doc. No. 1776) (same); *In re Roman Catholic Church of the Archdiocese of Santa Fe*, No. 18-13027 (Bankr. D.N.M. Dec. 28, 2022) (Doc. No. 1214) (same). Accordingly, the Debtor has a legitimate basis for the classification scheme under the Plan, and the classification scheme is not intended to gerrymander acceptance by an impaired class. The Plan complies with section 1122 of the Bankruptcy Code.

b. The Plan Satisfies the Requirements of Section 1123.

Section 1123 of the Bankruptcy Code provides certain mandatory and optional provisions that a plan must and may include. The Plan satisfies the mandatory requirements of section 1123(a), includes settlements permitted under section 1123(b), and includes provisions not inconsistent with other provisions of the Bankruptcy Code pursuant to section 1123(b)(6).

(i) The Plan Satisfies the Mandatory Provisions of Section 1123(a).

Plans of reorganization under chapter 11 must comply with the seven mandatory criteria set out in section 1123(a) of the Bankruptcy Code. The Plan satisfies these requirements.

Specification of Classes, Impairment, and Treatment. The first three requirements of section 1123(a) are that a plan specify: (a) the classification of claims and interests; (b) whether such claims and interests are impaired or unimpaired; and (c) the precise nature of their treatment under the plan. 11 U.S.C. § 1123(a)(1)-(3). The Plan properly designates classes of claims, identifies impaired and unimpaired classes and their respective voting rights, and indicates the treatment of each class. *See* Plan, Arts. II, IV.

Equal Treatment. Section 1123(a)(4) of the Bankruptcy Code requires that a plan "provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest." 11 U.S.C. § 1123(a)(4). Under the Plan, holders of allowed claims will receive the same rights and treatment as other holders of allowed claims within such holders' respective class. *See* Plan, Art. IV. Each holder of an Abuse Claim in Class 4 will receive distributions from the Survivors' Trust pursuant to the same allocation protocol, providing each holder with the same opportunity for recovery. Any differences in outcomes for such claimants will arise from: 1) their own choices for what they want to receive or pursue, as described, above, or 2) the Trust Distribution Protocol and the outcome of the Litigation Option. *See* Plan, § 4.4.2; *see also In re Boy Scouts of Am. & Del. BSA*, 642 B.R. 504, 541-46 (Bankr. D. Del. 2022) (approving similar trust allocation procedures in abuse claims case). The Plan's treatment of claims is consistent with section 1123(a)(4).

Means for Implementation. Section 1123(a)(5) of the Bankruptcy Code requires that a plan provide "adequate means" for its implementation. 11 U.S.C. § 1123(a)(5). The Plan satisfies this requirement by providing for:

- the means for implementing, among other things, the establishment of the Survivors' Trust, the transfer of the Survivors' Trust Assets to the Survivors' Trust, and the channeling of Abuse Claims to the Survivors' Trust; *see* Plan, Arts. IX, XII, XIII;
- the authorization for the Debtor and the Reorganized Debtor, as applicable, to take all actions consistent with the Plan and Confirmation Order as may be necessary to effectuate the Plan; *see id*., Art. XVI;

- the means by which the Debtor will effectuate the Insurance Assignment to the Survivors' Trust pursuant to sections 541 and 1123(a)(5) of the Bankruptcy Code; *see id*., § 8.1;[7]
- the sources of distributions under the Plan for the General Unsecured Claims; *see id.*, § 4.3;
- the continued corporate existence of the Debtor on and after the Effective Date; *see id*., Art. XII; and
- the vesting of all of the Debtor's assets, other than the Survivors' Trust Assets, in the Reorganized Debtor, free and clear of all Liens, Claims, charges, rights, or other Encumbrances on the Effective Date; *see id*., Art. XII.

Non-Voting Stock. Section 1123(a)(6) of the Bankruptcy Code requires that a debtor's corporate constituent documents prohibit the issuance of nonvoting equity securities. *See* 11 U.S.C. § 1123(a)(6). The Debtor is a nonprofit corporation and has no voting equity securities. The Plan satisfies the requirements of section 1123(a)(6).

Selection of Officers and Directors. Section 1123(a)(7) of the Bankruptcy Code requires the manner of selection of any director, officer, or trustee, or successor thereto, be "consistent with the interests of creditors and equity security holders and with public policy." *Id.* The Plan complies with section 1123(a)(7). The Plan contains all of the provisions required by section 1123(a) of the Bankruptcy Code.

(ii) The Plan Satisfies the Discretionary Provisions of Section 1123(b).

Section 1123(b) of the Bankruptcy Code allows a plan to include a variety of non-mandatory provisions. Each of the Plan's permissive provisions comports with these requirements:

- as permitted under section 1123(b)(1) of the Bankruptcy Code, Article III identifies which claims are unimpaired;
- as permitted under section 1123(b)(3)(A) of the Bankruptcy Code, the Plan incorporates certain settlements. *See* Plan, Arts. IX, XII;
- as permitted by section 1123(b)(5) of the Bankruptcy Code, Article IV modifies the rights of holders of claims as set forth therein; and
- as permitted by section 1123(b)(6) of the Bankruptcy Code, the plan "may include any other appropriate provision not inconsistent with the applicable provisions of [the Bankruptcy Code]." As further discussed below, in accordance with section 1123(b)(6) of the Bankruptcy Code, Article XIII of the Plan contains certain discharge, injunction, and exculpation provisions (including the Channeling

[7] A chapter 11 debtor's assignment of insurance policies to a trust has been routinely approved by courts in the mass-tort context, notwithstanding any anti-assignment provisions included in the policies. *See In re Fed.-Mogul Glob. Inc.,* 684 F.3d 355, 366-67 (3d Cir. 2012).

Injunction) that are essential to the Debtor's reorganization and consistent with the applicable provisions of the Bankruptcy Code and caselaw in the Ninth Circuit.

Each of the foregoing permissive provisions is consistent with section 1123(b) and essential to the successful reorganization of the Debtor.

(a) The Plan's Exculpation Provision Should Be Approved.

Article XIII of the Plan contains a customary exculpation for claims arising out of, or relating to, the Chapter 11 Case and the agreements made in connection therewith during the Chapter 11 Case (the "Exculpation Provision"). The Exculpation Provision is fair and appropriate under both applicable law and the facts and circumstances of this Chapter 11 Case. The Exculpated Parties are limited to certain parties that were integral to the Chapter 11 Case and the Plan process, as well as their respective officers, directors, agents, employees, equity holders, attorneys, financial advisors, accountants, and other duly authorized employed Professionals. Plan at § 13.6. Additionally, the scope of the Exculpation Provision is limited to any act or omission occurring on or after the *applicable* Petition Date through and including the Effective Date in connection with, relating to, or arising out of the negotiation, solicitation, confirmation, execution, or implementation of the Chapter 11 Case, the Plan Documents, the pursuit of entry of the Confirmation Order, the administration and implementation of the Plan, including the distribution of property under the Plan, or any other related agreement, or any restructuring transaction, contract, instrument, release, or other agreement or document created or entered into during the Chapter 11 Case in connection with the Chapter 11 Case, or upon any other act or omission, transaction, agreement, event, or other occurrence related or relating to the foregoing. The Exculpation Provision does not release any claim based on (i) an express contractual obligation owing by any Exculpated Party, (ii) willful misconduct or gross negligence, or (iii) with respect to Professionals, liability arising from claims of professional negligence, which shall be governed by applicable non-bankruptcy law.

The Exculpation Provision is consistent with what courts in this Circuit and others routinely approve. *See*, *e.g.*, *Blixseth v. Credit Suisse*, 961 F.3d 1074 (9th Cir. 2020) (affirming confirmation of plan with exculpation clause covering parties "closely involved" in drafting and confirming the plan, including the debtors' largest creditor, and holding that such a narrow exculpation provision limited to acts arising out of the bankruptcy proceedings does not violate 11 U.S.C. § 524(e)).

The Exculpated Parties have acted in good faith and in compliance with the law, and the exculpation provision should be approved.

(b) The Channeling Injunction Should Be Approved.

The proposed Channeling Injunction is an essential element of the Plan. In accordance with § 13.11 of the Plan, all Abuse Claims will be permanently channeled to the Survivors' Trust on the Effective Date and, to the extent not otherwise disallowed prior to the Effective Date or subject to specific exceptions set forth in the Plan, Abuse Claims may continue to be asserted only against the Survivors' Trust and not against the Released Parties. The finality that the Channeling Injunction brings to the Debtor and the Settling Insurers is essential to the reorganization and a key component of the Insurance Settlement Agreements. Holders of Abuse Claims will be able to pursue their claims against the Survivors' Trust. The Channeling Injunction provides the means for a holder of an Abuse Claim to obtain a recovery from the Survivors' Trust, while also preventing further recourse to the Reorganized Debtor.

The court may use injunctive orders to ensure that claims against insurance proceeds are channeled to a settlement fund instead of asserted directly against the Debtor or insurers. *See MacArthur Co. v. Johns-Manville Corp.* (*In re Johns-Manville Corp.*), 837 F.2d 89, 93 (2d Cir.1988) ("The authority to issue the injunction is thus a corollary to the power to dispose of assets free and clear and to channel claims to the proceeds."). The Channeling Injunction does not bar any Claims against Non-Settling Insurers and therefore is not a non-consensual release by Abuse Claimants against third parties. Similarly, the Channeling Injunction channels only those Released RCWC Claims (*i.e.*, claims against a non-debtor) to the extent the respective claimant affirmatively consents to such channeling and release. Accordingly, the Channeling Injunction should be approved.

(c) The Plan's Settlements Should Be Approved.

Bankruptcy Rule 9019(a) provides that "[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement." Fed. R. Bankr. P. 9019(a). The Plan provides that, pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, distributions, releases, injunctions, and other benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a good-faith compromise and settlement of all

Claims, Causes of Action, and controversies resolved pursuant to the Plan, including the CCEB Settlement incorporated therein. Before approving a settlement under Bankruptcy Rule 9019, a court must determine that the proposed settlement is (a) fair and equitable and (b) in the best interests of the debtor's estate. *See In re Refco Inc.*, 505 F.3d 109, 119 (2d Cir. 2007) ("a bankruptcy court's obligation is to determine whether a settlement is in the best interests of the estate") (emphasis omitted).

As demonstrated by the record in this case, the settlements and compromises embodied in the Plan are well within the range of reasonableness. They are in the best interests of the Debtor's estate and an appropriate exercise of the Debtor's business judgment; are integral to the Plan and essential to its consummation and implementation; avoid bitter, protracted, and expensive litigation over complex factual and legal issues; and are the product of extensive good-faith negotiations among a variety of constituents.

2. The Plan Satisfies Section 1129(a)(2).

Section 1129(a)(2) of the Bankruptcy Code requires compliance with the disclosure and voting requirements of sections 1125 and 1126 of the Bankruptcy Code, respectively. *See* H.R. Rep. No. 95-595, at 412 (1977), as reprinted in 1978 U.S.C.C.A.N. 5963 ("Paragraph (2) [of § 1129(a)] requires that the proponent of the plan comply with the applicable provisions of chapter 11, such as section 1125 regarding disclosure.").

a. The Debtor Provided Adequate Information About the Plan to Stakeholders as Required Under Section 1125.

Section 1125(b) of the Bankruptcy Code prohibits the post-petition solicitation of acceptances or rejections of a plan "unless, at the time of or before such solicitation, there is transmitted to such holder the plan or a summary of the plan, and a written disclosure statement approved, after notice and a hearing, by the court as containing adequate information." 11 U.S.C. § 1125(b). The provisions ensure that all parties-in-interest have sufficient information regarding the debtors and the plan to allow them to make an informed vote on the plan. *See*, *e.g.*, *Knupfer v. Wolfberg (In re Wolfberg)*, 255 B.R. 879, 883 (B.A.P. 9th Cir. 2000) ("Section 1125(b) requires that a disclosure statement contain 'adequate information,' which is 'information of a kind, and in sufficient detail, . . . that would enable a hypothetical reasonable investor . . . to make an informed judgment about the plan[.]'"); *see also Burns v. Macgibbon (In re*

Macgibbon), No. WW-05-1422-PaNK, 2006 Bankr. LEXIS 4875, at *10 (B.A.P. 9th Cir. Aug. 14, 2006) ("Section 1125(b) requires a plan proponent to transmit a disclosure statement containing adequate information to creditors when soliciting acceptance of a plan.").

By distributing the Disclosure Statement and soliciting acceptances of the Plan through Verita Global in accordance with the Original Disclosure Statement Order (in 2025) and Disclosure Statement Order (in 2026), the Debtor has complied with sections 1125 and 1126 of the Bankruptcy Code, as well as Bankruptcy Rule 3017 and 3018. Solicitation of votes in accordance with the Court-approved Solicitation and Voting Procedures also complied with Bankruptcy Rules 3017-1 and 3020-1 of the Bankruptcy Local Rules for the Northern District of California with respect to the contents and transmittal of the Disclosure Statement. The Holders of Claims in Class 3 and Class 6 were previously solicited in accordance with sections 1125 and 1126 of the Bankruptcy Code in connection with the Debtor's *Third Amended Plan of Reorganization* [Docket No. 1830], were provided with adequate information regarding the treatment of their Claims under that Plan, and were afforded a fair and reasonable opportunity to vote to accept or reject that Plan. The treatment of Class 3 and Class 6 Claims under the Plan is not materially different from, or less favorable than, the treatment provided in the prior solicitation, and no change in circumstances warrants resolicitation of such Classes. Accordingly, Class 3 and Class 6 were not required to vote on the Plan.

b. The Debtor Only Solicited Parties Entitled to Vote Under Section 1126 of the Bankruptcy Code.

Section 1126 of the Bankruptcy Code provides, in pertinent part, that:

> (a) The holder of a claim or interest allowed under section 502 of [the Bankruptcy Code] may accept or reject a plan.
>
> * * *
>
> (f) Notwithstanding any other provision of this section, a class that is not impaired under a plan, and each holder of a claim or interest of such class, are conclusively presumed to have accepted the plan, and solicitation of acceptances with respect to such class from the holders of claims or interests of such class is not required.
>
> (g) Notwithstanding any other provision of this section, a class is deemed not to have accepted a plan if such plan provides that the claims or interests of such class do not entitle the holders of such claims or interests to receive or retain any property under the plan on account of such claims or interests.

11 U.S.C. § 1126(a), (f), (g).

The Debtor solicited acceptances of the Plan from the holders of claims in Class 1, Class 3, Class 4, Class 5, and Class 6 either in 2025 (with respect to the Third Amended Plan) or 2026 (with respect to the Plan). These are the only classes of claims that are impaired and entitled to vote under the Plan. The Debtor did not solicit votes from Class 2, which is unimpaired and presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. The Debtor also did not solicit votes from Classes 7A and 7B, which receive no distribution and are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. *Id.*

The Debtor anticipates that acceptances in Class 1, Class 3, Class 5, and Class 6 are in excess of two-thirds in amount and one-half in number of those who timely voted to accept or reject the Plan. *See* 11 U.S.C. § 1126(c). Class 4 will presumably vote to reject the Plan, and Classes 7A and 7B are deemed to reject the Plan. The Debtor will therefore seek confirmation of the Plan as to Class 4, Class 7A, and Class 7B under the cramdown provisions of section 1129(b) of the Bankruptcy Code. Based upon the foregoing, the requirements of sections 1125 and 1126 of the Bankruptcy Code have been satisfied, and thus, the Debtor has satisfied the requirements of section 1129(a)(2).

3. The Plan Has Been Proposed in Good Faith and Not by Any Means Forbidden by Law Pursuant to Section 1129(a)(3).

Section 1129(a)(3) of the Bankruptcy Code requires that a plan be "proposed in good faith and not by any means forbidden by law." 11 U.S.C. § 1129(a)(3). "Good faith requires that a plan will achieve a result consistent with the objectives and purposes of the Code." *In re Jorgensen*, 66 B.R. 104, 109 (B.A.P. 9th Cir. 1986). "Good faith is assessed by the bankruptcy judge and viewed under the totality of the circumstances." *Id*. at 108-109. In the context of a non-profit entity, the "good faith" requirement has been construed to require the debtor's "honest effort to satisfy the demands of its creditors." *See Sec. Farms v. Gen. Teamsters, Warehousemen & Helpers Union, Local 890*, 265 F.3d 869, 877 (9th Cir. 2001).

At the Confirmation Hearing, the evidence will show that the Debtor has proposed the Plan in good faith and for purpose of resolving Abuse Claims in a fair and equitable manner, maximizing

recoveries for creditors, and positioning the Debtor to continue its religious and charitable missions. Bishop Barber's testimony, in particular, will demonstrate that the purpose of the Plan is to balance competing interests in an equitable way. In his sworn deposition, Bishop Barber testified as follows:

> Q. Can you tell me what it is you're going to testify about the debtor's plan as proposed in good faith?
>
> …
>
> A. It has always been our goal in the Chapter 11 proceedings to provide a fair and equitable compensation to the victims who have filed complaints against the diocese, since the statute of limitations was extended and we became aware of their complaints. We believed that by declaring bankruptcy, we would be able, then, to address every complaint fairly, as opposed to going to state court where a few early and large judgments may clean out the resources and leave nothing left for maybe 100 or 200 or whatever hundreds more that were behind them.

(Barber Dep. 173:15–174:6) (cleaned up). Regarding the necessarily balancing of interests, he stated that he had to consider:

> Compensation may be due [Survivors] under law. Resources that are available to remedy whatever pain and suffering. But also taking into account my responsibility for the 82 Catholic parishes and the 400,000 or so Catholics that worship in good faith and that have done nothing wrong and that are innocent and that will bear the financial burdens of these proceedings. So I'm trying to balance two things there.

(Barber Dep. 176:21–177:4). With respect to Plan distributions, including the Distribution Option and the Litigation Option, specifically, Attila Bardos, the Debtor's Chief Financial Officer, will testify that the "spirit and intent" of the Plan and supporting documents was to "to come up with an equitable way to distribute the Survivors' Trust, uh, to the survivors, and put all kinds of definitions to keep it fair and, um, equitable," (Bardos Insurer Dep. 114:24-115:3), while creating a "very fair system that [resolution of claims pursuing the Litigation Option] must be in part of a court, a competent jurisdiction, as the language implies there, uh, because it's going to be outside of the bankruptcy law at this case -- outside of the bankruptcy court at this case. So I just wanted to make sure it was fair." (Bardos Insurer Dep. 113:15-21).

Regarding the Debtor's *continued* attempts to find consensus with the Committee wherever it could, evidenced by discussions with the Committee as to the identities of the proposed Survivors' Trustee and the Abuse Claims Reviewer, Mr. Bardos will further testify that the Debtor has every intention of forging agreement where it can. At his deposition by certain Insurers, Mr. Bardos testified:

> Q. And why is that?
>
> A. What do you -- why is it a good thing to get consensus with the Committee if […] they meet the qualifications?

> Q. Yes.
>
> A. Yeah, because it's -- again, it – it's a good thing we're trying to -- we're trying to, um, bargain and -- and do this stuff in good faith and -- and make sure that, if we can, um, bend over backwards to help them.

(Bardos Insurer Dep. 195:16–25). As to the Abuse Claims Reviewer, specifically, Mr. Bardos testified that giving the Committee the power to select that individual in the Plan was "part of our, again, attempt to [] find common ground and—and cooperat[e] with them, with the Creditors Committee and giving them more of a say here." (Bardos Insurer Dep. 104:1-4) (cleaned up).

Finally, the evidence will demonstrate that the Debtor engaged in extensive mediation and discussions with the Committee, the Unknown Abuse Claims Representative, and various entities "affiliated" with the Debtor in order to formulate the Plan and establish the Survivors' Trust. At his sworn deposition, Daniel Flanagan, one of the Debtor's financial advisors, testified that "The debtor has been in discussions both with the creditors' committee, as well as insurance for the last number of years, and I think all of that helped feed its way into this plan." (Flanagan Dep. 27:2–5.). Thus, the Plan has been carefully crafted to implement the balance described by Bishop Barber, which itself aligns exactly with the twin aims of the Bankruptcy Code—preserving the Debtor as a going concern and maximizing the value of distributions for creditors. *See Bank of Am. Nat'l Trust & Sav. Ass'n v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 453 (1999) (The Supreme Court of the United States has specifically identified two purposes of Chapter 11 as "preserving going concerns and maximizing property available to satisfy creditors."); *In re Capital West Investors*, 186 B.R. 497, 499 (N.D. Cal. 1995) ("Those purposes of the bankruptcy code include facilitating the successful rehabilitation of the debtor, and maximizing the value of the bankruptcy estate.").

The Plan's (presumed) acceptance by holders of claims in Classes 1, 3, 5, and 6, and the Unknown Abuse Claims Representative's support of the Plan reflect the parties' good faith efforts to achieve the objectives of chapter 11 and the fairness of the Plan. The Plan complies with the Bankruptcy Code and applicable non-bankruptcy law and is not proposed "by any means forbidden by law." The Court has recognized that the Debtor has acted in good faith throughout this Chapter 11 Case. For example, on March 10, this Court stated:

> Thank you, all of you, for not only your good arguments, but your recognition of how much progress you've made and of, I think, as much as you disagree, the inherent good faith of

both sides. I really appreciate that. Thank you very much.
(March 10, 2026 Hearing Transcript, 79:48)

Accordingly, the Debtor has proposed the Plan in good faith, with the best intentions for its creditors and stakeholders. *See In re Chemtura Corp.*, 439 B.R. at 608-09 (Bankr. S.D.N.Y. 2010) (finding good faith requirement met because, among other things, debtor negotiated and reached agreements with several parties in interest to put forward a chapter 11 plan which "in the aggregate . . . demonstrate a good faith effort on the part of the debtor to consider the needs and concerns of all major constituencies in this case").

4. The Plan Provides for Court Approval of Certain Administrative Payments in Compliance with Section 1129(a)(4).

Section 1129(a)(4) of the Bankruptcy Code requires that "[a]ny payment made or to be made by the proponent . . . for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable." 11 U.S.C. § 1129(a)(4). Section 1129(a)(4) of the Bankruptcy Code has been construed to require that all payments of professional fees that are made from estate assets be subject to review and approval as to their reasonableness by the court. *See In re Beyond.com Corp.*, 289 B.R. 138, 144 (Bankr. N.D. Cal. 2003) ("This section mandates full disclosure of all payments for services, costs, and expenses in connection with the case and subjects the reasonableness of these payments to the scrutiny and approval of the court.").

Article III.3 of the Plan provides that all Fee Claims must be approved by the Court pursuant to final fee applications. Plan, § 3.3. To that end, Article XV of the Plan provides that the Bankruptcy Court retains jurisdiction to hear and determine all applications for compensation of Professionals and the Unknown Abuse Claims Representative for reimbursement of expenses under sections 328, 330, 331, and 503(b) of the Bankruptcy Code. At the confirmation hearing, the testimony of Mr. Flanagan will demonstrate that the Debtor's projections, which he took the laboring oar in creating, contemplate the payment of all administrative expenses of the estate on or about the Effective Date (or whenever such expenses are allowed), pursuant to the Plan. The testimony of Charles M. Moore, the Debtor's Chief Restructuring Officer, will further bolster satisfaction of section 1129(a)(4).

Thus, all payments for services provided to the Debtor during the Chapter 11 Case within the meaning of section 1129(a)(4) of the Bankruptcy Code must be approved by the Court in accordance with section 1129(a)(4) of the Bankruptcy Code.

5. The Debtor Has Complied with the Governance Disclosure Requirement in Compliance with Section 1129(a)(5).

Section 1129(a)(5) of the Bankruptcy Code requires that the plan proponent disclose the identity and affiliations of the proposed officers and directors of the reorganized debtor; that the appointment or continuance of such officers and directors be consistent with the interests of creditors and equity security holders and with public policy; and, to the extent there are any insiders that will be retained or employed by the debtor, that there be disclosure of the identity and nature of any compensation of any such insiders. 11 U.S.C. § 1129(a)(5). The Disclosure Statement describes the governance structure of the Debtor and the identity and affiliations of the proposed officers and directors of the Reorganized Debtor. Article XII of the Plan provides that, from and after the Effective Date, the Debtor shall continue in existence as the Reorganized Debtor in accordance with applicable law for all purposes, including, among other things, (a) enforcing and prosecuting claims, interests, rights, and privileges of the Debtor including, without limitation, prosecuting Causes of Action, (b) resolving Disputed Non-Abuse Claims, (c) administering the Plan, (d) filing appropriate tax returns and refund requests, and (e) performing all such other acts and conditions required by and consistent with consummation of the Plan. *See* Plan, § 12.5. Accordingly, the Plan satisfies section 1129(a)(5) of the Bankruptcy Code.

6. The Plan Does Not Require Governmental Regulatory Approval of Rate Changes and Therefore Complies with Section 1129(a)(6).

Section 1129(a)(6) of the Bankruptcy Code provides that "[a]ny governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval." 11 U.S.C. § 1129(a)(6). The Plan does not provide for rate changes by the Debtor, and section 1129(a)(6) of the Bankruptcy Code is inapplicable.

7. The Plan is in the Best Interests of Creditors in Accordance with Section 1129(a)(7).

Section 1129(a)(7) of the Bankruptcy Code, also referred to as the "best interests" test, requires that each individual holder of an allowed impaired claim or equity interest has either accepted the plan or will receive or retain on account of their claim or interest property having, as of the effective date of the plan, a present value of not less than what such holder would receive if the debtor were liquidated under chapter 7 of the Bankruptcy Code. 11 U.S.C. § 1129(a)(7). The best interests test is satisfied where the estimated recoveries under a proposed plan for a debtor's stakeholders that reject that plan are greater than or equal to the recoveries such stakeholders would receive in a hypothetical chapter 7 liquidation. *See In re Rosenblum*, 2019 Bankr. LEXIS 2298, at *9 (Bankr. D. Nev. July 15, 2019) ("The best interests test only requires that a proposed Chapter 11 plan pay creditors on account of their claims an amount that is "not less than the amount" the claimant would receive in a Chapter 7 liquidation."); *see also In re Station Casinos, Inc.*, 2011 Bankr. LEXIS 5822, at *33 (Bankr. D. Nev. June 8, 2011) ("As a result, the Holders of General Unsecured Claims against GVR are receiving under the Plan at least as much as they would receive in a chapter 7 liquidation, and the Plan satisfies the best interests of creditors test as to those creditors."). The best interests test does not apply to unimpaired classes.

The "best interests test" requires a determination of what the holders of allowed claims in each impaired class would receive in a hypothetical liquidation of the Debtor's assets in the context of a liquidation under chapter 7 of the Bankruptcy Code. *See In re Manhattan Jeep Chrysler Dodge, Inc.*, 602 B.R. 483, 493-94 (Bankr. S.D.N.Y. 2019) ("Chapter 11 of the Bankruptcy Code contemplates that the holders of 'allowed' claims and 'allowed' interests will share in distributions . . ."); *see also* 11 U.S.C. § 726(a) (referring to distributions to "any allowed unsecured claim"). To determine if the Plan is in the best interests of holders of allowed claims in each impaired class, the value of the distributions from the proceeds of the hypothetical liquidation of the Debtor's assets is compared with the value offered to such classes of claims under the Plan. *See* 11 U.S.C. § 1129(a)(7).

a. The Debtor's Liquidation Analysis Demonstrates Compliance with the Best Interests Test

At the Confirmation Hearing, the Debtor's primary witnesses as to the best interests test will be Mr. Moore and Mr. Flanagan, supported by Mr. Adam Zimmerman and Mr. John Satter, each of Hilco Real Estate Appraisal, LLC, a division of Hilco Global. Specifically, Mr. Moore will testify that based on valuation and other inputs provided to him by the Debtor and its professionals, including projected cash flows, he prepared two different liquidation analyses contemplating two different scenarios. The first scenario assumes that because the Debtor cannot be converted to chapter 7 and liquidated against its will, in a hypothetical chapter 7 bankruptcy case, assets the Debtor deems critical to its mission should not be included in a liquidation analysis. In other words, a hypothetical liquidation must be a possible one; this has been the Debtor's position since the filing of the Original Plan and Disclosure Statement in November 2024. At his deposition, Mr. Moore confirmed that this approach is grounded in professional standards applicable to certified turnaround professionals, not in legal instruction from counsel:

> Q. Is it a legal analysis that you did, that it has to be a possible liquidation?
>
> A. This is not a legal analysis. This is my approach to a liquidation analysis.

(Moore Dep. 49:13-18.). He further testified that the methodology of excluding assets that cannot be liquidated is "widely accepted" within the body of knowledge that certified turnaround professionals are tested on as part of the certification process. (Moore Dep. 50:5-13.).

Whether the Debtor meets the best interest test under Mr. Moore's first analysis cannot be legitimately argued. In that scenario, *before* calculating specified "liquidation reductions"—things like wind-down expenses, chapter 7 trustee fees, and incremental litigation costs in defending and liquidating claims—the gross liquidation proceeds available are approximately $102 million in a "low" recovery of assets scenario, $112 million in a "mid" recovery scenario, and $121 million in a "high" recovery scenario. Each of these numbers is below the $150 million to be contributed under the Plan by the Debtor alone, much less the combined $180 million to be contributed by the Debtor and RCWC. And, again, this is before considering any costs associated with the hypothetical liquidation, which Mr. Moore calculates would drive net liquidation proceeds into negative numbers, the low single digits (of millions), and the high teens (of millions) in each scenario, respectively. The Debtor's $150 million commitment is

unconditional and does not depend on the sale of any particular property. As Mr. Moore confirmed at his deposition:

> Q. That is irrespective of whether it sells any particular piece of property, right?
>
> A. That's right.

(Moore Dep. 100:17–19). Importantly, the Plan satisfies the best interests test even without the $30 million RCWC contribution, distribution of which is conditioned on individual post-confirmation releases. Mr. Moore's analysis demonstrates that the test is met under both the Liquidation Analysis and Supplemental Liquidation Analysis even when excluding the RCWC contribution from the Plan value. Dr. Martin's analysis independently corroborates this conclusion; she determined that the Debtor's proposed $150 million contribution to the Survivors' Trust exceeds the approximately $112 million in recoverable assets estimated in Mr. Moore's primary Liquidation Analysis—meaning the Debtor is contributing more than 100% of what it could liquidate, with the difference to be financed through the Exit Facility.

b. First Amendment and RFRA Protections Preclude Forced Liquidation of Mission-Critical Assets

Mr. Moore's second analysis—referred to in court as "Liquidation Analysis 2.0"—takes the opposite approach, assuming that *all* Debtor assets can be forced to be liquidated in a hypothetical chapter 7 bankruptcy case. Among other things, the Debtor submits that such an outcome is legally impossible under the First Amendment to the United States Constitution, the Religious Freedom Restoration Act (RFRA), and other sources of law. Liquidation of assets that the Debtor deems critical to its mission—the exercise and promulgation of the Roman Catholic Church, specifically, and the Christian religion, generally—constitutes a clear restriction on both the Debtor's rights and those of its nearly half-million parishioners. Nonetheless, the second analysis assumes it is possible only for the sake of argument, calculating outcomes assuming all assets are sold.

In that analysis, Mr. Moore calculates gross liquidation proceeds of approximately $220 million, $251 million, and $282 million, respectively, before costs of liquidation are taken into account. These numbers are objectively higher than the combined contribution under the Plan—$180 million. However, because abuse claims—all but one of which are presently unliquidated—cannot be liquidated on the merits

in the Bankruptcy Court and—as the Committee has repeated argued—must be liquidated in a state court of competent jurisdiction, the incremental litigation costs associated with that liquidation are immense, totaling approximately $98 million, $121 million, and $118 million under Mr. Moore's "low," "mid," and "high" asset-recovery scenarios, respectively. And these costs, under Mr. Moore's analysis, do not assume actual trials in state court for all ~345 claimants. Rather, he assumes that approximately 12 trials would go forward over four years at roughly $3 million each in fees, plus a $52.8 million ADR process at $165,000 per case for the remaining approximately 320 claims. If the remaining claims do not agree to participate in an ADR process, necessitating more trials, the cost assumptions may dramatically understate the ultimate outcome.

Mr. Moore confirmed at his deposition that even under the supplemental liquidation analysis, the total net liquidation proceeds (at the midpoint) would be approximately $130 million—far less than the Plan's total value of $247 million. He explained how the Plan bridges this gap:

> Q. How is it then, under the Debtor plan, it meets its funding obligations if it couldn't do so by selling everything it owns?
>
> A. It's a combination of things. First of all, as it relates to the contribution, and we'll just focus on the contribution from RCBO of 150 million dollars, it is selling assets in order to be able to generate that. Secondly, as we've talked about, it's obtaining exit financing for an additional 40 million dollars. So that is additional cash that's coming in outside of selling assets. And then on top of that, on top of those two items, it's assuming liabilities that it will pay off over time. And so that's how you get to the total plan value here, plus then adding in the RCWC aspect of 30 million dollars, you get to 247.

(Moore Dep. 99:19-100:11).

Mr. Moore's testimony, which is based on inputs provided by other professionals that will also testify, will demonstrate that under the Plan, holders of Abuse Claims and holders of General Unsecured Claims will receive more value under the Plan as compared to the distributable value available to such claimants in a hypothetical chapter 7 liquidation, including because substantial sums outside of the Estate are being contributed under the Plan that would not be available in a chapter 7 case. Therefore, the Plan complies with and satisfies the "best interests test" and all other requirements of section 1129(a)(7).

8. Section 1129(a)(8) Is Not Satisfied as to All Classes, Necessitating Cramdown Under Section 1129(b)

Section 1129(a)(8) of the Bankruptcy Code requires that each class of claims or interests either accept a plan or not be impaired by a plan. 11 U.S.C. § 1129(a)(8). A class of claims or interests that is not impaired under a plan is presumed to have accepted the plan and need not be further examined under section 1129(a)(8) of the Bankruptcy Code. 11 U.S.C. § 1126(f). Class 2 is Unimpaired and conclusively presumed to have accepted the Plan. In excess of two-thirds in amount and one-half in number of holders entitled to vote in Classes 1, 3, 5, and 6 who voted on the Plan voted to accept the Plan or are anticipated to do so. Class 4 is anticipated to vote to reject the Plan, and Classes 7A and 7B are deemed to reject the Plan. The requirements of section 1129(a)(8) need not be met as to those Classes because the Plan satisfies the cramdown requirements of section 1129(b), as discussed below.

9. The Plan Treats Administrative and Priority Tax Claims in Accordance with Section 1129(a)(9)

Section 1129(a)(9) of the Bankruptcy Code requires that certain priority claims be paid in full on the effective date of a plan and that holders of certain other priority claims receive deferred cash payments, unless such holders agree to different treatment. 11 U.S.C. § 1129(a)(9). Specifically, holders of administrative claims under section 507(a)(2) must receive cash equal to the allowed amount on the effective date. 11 U.S.C. § 1129(a)(9)(A). Holders of priority claims under section 507(a)(1) or (4) through (7) (domestic support obligations, wage, employee benefit, and deposit claims) must receive deferred cash payments equal to the allowed amount (if the class accepts the plan) or cash on the effective date (if the class does not accept). 11 U.S.C. § 1129(a)(9)(B). Finally, holders of priority tax claims under section 507(a)(8) must receive cash payments over a period not exceeding five years from the petition date, with present value equal to the allowed amount. 11 U.S.C. § 1129(a)(9)(C).

The Plan satisfies section 1129(a)(9) of the Bankruptcy Code. First, Article III provides that each holder of an allowed Administrative Expense Claim will receive full payment in cash "on or as soon as reasonably practicable after the later of: (a) the Effective Date; (b) the first Business Day after the date that is thirty (30) calendar days after the date such Administrative Expense Claim becomes an Allowed

Administrative Expense Claim; (c) such other date(s) as such holder and the Debtor or the Reorganized Debtor shall have agreed," pursuant to section 1129(a)(9)(A); or (d) such other date ordered by the Bankruptcy Court. *See* Plan, § 3.1.1. Second, no holders of the types of claims specified by section 1129(a)(9)(B) are impaired under the Plan and such claims have been paid in the ordinary course. Third, Plan § 3.2 specifically provides, in accordance with section 1129(a)(9)(C), for the treatment of Allowed Priority Tax Claims, including payment in Cash on the later of; (a) the Effective Date, (b) the first Business Day after the date that is thirty (30) calendar days after the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, or (c) the date such Allowed Priority Tax Claim is due and payable in the ordinary course.

The Plan satisfies all of the requirements of section 1129(a)(9).

10. The Plan Was Accepted by at Least One Impaired Class as Required by Section 1129(a)(10)

Section 1129(a)(10) of the Bankruptcy Code requires the affirmative acceptance of the Plan by at least one class of impaired claims, "determined without including any acceptance of the plan by any insider." 11 U.S.C. § 1129(a)(10). Classes 1, 3, 5, and 6 are impaired, and have each accepted the Plan or are anticipated to accept the Plan, without including the acceptance of the Plan by any insiders in such classes. Accordingly, the Plan satisfies section 1129(a)(10).

11. The Plan is Feasible Within the Meaning of 1129(a)(11)

Section 1129(a)(11) of the Bankruptcy Code requires that the Plan be feasible to be confirmed. Specifically, the Court must determine that: "confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan." 11 U.S.C. § 1129(a)(11).

Feasibility does not require a guarantee of the success of a plan. *See Acequia Inc. v. Clinton*, 787 F.2d 1352, 1364 (9th Cir. 1986) ("The Debtor has presented ample evidence to demonstrate that the Plan has a reasonable probability of success"); *Kane v. Johns-Manville Corp.*, 843 F.2d at 649 (2d Cir. 1988) ("[T]he feasibility standard is whether the plan offers a reasonable assurance of success. Success need not be guaranteed."); *In re Brotby*, 303 B.R. 177, 191 (B.A.P. 9th Cir. 2003) ("a relatively low threshold of

proof will satisfy Section 1129(a)(11)"). Instead, courts will find that a plan is feasible if a debtor demonstrates a reasonable assurance that consummation of the plan will not likely be followed by a further need for financial reorganization. *See id*. "The purpose of section 1129(a)(11) is to prevent confirmation of visionary schemes which promise creditors and equity security holders more under a proposed plan than the debtor can possibly attain after confirmation." *Pizza of Hawaii, Inc. v. Shakey's, Inc.* (*In re Pizza of Haw., Inc.*), 761 F.2d 1374, 1382 (9th Cir. 1985) (citations omitted).

Courts consider a number of factors when assessing feasibility of a plan, including: (i) the prospective earnings of the business or its earning power; (ii) the soundness and adequacy of the capital structure and working capital for the business which the debtor will engage in post-confirmation; (iii) the prospective availability of credit; (iv) whether the debtor will have the ability to meet its requirements for capital expenditures; (v) economic and market conditions; and (vi) the ability of management, and the likelihood that the same management will continue; and any other related matter which determines the prospects of a sufficiently successful operation to enable performance of the provisions of the plan. *See*, *e.g.*, *In re WorldCom, Inc.*, 2003 Bankr. LEXIS 1401, at *58 (Bankr. S.D.N.Y Oct 31, 2003).

At the Confirmation Hearing, the primary witnesses in favor of feasibility—which has not been legitimately challenged by any party—will be Mr. Moore and Mr. Flanagan from the Debtor, with Ronald Gies of RCC and Mr. Satter of Hilco in support. Generally, Mr. Moore will testify that the Debtor's financial projections provide a reasonable basis to conclude that the Debtor can meet its Plan obligations and have sufficient capital and liquidity to operate post-emergence, making further liquidation or financial reorganization unnecessary. More specifically, the projected increase in unrestricted cash from $4.4 million as of December 31, 2026 to $6.5 million as of December 31, 2030 and a positive change in postpetition net assets, globally, demonstrate that the Debtor will be able to meet its post-emergence obligations after the Effective Date payments are made (as facilitated by existing cash and the Exit Facility). At his sworn deposition, Mr. Moore testified that he validated his conclusions against historical performance, as well. (Moore Dep. 112:16–21.). He further testified that, after review of the underlying projections, he found them reasonable:

Q. And do you think they got it wrong anywhere?

> A. All projections are inherently wrong because they're forecasts, but I think all of the assumptions are reasonable.

(*Id*. at 172:7–10.). Regarding the RCC loan that will facilitate the Debtor's projected contribution on the Effective Date, Mr. Moore testified:

> One, there is a precedent here where RCC lent money to RCBO on a prepetition basis. So there is a loan of about 26 million dollars outstanding. So that's the first item. There is actually a track record of RCC being able to make these types of loans. In addition to that, then, the fact that the documentation has been pulled together, perhaps there are going to be some final tweaks, but this is a very comprehensive set of loan documents that I have reviewed, suggests that this is a transaction that parties have considered and are ready to enter into.

(*Id*. at 30:6–17). Finally, Mr. Moore testified that he calculated the total "plan value," including required contributions, the assumption of various liabilities, and the satisfaction of present and contemplated secured indebtedness (such as the Exit Facility), total approximately $247 million. (*Id*. at 99:5–9). From the Debtor alone, the required contributions to meet "various funding obligations" was approximately $202 million. (*Id*. at 98:21–99:1).

Additionally, Mr. Flanagan testified at his sworn deposition that he created the financial projections supporting the Plan, which contemplate the proposed exit facility borrowing of $55 million from RCC, (Flanagan Dep. 68:11-13), that $55 million was the maximum amount the Debtor could borrow from RCC while servicing its other Plan obligations, (*Id*. at 81:1–12), and both the repayment of the Exit Facility and the contributions to the Survivors' Trust under the Plan will be made through the sale of real estate listed on the Debtor's Amended Exhibit B. (*Id*. at 82:7-9; 82:20–83:10). With respect to the size of the Exit Facility, Mr. Flanagan testified that "At this point, the debtor itself has very little cash to contribute and does not have the ability to borrow more funds than the 55 million kind of currently contemplated." (*Id*. at 34:8–12).

Finally, Mr. Gies will testify that RCC stands ready, willing, and able to make the $55 million loan embodying the Exit Facility, enabling the Debtor to make the necessary contributions to the Survivors' Trust on the Effective Date. RCC has already agreed to loan—and will loan—$15 million to the Debtor in the form of the debtor in possession financing facility approved on a final basis on June 3, and will provide the remaining $40 million in new-money financing on the Effective Date after the Plan is confirmed. (*See* Gies Dep. 36:4–6: "RCC has stated its intent and willingness to make that loan"). Mr.

Satter of Hilco will further testify—and has opined—that the market values for the proposed collateral securing all of the Debtor's Plan obligations, whether to RCC or the Survivors' Trust, support the proposed payments.

In sum, the evidence will demonstrate Debtor's ability to successfully emerge from chapter 11 and satisfy its obligations under the Plan in accordance with the feasibility requirements of section 1129(a)(11). The Reorganized Debtor will be able to fund the Plan without the need for further liquidation or restructuring while maintaining its charitable and religious mission. Although the Debtor is not a "business" in the traditional sense, it can acquire cash and property, in part through charitable contributions that may increase after emergence from bankruptcy. The Debtor's management is uniquely equipped by education and calling to continue the Debtor's ministries. Accordingly, confirmation of the Plan is not likely to be followed by liquidation or the need for further reorganization. Indeed, the Committee's own corporate representative, Matthew Babcock of BRG, recognized this at his sworn deposition in that capacity:

> Q. But isn't that an argument that they think the debtor can do this faster and more, not that they don't think the debtor can achieve what it says it will over a three and a half-year period?
>
> A. Committee understands that if the debtor wants to pay those funds that it can.
>
> Q. Okay. In that time period?
>
> A. Three and a half years after the effective date.
>
> Q. Correct?
>
> A. Yes.

(Babcock Committee 30(b)(6) Dep. 202:16-203:2). In context, this admission only makes sense; the Committee had previously proposed a plan requiring the Debtor to contribute *more* on a timeline it argued was even faster, making an argument against feasibility of the Plan impossible to maintain.

Accordingly, the Reorganized Debtor's operations will be positioned for a successful emergence from bankruptcy, and the Plan satisfies the feasibility requirement of section 1129(a)(11).

12. The Plan Complies with Section 1129(a)(12)

Section 1129(a)(12) of the Bankruptcy Code requires the payment of "[a]ll fees payable under section 1930 of title 28, as determined by the court at the hearing on confirmation of the plan[.]" 11 U.S.C.

§ 1129(a)(12). Section 507 of the Bankruptcy Code provides that "any fees and charges assessed against the estate under [section 1930] of title 28" are afforded priority as administrative expenses. 11 U.S.C. § 507(a)(2). Article III of the Plan provides for the payment of all fees payable pursuant to section 1930(a). *See* Plan, §§ 3.5, 12.9.4. Finally, the Plan provides that the U.S. Trustee shall not be required to file any proof of claim or request for payment for quarterly fees. *Id.* The Plan therefore complies with section 1129(a)(12).

13. The Plan Assumes All Employee Benefit Plans in Compliance with Section 1129(a)(13)

Section 1129(a)(13) of the Bankruptcy Code requires that retiree benefits are paid post-confirmation at any levels established in accordance with section 1114 of the Bankruptcy Code. 11 U.S.C. § 1129(a)(13). Article VII of the Plan satisfies this requirement by providing that, on the Effective Date, all Assumed Employee Benefit Plans shall be deemed to be, and shall be treated as, Executory Contracts under the Plan and shall be assumed as of the Effective Date. All outstanding payments which are accrued and unpaid as of the Effective Date pursuant to the Assumed Employee Benefit Plans shall be made by the Reorganized Debtor on the later of (i) the Effective Date, (ii) as soon as practicable thereafter, or (iii) when otherwise due under the applicable Assumed Employee Benefit Plan. *See* Plan, § 7.2.2. Accordingly, the Debtor is not seeking to modify retiree benefits pursuant to section 1114 of the Bankruptcy Code.

14. Sections 1129(a)(14) and (15) of the Bankruptcy Code Are Inapplicable

The Debtor is not required by a judicial or administrative order, or by statute, to pay a domestic support obligation and is not an individual. Thus, sections 1129(a)(14)-(15) are inapplicable here.

15. The Plan Complies with Section 1129(a)(16)

Section 1129(a)(16) of the Bankruptcy Code requires that transfers of property under the plan are made in accordance with any applicable provisions of non-bankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust. 11 U.S.C. § 1129(a)(16). The Debtor is a religious, not-for-profit corporation and is not a moneyed, business, or commercial corporation or trust. All transfers of property under the Plan are being made in accordance

with applicable provisions of non-bankruptcy law governing such transfers. Accordingly, the Plan satisfies section 1129(a)(16).

B. The Plan Meets the Requirements for Cramdown (Section 1129(b))

Section 1129(b) provides that when the requirements of section 1129(a) of the Bankruptcy Code are met other than section 1129(a)(8), a plan may be confirmed so long as the requirements set forth in section 1129(b) of the Bankruptcy Code are satisfied. *See* 11 U.S.C. § 1129(b). To confirm a plan that has not been accepted by all impaired classes (thereby failing to satisfy section 1129(a)(8) of the Bankruptcy Code), the plan proponent must show that the plan does not "discriminate unfairly" and is "fair and equitable" with respect to the non-accepting impaired classes. *See* 11 U.S.C. § 1129(b)(1).

1. The Plan Does Not Discriminate Unfairly With Respect to the Impaired Rejecting Classes.

The unfair discrimination standard of section 1129(b)(1) ensures that a plan does not unfairly discriminate against a dissenting class with respect to the value it will receive under a plan when compared to the value given to all other similarly situated classes. *See In re Armstrong World Indus., Inc.*, 348 B.R. 111, 121 (D. Del. 2006) (noting that the "hallmarks of the various tests have been whether there is a reasonable basis for the discrimination, and whether the debtor can confirm and consummate a plan without the proposed discrimination."). Accordingly, as between two classes of claims or two classes of interests, there is no unfair discrimination if (a) the classes are comprised of dissimilar claims or interests, *see*, *e.g.*, *Matter of Johns-Manville Corp.,* 68 B.R. at 636 (Bankr. S.D.N.Y. 1986), or (b) taking into account the particular facts and circumstances of the case, there is a reasonable basis for such disparate treatment. *See*, *e.g.*, *In re Drexel Burnham Lambert Grp.*,138 B.R. at 715 (separate classification and treatment was rational where members of each class "possesse[d] different legal rights"), *aff'd sub nom. Lambert Brussels Asocs, L.P. v. Drexel Burnham Lambert Grp., Inc.* (*In re Drexel Burnham Lambert Grp., Inc.*), 140 B.R. 347 (S.D.N.Y. 1992).

The Plan does not discriminate unfairly against the impaired Classes that voted to reject or are deemed to have rejected the Plan (i.e., Classes 4, 7A, and 7B). Section 1129(b) does not prohibit differences in treatment between the classes. To the contrary, the very premise of any chapter 11 plan with

multiple impaired classes is to differentiate among classes. "Section 1129(b) of the Bankruptcy Code does not preclude a plan's disparate treatment of classes of same-priority claims; it prohibits only 'unfair' discrimination." *In re Hawaiian Telcom Communs., Inc.*, 430 B.R. 564, 605 (Bankr. D. Haw. 2009).

With respect to the rejecting Classes, the Plan does not unfairly discriminate against claims of equal legal priority. As described above in detail, legitimate business and other reasons exist for separate classification and separate treatment, including that certain non-Estate contributions are available only for Abuse Claims, and no class that considers itself discriminated against is receiving less than it would receive in a hypothetical chapter 7 case. Additionally, the proposed payments and/or contributions for different classes (primarily Classes 1, 3, and 6 versus Classes 4 and 5) are coming from different sources, meaning separate classification is not inappropriate. Accordingly, the Plan does not discriminate unfairly against such Classes.

2. The Plan is Fair and Equitable With Respect to the Rejecting Classes.

For a plan to be "fair and equitable" with respect to an impaired class of unsecured claims or interests that rejects a plan (or is deemed to reject a plan), the plan must follow the "absolute priority rule" and satisfy the requirements of section 1129(b)(2) of the Bankruptcy Code. *See* 11 U.S.C. §§ 1129(b)(2)(B)(ii), (b)(2)(C)(ii); *see also Bank of Am. Nat'l Tr. & Sav. Ass'n*, 526 U.S. at 441–42. Generally, this requires that the impaired rejecting class of claims or interests either be paid in full or that any class junior to the impaired rejecting class not receive any distribution under a plan on account of its junior claim or interest. In addition, for a plan to be "fair and equitable," no class of claims or interests senior to the impaired dissenting class is permitted to receive more than the full value of its senior claims or interests under the plan. *See In re Outlook/Century, Ltd.*, 127 B.R. 650, 656 (Bankr. N.D. Cal. 1991).

The cramdown requirements of section 1129(b)(2)(B) are analyzed differently in cases involving nonprofit debtors. The Ninth Circuit has held that the absolute priority rule does not bar confirmation where those in control of a nonprofit debtor do not own its assets in the way a for-profit equity owner does. *See Teamsters*, 265 F.3d at 874-75 ("Where control [of a non-profit entity] does not convey the ability to make commercial decisions that generate profits or corporate ownership, there is no property retained on account of an equity interest and therefore no absolute priority problem."); *In re Indian Nat'l*

Finals Rodeo, 453 B.R. 387, 403 (Bankr. D. Mont. 2011) ("The absolute priority rule of 11 U.S.C. § 1129(b)(2)(B)(ii) does not apply to non-profit entity."; *see also Matter of Wabash Valley Power Ass'n, Inc.*, 72 F.3d 1305, 1320 (7th Cir. 1995) (control of a nonprofit is not akin to an equity interest because there is no ability for those in control to generate or share profits). Courts in both Chapter 11 and Chapter 9 cases have consistently applied this principle. *See In re Whittaker Mem'l Hosp. Ass'n, Inc.*, 149 B.R. 812, 816 (Bankr. E.D. Va. 1993) ("[t]he present group retaining control over the debtor entity does not give them anything, certainly not a favored position" over creditors); *In re Corcoran Hosp. Dist.*, 233 B.R. 449, 458-59 (Bankr. E.D. Cal. 1999) (same).

The same analysis applies here. Bishop Barber and his leadership team will remain in control of the Debtor's assets after confirmation, but none of these individuals profit from that retention of assets or the continued operation of the Debtor. The Debtor will continue to carry out its nonprofit religious mission for the East Bay community. Because no party with an equity interest is receiving or retaining property under the Plan, the absolute priority rule is satisfied.

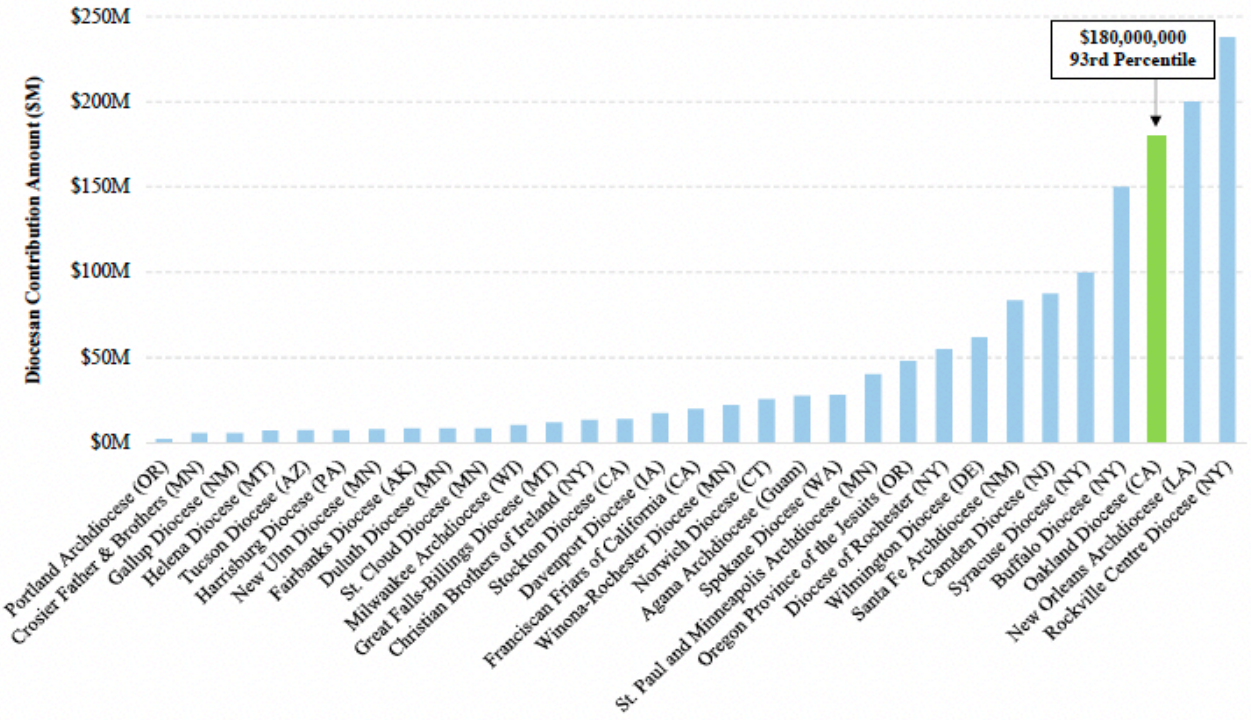
The Plan also satisfies the "honest effort" standard applicable to nonprofit debtors. *See Teamsters*, 265 F.3d at 877. The evidence will establish that the Debtor has committed the maximum amount it can contribute while continuing its mission. Mr. Flanagan testified that the Debtor "does not have the ability to borrow more funds than the 55 million kind of currently contemplated" (Flanagan Dep. 34:8–12), and Mr. Moore's analysis demonstrates that most alternative exit-financing scenarios would result in negative unrestricted cash or cash below the minimum liquidity threshold of $3 million through 2030. Moreover, the $150 million commitment from the Debtor is unconditional regardless of what any particular property sells for. (Moore Dep. 185:21–23: "Q. The 150 is the commitment no matter what property sells for good or bad? A. Correct.").

With respect to distributions, the Plan ensures that all Abuse Claimants will be entitled to a recovery through the Survivors' Trust, using a trust mechanism that courts have approved in similar diocesan cases. *See In re Diocese of Camden, N.J.*, 653 B.R. 309, 340 (Bankr. D.N.J. 2023) (holding that a similar trust payment system "ensured that Survivors themselves are treated equally and fairly"). On this point, as set forth above, Mr. Bardos will testify that the Plan was designed to create an equitable way to

distribute the Survivors' Trust to survivors while ensuring fairness in the litigation process. (Bardos Insurer Dep. 114:24-115:3; 112:22–113:4). The Plan creates a point-based scoring system administered by an independent Abuse Claims Reviewer, ensuring distributions are allocated based on objective criteria—severity, duration, and impact of abuse—rather than arbitrary or first-come-first-served considerations. For claimants who elect the Litigation Option, the Plan separately provides "a level playing field and fair rules for both the insurers and for the claimant." (Bardos Insurer Dep. 131:25-132:2). Importantly, the choice of whether to pursue litigation against non-settling insurers belongs solely to the individual claimant: "Q. Does anybody get to make any decisions under the debtor plan about who gets to sue the insurers, except for the claimants? A. Just the claimants." (Bardos Insurer Dep. 200:15-19).

In addition to the foregoing, the Debtor will establish at the Confirmation Hearing, primarily through the testimony of Dr. Denise Martin, that the contributions in the Plan compare extremely

Figure 1
Diocesan Contribution (Nominal)
Confirmed & Pending Joint Plans (N = 30)
2005-2026

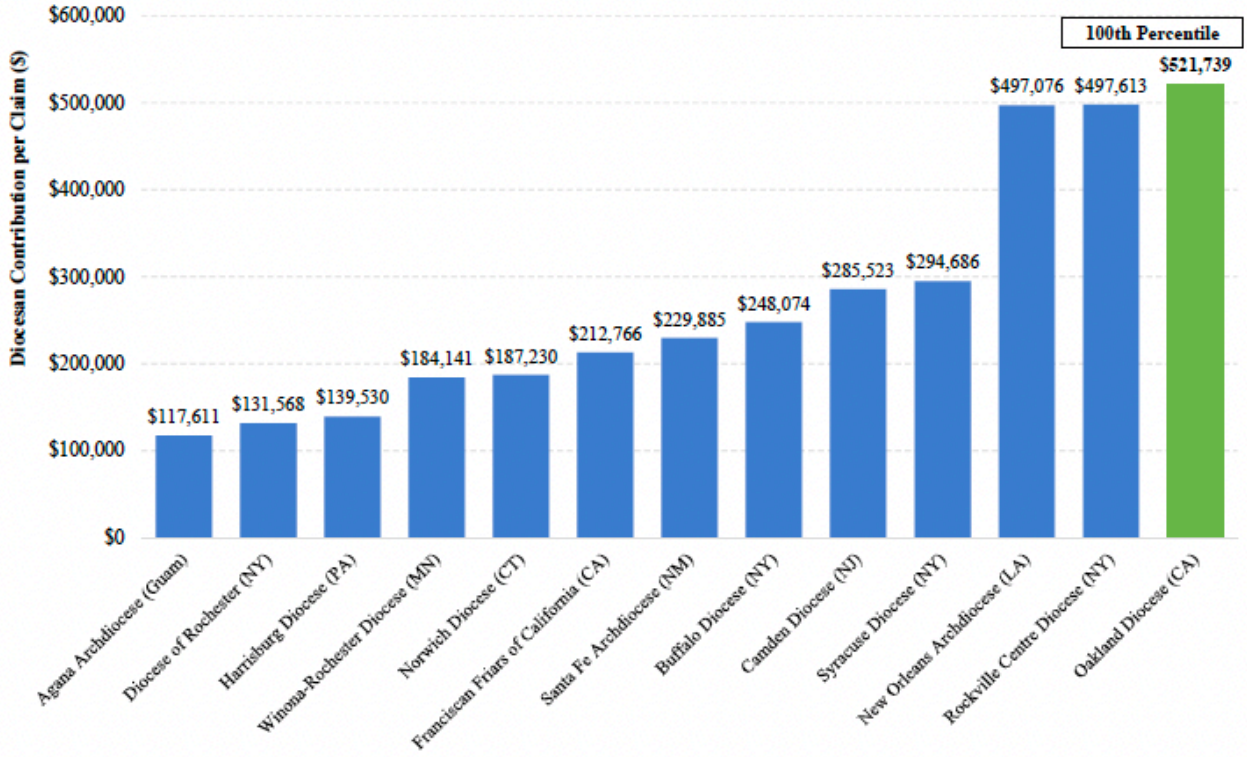


Notes and Sources:
Data are from disclosure statements, plans of reorganization, voluntary petitions, and other legal filings from the bankruptcy docket for each case. News articles were used to supplement missing or unclear information.

favorably to other diocesan or religious order bankruptcy cases. Dr. Martin, who has analyzed the outcomes in diocesan and religious-order bankruptcies across the country, will testify that when compared to approximately 30 different confirmed plans of reorganization or pending joint plans spanning 2005 through 2026, the proposed combined contribution of RCBO and RCWC ($180 million) under the Plan is higher than that of 28 of the 30 cases analyzed, placing it at the 93rd percentile in both nominal and inflation-adjusted terms. The chart below is taken directly from her expert report and largely mirrors the analysis provided by the Debtor in its Disclosure Statement:

Dr. Martin will further testify that when limited to the 12 most recent plans confirmed or agreed upon in the last five years (2021–2026), the RCBO per-claim contribution is at the 100th percentile in both nominal and inflation-adjusted terms. The average per-claim contribution for those 12 recent plans

Figure 7
Diocesan Contribution per Claim (Inflation-Adjusted)
Recent Confirmed & Pending Joint Plans (N = 12)
2021 to 2026



Notes and Sources:
Data are from disclosure statements, plans of reorganization, voluntary petitions, and other legal filings from the bankruptcy docket for each case. News articles were used to supplement missing or unclear information.

was $241,000 nominally and $252,000 inflation-adjusted—meaning the RCBO contribution per claim is more than double the recent average.[8] The chart below is taken directly from her expert report and again largely mirrors the analysis provided by the Debtor in its Disclosure Statement:

> Ultimately, her testimony will conclude that the contributions under the Plan provide economically reasonable compensation to claimants, particularly when viewed against the recoverable assets calculated by Mr. Moore, and that the outcome does not meaningfully change if the proposed RCWC contribution ($30 million) is not included. Given that her analysis relies on either confirmed plans of reorganization or pending joint plans where the Debtor and Committee have agreed to the proposed contributions, that analysis uses the most salient data points for comparison and should be considered authoritative in the context of the Plan and its proposed outcome. Moreover, it does not account for the value of the insurance assignment and Litigation Option, which the Committee's expert has conceded could be "quite valuable," as discussed below. In sum, when coupled with the testimony of Mr. Bardos, who testified specifically that the Plan's "spirit and intent" was "to come up with an equitable way to distribute the Survivors' Trust, uh, to the survivors, and put all kinds of definitions to keep it fair and, um, equitable," (Bardos Insurer Dep. 114:24-115:4), and viewed in the context of the underlying purpose of bankruptcy cases, generally, the Plan is fair and equitable with respect to Classes 4, 7A, and 7B and satisfies the requirements of section 1129(b).

C. <u>The Plan is the Only Plan for Purposes of Section 1129(c)</u>

Section 1129(c) of the Bankruptcy Code provides that the bankruptcy court may confirm only one plan. 11 U.S.C. § 1129(c). The Plan is the only plan currently before the Court and is the result of significant efforts, including months of mediation and litigation over the last 3 years. Section 1129(c) is satisfied.

[8] In response to Ms. McNally, if necessary and among other things, Dr. Martin will further testify that a tort-based approach (unlike a bankruptcy-based approach) dramatically overstates the alleged "value" of the claims by ignoring recoverable assets and insolvency, the driving factor behind all or virtually all diocesan or religious-order bankruptcy cases.

D. The Plan's Principal Purpose is Not Avoidance of Taxes or Section 5 of the Securities Act as Prohibited by Section 1129(d)

Section 1129(d) states that "the court may not confirm a plan if the principal purpose of the plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933." 11 U.S.C. § 1129(d). The purpose of the Plan is not to avoid taxes or the application of section 5 of the Securities Act of 1933. Plan § 3.2 contemplates the payment of all Allowed Priority Tax Claims. Moreover, no party has requested that the Court decline to confirm the Plan on the grounds that the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933. Therefore, the Plan satisfies the requirements of section 1129(d).

E. Section 1129(e) of the Bankruptcy Code Does Not Apply to the Plan

The provisions of section 1129(e) apply only to a "small business case" as defined therein. 11 U.S.C. § 1129(e). The Debtor's case is not a "small business case." Accordingly, section 1129(e) does not apply to the Plan.

F. No Legitimate Alternative Exists to the Plan.

The only realistic alternative to confirmation of the Plan is dismissal of this Chapter 11 Case. The Committee has said so itself. On April 24, 2026, the Committee withdrew its own proposed plan of reorganization—a plan it had filed barely seven weeks earlier—and declared that "dismissal of this Chapter 11 Case to allow Survivors to pursue their state law rights is a far more fair and equitable method to resolve Abuse Claims than what is proposed in the Diocese Plan, or even in the Committee Plan." *See* Committee Withdrawal, Docket No. 2854 at 2. The Committee's objection to the Plan does not propose confirmation of a different plan. It proposes that no plan be confirmed at all. This Court should understand what that means for the people this case was filed to protect.

1. Dismissal Guarantees Inequitable Results for the Majority of Survivors.

If the Plan is not confirmed, the Debtor will seek dismissal. Dismissal returns all parties to the positions they occupied on May 8, 2023—the Petition Date. More than 330 Survivors will reenter the state-court system, each holding an individual lawsuit, each waiting for a trial date, and each competing

against every other claimant for recovery from the same finite pool of assets (at least with respect to the Debtor).

This is not a theoretical concern. The Woodall trial produced a $16 million verdict against the Debtor. If claims are worth anything close to what that verdict suggests, using the Committee's own experts, approximately thirty claimants—fewer if some verdicts are higher—could exhaust the Debtor's assets entirely. That leaves hundreds with nothing from the Debtor. The math does not change regardless of how one values the Debtor's real estate; whether it is worth $180 million or $800 million, individual verdicts at Woodall levels would consume the estate long before the last claimant reaches trial.

The Plan eliminates this problem by pooling contributions into a Survivors' Trust that distributes equitably to all Survivors regardless of when their claims are processed. Even the Committee acknowledges this result. Its own corporate representative confirmed that under the Plan, "each holder of a Class 4 claim would receive a distribution ... in one form or another." (Babcock Committee 30(b)(6) Dep. 201:19–22.). Every Survivor also retains the right to pursue insurance recovery through the Litigation Option, should they so choose. No claimant is left behind because another got to trial first. Upon dismissal, by contrast, there is no mechanism ensuring equitable treatment, no trust, no pooling of assets, and no guarantee that any particular Survivor will recover anything from the Debtor.

2. The Committee's Argument that Insurance Solves the Dismissal Problem is Already Addressed through the Litigation Option.

The Committee's sole answer to the dismissal problem is that insurance exists. This is true but irrelevant. Insurance is already addressed under the Plan—and addressed more effectively than it would be upon dismissal. Under the Plan, every Survivor who elects the Litigation Option may proceed to state court, obtain a judgment against the Debtor as a nominal defendant, and then pursue that judgment against the responsible Non-Settling Insurers. No gatekeeper stands between the claimant and the courthouse. No Survivors' Trustee must "authorize" the pursuit. No one decides for the claimant whether the claim is worth pursuing. The claimant decides. That is the system the Committee claims to want—"Survivors pursuing their state law rights"—and it is precisely what the Plan provides.

Upon dismissal, by contrast, the pursuit of insurance is neither organized nor equitable. Each claimant must individually prove liability, prove coverage, and potentially prove bad faith—a process that may take years, cost substantial sums, and offers no guarantee of recovery. Meanwhile, those who reach the courthouse first will deplete both the Debtor's assets and (potentially) its insurance coverage, leaving those at the back of the line—again, the majority—with diminished or nonexistent asset pools. The Plan avoids this outcome by preserving insurance rights while simultaneously providing certain cash distributions from the Survivors' Trust in the interim time period. Dismissal provides neither.

3. Liquidation under Chapter 7 of the Bankruptcy Code is Not Available.

The Committee has at times gestured toward liquidation as a possible outcome. It is not. Under 11 U.S.C. § 1112(c), a debtor that is "not a moneyed corporation" cannot have its case converted to chapter 7 without the debtor's consent. The Debtor is a non-profit religious corporation sole. It is not a moneyed corporation. It will not consent to conversion; thus, Chapter 7 is legally unavailable. This means there is no hypothetical in which a chapter 7 trustee marshals and distributes the Debtor's assets. The only alternatives are confirmation or dismissal. And upon dismissal, there is no trustee, no orderly process, no equitable distribution mechanism, and no channeling injunction to protect any party. There is only the tort system—and the certainty that those who get there first will take what others never receive.

4. A Second Bankruptcy Filing Post-Dismissal Would Yield Less for Unpaid Survivors.

The Debtor has previously informed this Court that if the case is dismissed, it anticipates filing again—but with fewer assets, probably a similar number of claims, and diminished operations. This is not a threat. It is an arithmetic inevitability. During the hearing on April 29, 2026, the Court and Debtor's counsel discussed this issue openly:

> THE COURT: So I mean, this is circular. We dismiss the case. They get all these verdicts. You come back to the bankruptcy court to figure out. Now, we have a numerator and denominator. Right.
>
> MR. MOORE: Well, I mean --
>
> THE COURT: I mean, it wouldn't necessarily be the end of bankruptcy utility.
>
> MR. MOORE: Except that there are claimants in between then and now that start to try and execute judgments and take assets.
>
> THE COURT: Yeah.
>
> MR. MOORE: And the diocese, as a religious organization, can't fulfil (indiscernible)

> THE COURT: But my point is I think sympathetic to yours, that if there's six billion dollars of claims and there aren't six billion dollars of assets, we still need a collective remedy.

Transcript of Proceedings dated April 29, 2026 ("Apr. 29 Tr.") at 82:19-83:10. Dismissal is the opposite of a collective remedy; it is every man or woman for themselves in an environment where each is incentivized to maximize their own recovery. Moreover, between the Petition Date and the present, the Debtor has incurred tens of millions of dollars in administrative expenses. Its cash position has deteriorated. Judgment creditors who recover assets in the interim period between dismissal and a potential refiling will have removed those assets permanently from the pool available to other claimants.

A second filing offers no advantage to anyone. It offers only a repetition of the same process at greater expense, with fewer resources, and with the additional inequity of knowing that some claimants recovered while others did not. The Plan avoids this outcome entirely by resolving all claims now, through a single mechanism, with committed funding from cooperating entities.

5. Confirmation is the Only Viable Path Forward.

This case presents a binary choice. The Plan provides $180 million in committed contributions, $47.7 million on the Effective Date, deeds of trust securing post-Effective Date payments, assignment of the Restricted Assets Adversary Proceeding to the Survivors' Trust (preserving its upside for claimants), and a Litigation Option available to all—without exception, without gatekeeping, and without delay. If the Plan is confirmed and goes effective, distributions to creditors can begin within a matter of months, earlier for those that elect to receive an Immediate Payment. Dismissal provides none of these things. It provides only the certainty that some claimants will recover at the expense of others, and the near-certainty that the Debtor will be back in this Court within months or years, in a weaker position, to begin again.

The Committee's endorsement of dismissal is not a legal argument. It is an admission that the Committee cannot propose a confirmable alternative and would rather see its own constituents cast back into the litigation wilderness than accept a plan that delivers record recoveries without the Committee's imprimatur. This Court should not reward that choice. The Plan should be confirmed.

IV.

OMNIBUS RESPONSE TO OBJECTIONS

To the extent not consensually resolved prior to the Confirmation Hearing, the Committee Objection, the UST Objection, and the Insurer Objections, including the Federal Companies Objection, the Travelers Objection, the LMI Objection, the Westport Objection, and the Pacific Insurers Objection, should be overruled for the reasons set forth below.

A. The Committee's Objection Should be Overruled on the Merits.

1. The Plan Was Proposed in Good Faith.

The Committee contends that the Plan was not proposed in good faith because, among other things, the Debtor allegedly fails to maximize estate value and has "unilaterally declared" certain assets "off-limits" to Survivors. The Committee's arguments are misplaced. Section 1129(a)(3) focuses on whether the Plan was proposed with a legitimate reorganizational purpose and not by any means forbidden by law; it is not a free-ranging inquiry into whether an objecting constituency believes the Debtor should contribute still more value or allocate assets differently. *See Garvin v. Cook Invs. NW, SPNWY, LLC*, 922 F.3d 1031, 1034-35 (9th Cir. 2019) (The Ninth Circuit "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); *see also Hamilton v. Elite of L.A., Inc. (In re Hamilton)*, 803 F. App'x 123, 129 (9th Cir. 2020) (noting that "[t]he mere fact 'that a debtor proposes a plan in which it avails itself of an applicable Code provision does not constitute evidence of bad faith'. There must be more."); *see also In re BSA*, 642 B.R. 504, 645 (Bankr. D. Del. 2022) ("courts look at whether the plan was proposed honestly and with a basis for believing that a reorganization can be achieved focusing more on the process of developing the plan than the contents."). The Debtor has engaged in years of arm's-length negotiations and mediation with the Committee, affiliated missions of the Debtor, the Non-Settling Insurers, and other stakeholders to develop a Plan that resolves Abuse Claims through the Survivors' Trust, provides substantial contributions from the Debtor, affiliated entities, and the insurance assignment, and preserves the Debtor's ability to continue its religious and charitable missions. The Plan reflects a legitimate and honest effort to reorganize, balance competing

stakeholder interests, and achieve the objectives of chapter 11. Accordingly, the Plan was proposed in good faith and not by any means forbidden by law.

The Plan is intended to balance the objectives of providing fair compensation to survivors and allowing RCBO to continue to serve its mission. Throughout this case, Bishop Barber, with the advice of his advisors, has made good-faith decisions about what is needed to serve the mission. This is exactly the purpose of chapter 11, as the Committee acknowledges. A disagreement about how much should be made available to creditors cannot be twisted into evidence of bad faith or a lack of good faith. This is not a Chapter 9 case, but to the extent such cases are analogous, the Committee's cases do not support their position here.

2. The Plan Satisfies the Best Interests Test.

The Committee objects that the Plan does not satisfy the best interests test, arguing that the Debtor's liquidation analysis understates estate assets and inflates hypothetical chapter 7 administrative expenses. This objection, too, is without merit. The Debtor has never taken the position that section 1129(a)(7) does not apply; any suggestion otherwise is a complete red herring. The Debtor's liquidation analysis properly reflects the value of estate assets and the costs that would be incurred in a hypothetical chapter 7 liquidation. As the Ninth Circuit has recognized, a debtor need only include in its liquidation analysis assets that could actually be liquidated under applicable law. *See Teamsters*, 265 F.3d at 877 (determining that certain assets—a collective bargaining and rights to collect future member dues—that could not be liquidated to pay off creditors, need not be included in a liquidation analysis). As such the test must consider what could actually occur in a hypothetical liquidation; therefore, if a chapter 7 trustee could not force the sale of individual churches, those churches should not be included as realizable value in the liquidation analysis.

The Committee's authorities concerning church property do not change that result because they address whether a creditor may attach church property to satisfy a judgment, not whether a chapter 7 trustee would liquidate operating churches as part of the hypothetical liquidation required under section 1129(a)(7). In any event the Plan provides a better recovery even if all real property is included in the liquidation analysis. The Committee also ignores the substantial value contributed under the Plan from

sources that would not be available in a chapter 7 liquidation, including Debtor property-sale proceeds, affiliated-entity contributions, and the insurance assignment that facilitates the Litigation Option. The Committee likewise does not provide any meaningful analysis showing that hundreds of personal injury tort claims could be liquidated in chapter 7 at materially lower cost. Any such assumption would appear to depend on all plaintiffs agreeing to a scoring system comparable to the one proposed under the Plan—an unsupported premise that cannot carry the Committee's objection. Indeed, the Committee's own expert, Paul Shields, did not even attempt to quantify the costs of defending (*i.e.*, liquidating) abuse claims in a conversion scenario. At his sworn deposition, Mr. Shields testified:

> Q For incremental costs, you assumed--incremental litigation costs, you assumed there would be none other than the Chapter 7 trustee fees and trustee's professional fees; is that right?
>
> A That's correct.

(Shields Dep. 230:9-14). He later reiterated that where Mr. Moore's analysis included incremental litigation costs associated primarily with the defense and liquidation of abuse claims, he did not. (*Id*. at 233:17-20). When asked how a chapter 7 trustee would liquidate claims under his hypothetical conversion scenario, Mr. Shields indicated "I don't know what that would look like or have not prepared any opinions relating to that." (*Id*. at 235:21-22).

Finally, the Plan does not "wall off" assets from creditors; rather, the Debtor has committed meaningful assets to the Plan, including the Debtor-owned portions of thirteen real property locations on which Churches or pastoral centers currently operate either as primary or secondary locations, twelve vacant real estate parcels, vacant portions of eighteen real estate parcels, five residential homes, and the Livermore Property. These commitments, together with the other Plan contributions, demonstrate that holders of Abuse Claims and holders of General Unsecured Claims will receive more value under the Plan than in a hypothetical chapter 7 liquidation. The Plan satisfies the best interests test.

3. The Plan Satisfies Section 1129(a)(10).

The Committee objects that the Plan does not satisfy section 1129(a)(10) because Classes 1 and 3 are allegedly "artificially impaired" and Class 6 allegedly contains no valid claims. The Committee's objection is without merit. Class 1 and Class 3 are each legitimately impaired under the Plan. Class 1 (the RCC Secured Claim) is impaired because RCC is not receiving full payment of default interest and late

payment fees, and the Bankruptcy Code's definition of "insider" does not include RCC. Class 3 (General Unsecured Claims) is impaired because holders will receive payment over time rather than immediately on the Effective Date; moreover, after any appropriate cleanup of the Class 3 votes, Class 3 will still accept the Plan. Paying Class 3 Claims over time (rather than immediately) is part of what allows the Debtor to provide $40 million to the Survivors' Trust on the Effective Date while also addressing Claims with higher priority, which are substantial. Nor is there any basis to disregard Class 5: the order appointing Hogan as Unknown Abuse Claims Representative authorizes him to vote on behalf of holders of Unknown Abuse Claims. In any event, regardless of the Committee's challenges to Classes 1, 3, and Class 6 (Non-Abuse Litigation Claims) are each impaired classes that accepted the Plan, without including the acceptance of any insiders. Accordingly, the Plan satisfies section 1129(a)(10).

4. The Plan Satisfies Section 1129(b).

The Committee contends that the Plan does not satisfy section 1129(b) because the Debtor allegedly fails to maximize estate value, the liquidation analysis is flawed, the Debtor has "manufactured" impaired consenting classes, and the Debtor retains substantial assets while Survivors receive inadequate compensation. The Committee's objections are without merit. As set forth above, the Plan satisfies the best interests test and was proposed in good faith. The Plan does not discriminate unfairly against Class 4 because all Abuse Claims are treated equally and receive their *pro rata* share of the Survivors' Trust Assets.

Taking the last argument first—the "manufactured" class issue has already been addressed above or will be in the context of the Committee's Designation Motion, which takes square aim at "yes" votes that the Committee wants to selectively eliminate. Further, the Plan is fair and equitable because: (i) holders of Class 4 Abuse Claims will receive distributions from the Survivors' Trust funded by substantial contributions from the Debtor, affiliated entities, and insurance settlements; (ii) no holder of any Claim or Interest junior to Class 4 will receive or retain any property under the Plan on account of such junior Claim or Interest; and (iii) the Debtor, as a nonprofit religious corporation, has no equity holders who would receive distributions ahead of creditors.

a. The Absolute Priority Rule is Inapplicable.

The Committee's reliance on the absolute priority rule is misplaced; as the Ninth Circuit held in *Teamsters*, the absolute priority rule does not apply in the traditional sense to nonprofit debtors because those who control the debtor do not own its assets in the way a for-profit equity owner does. *Id.* at 877. The Seventh Circuit reached the same conclusion in *Matter of Wabash Valley Power Ass'n, Inc.*, 72 F.3d 1305, 1320 (7th Cir. 1995), holding that control of a nonprofit is not akin to an equity interest because there is no ability for those in control to generate or obtain a share of the profits. Accordingly, the Plan satisfies section 1129(b).

The Committee offers no authority for treating a reorganizing nonprofit debtor's retention of property needed to operate as equivalent to a junior class of interest holders retaining property on account of their interests. That theory would prove far too much: every chapter 11 debtor that reorganizes as a going concern retains property necessary to operate post-confirmation, and the absolute priority rule does not bar confirmation on that basis. As the court held in *In re Whittaker Memorial Hospital Ass'n, Inc.*, 149 B.R. 812, 816 (Bankr. E.D. Va. 1993), "[t]he present group retaining control over the debtor entity does not give them anything, certainly not a favored position" over unsecured creditors). The Committee's limited authorities, including the HOA case, are materially distinguishable and do not support extending the absolute priority rule to prevent this nonprofit Debtor from retaining property necessary to continue its religious and charitable missions. Nor could the Debtor's retention of mission-critical property be treated as a distribution to an interest holder when the Debtor has no equity holders receiving or retaining property on account of an equity interest.

b. The Committee's Expert Testimony Does Not Support Its Contention that the Debtor Can and Should Pay More.

The Committee's primary attack on the Plan remains that it provides inadequate compensation to Survivors. But in the absence of a competing plan, the Committee has not identified what "adequate" would look like—and its own corporate representative explained why. When asked at first his sworn deposition what amount the Committee believes the Debtor should contribute, Mr. Babcock testified:

Q. What is the amount the committee believes the debtor is able to do?

A. The committee doesn't have an amount.

> Q. How is -- how is the debtor to know? How is RCBO to know what amount will satisfy the committee so that there could be consensus?
>
> A. The committee is open to review any additional information the debtor would like to provide, but the committee does not have an amount.

(Babcock Dep. 159:16–25.) (cleaned up). Pressed further, Mr. Babcock reiterated:

> Q. ... if it doesn't have a number, how—how does the committee want the debtor to respond?
>
> A. …there's not a number the committee has.

(Babcock Dep. 166:7-22) (cleaned up). Mr. Babcock candidly explained the reason:

> A. I mean, I think, ultimately, and not to be flippant, but there is no amount of money that is enough for survivors to repair what's been done. But the committee is working and available and willing to consider additional information.

(Babcock Dep. 185:12–17.). His testimony remained the same in his second deposition. The Debtor does not quarrel with the underlying sentiment—Bishop Barber testified similarly that, although the Debtor seeks to help survivors heal through compensation, it has taken into consideration that "some victims said 'No amount of money will -- will heal us.'" (Barber Dep. 178:7-9). But section 1129(b) does not require the impossible. It requires an honest effort to satisfy the demands of creditors within the constraints of the Debtor's actual financial capacity. *See Teamsters*, 265 F.3d at 877. And the evidence will show that the Debtor has committed the maximum it can contribute. The $150 million is unconditional. The exit facility represents the outer boundary of what the Debtor can service (when viewed in the context of prior secured borrowing). There is no additional lever to pull. The Committee's demand for "more," unaccompanied by any identification of how much more or from what source *after withdrawal of the Committee Plan*, is not a basis for denying confirmation. It is an expression of dissatisfaction—understandable, deeply human, but not a legal standard this Court can enforce.

In support of its demands, it appears that the Committee will offer the testimony of Mr. Shields, discussed above, and Katheryn McNally, a claims-valuation expert that has analyzed the value of similar claims in multiple prior cases, always on the side of the claimants as represented by either a specific tort committee or the official committee of unsecured creditors.

Regarding Mr. Shields, his sworn deposition testimony establishes that he has never previously offered opined about what is fair and equitable in a bankruptcy case, (Shields Dep. 54:14-21), and his analysis here was facially circular: he calculated that the Debtor could pay more—by, in part, closing more churches—so it should pay more in order for the Plan to be fair and equitable. (*Id*. at 51:24-52:13).

He also admitted that in determining that the Debtor could pay more, he did not consider the value of the insurance assignment that allows for the Litigation Option, something he admitted could be "quite valuable." In fact, Mr. Shields conceded that the Litigation Option could allow claimants with fully covered claims to be made whole:

> Q Right. But assuming the policies covered the loss, and assuming the insurers have the wherewithal, that's certainly a possibility, that they get some money from -- a decent amount of money from RCBO, and then they also get, as part of the consideration, the right to pursue insurers for all of the rest?
>
> [counsel objection]
>
> A I suspect it could be a possibility.

(*Id*. at 100:16-25) (cleaned up). However, while recognizing the potentially immense value of the insurance assignment, Mr. Shields did not include that assignment in his analysis at all:

> Q You've attributed zero value to [the insurance assignment]?
>
> A I have not done that analysis, that is true.
>
> Q And for purposes of giving the RCBO, you know, credit for what it's contributing under the plan, you've attributed zero to the litigation option?
>
> A It just wasn't part of my analysis. I don't know how else to say it.
>
> Q Right. But so you, as you say RCBO could give more, you're not taking into account that it's already giving the claimants the litigation option?
>
> A Sure. You say I'm attributing zero value. I'm not -- I'm just saying it wasn't an issue I addressed, so I'm not -- that almost makes it sound like I'm opining there's zero value. I'm just saying I didn't -- I didn't consider it in the analysis. It wasn't part of my engagement.
>
> Q You recognize as you sit here today it actually is quite valuable, right, that litigation option?
>
> A Yes, potentially it could be.

(*Id*. at 104:2-24). Ultimately, Mr. Shields' contention that the Debtor can and should contribute more ignores the testimony from others that the Debtor has already committed the maximum amount it can contribute while continuing its mission. Mr. Flanagan has testified and will testify that the Debtor "does not have the ability to borrow more funds than the 55 million kind of currently contemplated," (Flanagan Dep. 34:8–12), and Mr. Moore's expert analysis and testimony demonstrate that most alternative exit-financing scenarios would result in negative unrestricted cash.

The Committee's remaining expert fares no better. For her part, in this case Ms. McNally was retained by the Committee to calculate an overall "face value" of the Survivors' claims against the Debtor, determining that the claims are "worth" more than $420,566,040 in the aggregate. In so doing, Ms.

McNally couches her own analysis as "estimat[ing] the face value of the claims. It does not estimate the amounts that may ultimately be paid because of insufficient assets to fully pay the face value of the creditor claim." (McNally Dep. at 177:14-18). When challenged to define the scope of her opinion, Ms. McNally conceded that her opinion: 1) does not address the central issue: whether the Plan is fair and equitable, (*Id*. at 176:11-14); 2) does not attempt to quantify what Survivors should receive, (*Id*. at 178:21–24); and 3) does not address what Survivors would otherwise receive in a dismissal scenario. (*Id*. at 176:18-22). Moreover, she conceded on three separate occasions that sexual abuse claims in bankruptcy are not paid in full. (*See id*. at 60:25-61:9: Acknowledging that she excluding bankruptcy outcomes from her analysis because "Generally, sexual abuse claims resolved in bankruptcy are paid an amount that is a fraction of the size of the creditor claims" and she "understand[s] that in a bankruptcy context, creditor claims are often funded at less than 100 percent"; *id*. at 31:4–6: "I don't know the percentage, but I would agree that generally in bankruptcy cases that creditors are paid a fraction of the claim value."); 122:5–7: "I agree that it's typical that creditors do not receive 100 percent of their face value or allowed claim amount."). When coupled with the admission that she did not look at who will fund ultimate recoveries to claimants or how they would be funded, (*id*. at 108:23-109:8), her analysis of "face value" has no probative value or applicability to what is actually before the Court.

Moreover, the analysis itself is fundamentally flawed. Unlike past cases where Ms. McNally has testified and included multiple different forms of inputs into her analysis, here she looked solely at prior settlements that RCBO entered into with certain claimants. Of those settlements, she ignored one "bucket" of 8, excluding them because they occurred prior to the first California revival window (and were significantly lower in amount), then included 54 settlements in the late 2000s and another 8 after the second revival window in 2020. All-told, she calculated that the 62 settlements she used yielded an inflation-adjusted average of approximately $1,523,790. She then adjusted that amount downward by 20% to account for other responsible entities, using the resulting average of $1,219,032 as her per-claim number in order to reach the approximately $420 million "face value" of the claims.

The problems with this approach are legion and discussed further in the *Debtor's Motion to Strike Expert Report of Katheryn McNally and Exclude Related Testimony* [Docket No. 3064]. Suffice on most

to say they probably contribute to her admission that no court has ever accepted either her methodology or valuation in any case to date. (McNally Dep. 28:3–8 ("Q: As we stand here today, can you identify a single matter in which a court has adopted your methodology or your valuation figure? A: I cannot.)). And the outcomes in other cases explain why: in the BSA case, Ms. McNally opined that the value of a *subset* of the abuse claims was between $24.76 billion and $30.41 billion. The confirmed plan in that case established a trust funded with $2.4 billion to $3.6 billion, approximately 10% of Ms. McNally's values. Similarly, in the *Camden* bankruptcy, Ms. McNally opined that abuse claims were worth approximately $1.23 million to $2.4 million each, where the ultimate outcome allocated $270,000 each from the debtor and $587,000 (after adjusting from inflation) if the insurers are included. Ms. McNally's "understanding that in a bankruptcy context, creditor claims are often funded at less than 100 percent" (*id.* 61:7-9) is informed by her own testimony.

Here, there is a much more fundamental problem with her analysis: while it is based on historic RCBO settlements, it ignores critical context, namely that 55% of the 54 settlements from the late 2000s (approximately $31 million out of $56.4 million) was paid for by insurance.[9] If Ms. McNally's analysis is adjusted to account for this fact—and does not just attempt to calculate a "face value"—her approximately $1.219 million per-claim value from *all sources* becomes $590k, much closer to the amount proposed in the Plan and before accounting for the insurance assignment and the Litigation Option. In other words, when Ms. McNally's own historical settlement data is corrected to reflect the actual source of funds, the resulting per-claim figure is remarkably close to the $522,000 per-claim contribution under the Plan—a figure that Dr. Martin has shown exceeds 100% of comparable diocesan settlements.

5. The Committee's Preferred Outcome (Dismissal) is a Disaster for Survivors.

Dismissal would be return to a first-come, first-served litigation race in which the timing of a Survivors' trial—not the merits of the Survivors' claim—would determine who recovers from limited assets and insurance. More than 330 Survivors would be sent back to state court, where only one trial against the Debtor has occurred, no additional trials are scheduled in 2026, and only five are scheduled for 2027. At that pace, many Survivors could wait years or decades before reaching trial, and some may

[9] RCBO App. Ex. 19.

never recover at all from the Debtor because earlier judgments could consume its recoverable assets before later claimants are heard.

The Plan avoids that inequitable outcome. It establishes a Survivors' Trust funded with not less than approximately $180 million over three and one-half years, including not less than approximately $47.7 million on the Effective Date, and provides a mechanism for all Survivors to receive distributions from the Trust. It also preserves the ability of Survivors who elect the Litigation Option to pursue additional and available recoveries from applicable insurance, without requiring Survivors to obtain permission from the Survivors' Trustee or compete for priority in a state-court queue.

The Committee's dismissal theory also ignores the sacrifices already embedded in the Plan. The Debtor has committed to using not less than 48 parcels of real estate to fund Plan obligations, including vacant parcels, vacant portions of parcels, residential homes, and Debtor-owned portions of locations on which Churches currently operate. Some of those sales involve painful decisions affecting active ministry locations and parishioners, but the Debtor is making those sacrifices voluntarily to fund survivor recoveries through a confirmed plan.

In short, dismissal would destroy value, delay recoveries, and create fundamentally unequal treatment among Survivors based solely on litigation timing rather than the merits of their claims. Confirmation, by contrast, provides a funded trust, an orderly claim-review process, the opportunity for insurance recoveries, and a path for all Survivors—not merely the first few claimants to reach judgment—to receive meaningful compensation. The Committee's preferred outcome should therefore be rejected.

B. <u>The Committee's Objection and Preferred Outcome Ignore First Amendment and Religious Freedom Restoration Act Considerations</u>.

1. Federal Law Prevents this Court from: i) Ordering the Sale of Churches Necessary for Religious and Spiritual Purposes and ii) Dismissing this Bankruptcy or Denying the Debtor Rights Otherwise Available to a Debtor on this Basis.

In the Committee Withdrawal notice, the Committee withdrew its competing plan, stating its belief that this Chapter 11 Case should be dismissed. A key reason for this belief is that the Committee believes that outside of bankruptcy, the Debtor could be forced to sell all its property to pay judgments, including

all churches and other property used for spiritual or religious purposes.[10] This is incorrect. Under the Religious Freedom Restoration Act (the "RFRA") a governmental entity—including a court, county clerk's office, or other governmental body aiding in the enforcement of a judgment—may not substantially burden the exercise of religion, as would plainly occur if a Survivor used a court judgment as a basis to compel the judicial sale of churches that the Debtor uses and believes are necessary for worship and religious purposes. Separately, were this Court to force the sale of church property used for worship and religious purposes, this would violate the Free Exercise Clause of the First Amendment. U.S. Const. amend. I ("Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof"). It would also run afoul of the Church Autonomy Doctrine.

Additionally, because this Court could not order such church property to be sold in this Chapter 11 Case, were it to deny the Plan or dismiss this bankruptcy on that basis, this would violate the Doctrine of Unconstitutional Conditions. Importantly, while such a forced sale violates several constitutional principles, each standing alone would suffice to bar such a result.

But the Court need not make these decisions in order to confirm the Plan. If the Court agrees that the Debtor does not need to consider the sale of those assets it deems critical to its mission (i.e., as shown in the Liquidation Analysis), then there is no need to consider these Constitutional and statutory protections at this time. The Debtor nonetheless adds this section in an abundance of caution; the Supplemental Liquidation Analysis—which includes the liquidation of all assets, even those the Debtor deems critical to its mission—is unconstitutional, legally impossible and cannot be considered for the reasons set forth below. [11]

[10] *Id*. at p.4 (quoting Apr. 17, 2026 Hrg. Tr. at 36:14-18). The only case the Committee cited supporting this position was a one-page North Carolina intermediate appellate court decision from 51 years ago—*Floyd S. Pike Elec. Contractor, Inc. v. Goodwill Missionary Baptist Church*, 214 S.E.2d 276 (N.C. Ct. App. 1975)—simply held that church property is not exempt from execution or sale under North Carolina law. It did not consider RFRA, which was passed 18 years later, in 1993. It made no mention and did not address the United States Constitution or the First Amendment in particular. The case has never been cited. That this is the best case the Committee could find shows its position lacks any legal support.

[11] As detailed *infra*, even if the Court were to use the Supplemental Liquidation Analysis—which it cannot—the Debtor would still satisfy the best interest test.

2. The Forced Sale of Churches Used for Worship Would Violate the RFRA.

In *Apache Stronghold v. United States*, the Ninth Circuit held that Congress passed the RFRA in order to provide greater protection for religious exercise than is available' under the Free Exercise Clause." *Apache Stronghold v. United States*, 101 F.4th 1036, 1056 (9th Cir. 2024) (en banc), *cert. denied*, 145 S. Ct. 1480 (2025). This echoed the U.S. Supreme Court's holding in striking down a prison grooming policy in *Holt v. Hobbs* on the ground that this substantially burdened an inmate's exercise of his faith. *Holt v. Hobbs*, 574 U.S. 352, 356 (2015). There, the Supreme Court also emphasized that Congress passed the RFRA "'in order to provide very broad protection for religious liberty.'" *Id.* at 357 (cleaned up).

Section 2(a) of the RFRA expressly prevents the government from imposing a substantial burden on the exercise of religion, establishing, as a general rule that "[g]overnment shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability." 42 U.S.C. § 2000bb-1(a). The sole exception is where the government can demonstrate a compelling state interest. The RFRA applies to all branches of government, including the judicial branch. *Id.* at §2000bb-1(a). *Apache Stronghold* specifically holds that "preventing access to religious exercise is an example of substantial burden." *Apache Stronghold*, 101 F.4th at 1043.[12]

In *In re Roman Catholic Archbishop of Portland*, the bankruptcy court specifically analyzed the RFRA's requirements regarding a diocese in bankruptcy. *In re Roman Catholic Archbishop of Portland*, 335 B.R. 842 (Bankr. D. Ore. 2005). There, the bankruptcy court noted that while certain Diocese property could be subject to sale in a bankruptcy, where a sale would make properties unavailable for worship or other church purposes, it could not. *Id*. at 862-63.

Specifically, the bankruptcy court addressed whether the application of section 544(a)(3) as a basis to close and sell churches would violate the RFRA. The creditors committee argued that it would not because 1) even if one church were closed, parishioners could attend alternative parish churches and 2) that parishioners had no right to attend a particular church and that the closing of a particular church would

[12] In *Apache Stronghold*, the Ninth Circuit, in a per curiam decision, concluded that the United States' transfer of government-owned land that was of great spiritual value to a Native American tribe did not violate the RFRA. Here, the controversy is distinguishable as it involves Diocese-owned churches used for the worship and religious needs by the Debtor's one-half million parishioners.

just be an "inconvenience" and not a "substantial burden." *Id.* at 862-63. The bankruptcy court held that the possible loss or sale of all parish churches could result in a substantial burden, stating:

> The possibility that the result of the TCC's § 544(a)(3) claim could be the loss of all parish church and Archdiocesan school properties titled in debtor's name raises a question of fact regarding whether application of § 544(a)(3) would impose a substantial burden on the parishioners' exercise of religion.

Id. at 863.

The bankruptcy court rejected that "the interests advanced in the bankruptcy system" provided a compelling interest for purposes of the RFRA, relying on Eighth Circuit on-point authority. *Id*. at 864 (quoting *In re Young*, 82 F.3d 1407, 1420 (8th Cir. 1996)). The bankruptcy court agreed that the purpose of section 544(a)(3) is "to maximize the bankruptcy estate and thereby maximize the recovery for creditors." *Id.* However, the bankruptcy court noted that there were exceptions in the Bankruptcy Code which limited the breadth of the estate, evidencing this was not a compelling interest. *Id.* It then explained why it believed this is a fact issue:

> Without knowing the amount of the claims or the value of the real property, or what alternatives parishioners and school children would have for worship and religious education, I cannot tell whether application of § 544(a)(3) would create a substantial burden on the exercise of religion. The burden might not be substantial, depending on the number of properties that must be sold to pay claims of creditors and whether there are alternative locations for worship and religious education. **But if application of the statute leaves the parishioners and school children with no place to worship and study, because no facilities are available, and if they establish that worship and study are central to religious doctrine, the burden could be substantial.**

Id. at 863-64 (emphasis added). The bankruptcy court further explained that if the debtor and other defendants could show that the application of section 544(a)(3) would result in a substantial burden, RFRA provides that "[a] person whose religious exercise has been burdened in violation of [RFRA] may …obtain *appropriate relief* against a government." *Id.* at 864 (citing 42 U.S.C. § 2000bb–1(c)) (emphasis original).[13]

The bankruptcy court acknowledged that one way to ensure the diocese's rights there would be to limit the "loss" of churches and schools:

[13] Here, the Plan contemplates voluntarily closing and liquidating 13 of the roughly 80 worship sites, and the extensive burden resulting has been evidenced in numerous oral and written complaints. There can be no doubt that multiplying that number of closed worship sites would far exceed a "substantial burden" and is offensive on its face.

> There are many forms that relief might take. One possibility might be to limit the number of properties subject to the avoidance powers of § 544(a)(3), if it is shown that the loss of some but not all of the churches and schools would be inconvenient but not substantially burdensome. What relief would be appropriate is a question left for another day.

Id. *See also In re Khan*, 2014 WL 10474969, at *55 (E.D.N.Y. Dec. 24, 2014) (observing that the RFRA "has effectively amended the Bankruptcy Code, and has engrafted the additional clause to § 548(a)(2)(A) that a recovery that places a substantial burden on a debtor's exercise of religion will not be allowed unless it is the least restrictive means to satisfy a compelling governmental interest." (quoting *Hankins v. Lyght*, 441 F.3d, 96 at 106 (2d Cir. 2006)).

Each of these principles shows that this Court too could not order the sale of churches where this would interfere with the ability to meet the religious and spiritual needs of its 500,000 Catholic faithful.

3. The United States Constitution Would Prohibit a Forced Sale of Churches Used and Necessary for Worship and Religious Purposes.

a. Forcing the Sale of Churches Used for Worship Would Violate the Free Exercise Clause of the First Amendment.

In *Hosanna-Tabor Evangelical Lutheran Church v. EEOC*, the Supreme Court held that the Free Exercise Clause precludes "government interference with an internal decision that affects the faith and mission of the church itself." *Hosanna-Tabor Evangelical Lutheran Church v. EEOC*, 565 U.S. 171, 190 (2012). There, the Supreme Court relied on that principle to overturn an EEOC decision forcing a church to keep an unwanted minister. That same principle equally applies here.

If this Court were to force the sale of churches that the Debtor is using for religious and spiritual purposes and has deemed necessary to serve the religious and spiritual needs of its 500,000, the resulting interference with the Debtor's mission and the ability of its Catholic faithful to practice their faith would, if anything, be greater. *See also Puri v. Khalsa*, 321 F. Supp.3d 1233 (D. Ore. 2018) (finding that judicial review of decisions to not place certain individuals on boards of religious bodies would constitute government interference barred by *Hosanna-Tabor*); *In re Archdiocese of Saint Paul and Minneapolis*, 579 B.R. 188 (Bankr. D. Minn. 2017) (holding that creditor's committee's proposed chapter 11 plan violated the Archdiocese's religious rights under the First Amendment by interfering with church governance by attempting to set forth legal and contractual obligations between the Archdiocese and

certain priests).

b. The Church Autonomy Doctrine Prohibits the Court from Substituting its Views of Whether Properties are Essential to Worship for that of Bishop Barber.

The Church Autonomy Doctrine[14] separately would prevent this Court from second-guessing and overriding the Debtor's decisions regarding how many churches are necessary to serve the religious and spiritual needs of its parishioners and which ones are not. This doctrine prohibits interference with an internal church decision that affects the internal management decisions that are essential to the church's central mission. There are few things more central to a church's mission than to have sufficient houses of worship available to serve the religious and spiritual needs of its members and to provide a place for sacraments, celebrations and the conduct of the faith.

The Church Autonomy Doctrine originated in 1871 in *Watson v. Jones*, 80 U.S. 679 (1871). There, the Supreme Court held it should not weigh in regarding a property dispute between two factions of the Presbyterian Church that arose over slavery:

> [W]henever the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by the highest . . . . church judicator[y] to which the matter has been carried, the legal tribunals must accept such decisions a final and binding on them in their application of the case before them.

Id. at 726-67.

In *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. America*, the Supreme Court struck down a New York statute that transferred control of a Russian Orthodox cathedral from the Moscow Patriarchate to a North American Church body. *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church*, 344 U.S. 94 (1952). The Supreme Court held that the First Amendment, made applicable through the Fourteenth Amendment, allowed churches to "decide for themselves, free from state interference, matters of church government as well as those of state doctrine." *Id.* at 116. *Kedroff* demonstrates that a decision regarding the proper status of a house of worship (there a cathedral) is one within the doctrine. *See also Presbyterian Church v. Mary Elizabeth Blue Hull Mem'l Presbyterian*

[14] This is also known as the Ecclesiastical Abstention Doctrine.

Church, 393 U.S 440, 449 (1969) ("First Amendment values are plainly jeopardized when church property litigation is made to turn on the resolution by civil courts of controversies over religious doctrine and practice."); *Serbian E. Orthodox Dioceses of the U.S. & Canada v. Milivojevich*, 426 U.S. 696, 707-708 (1976) (applying doctrine to find that state court erred by reinstating employment of bishop based on its interpretation of Church's constitution). As applied here, for the Court to weigh in on a dispute between the Committee and the Debtor regarding how many churches the Diocese needs to serve its mission would equally jeopardize these values.

Recently, the Ninth Circuit in *Union Gospel Mission of Yakima, Washington v. Brown* made clear that the Doctrine applies even to law that have general and neutral application are beyond the circumstances of an intra-Church dispute. *Union Gospel Mission of Yakima, Washington v. Brown*, 162 F.4th 1190 (9th Cir. 2026). There, the Ninth Circuit held that the church had showed a likelihood of success that it should not be subject to laws forbidding discrimination on the basis of sexual orientation in hiring and from laws requiring employees to disclose their religious beliefs because this would interfere with the faith's belief that only co-religionists could be hired.[15] *Id.* at 1219. The Court further held that "direct interference with a religious organization's faith and doctrine conflicts with the First Amendment." *Id.* at 1204.

c. To Condition Debtor's Emergence from Bankruptcy on the Sale of Churches Used for Worship Would Violate the Doctrine Of Unconstitutional Conditions.

Under the Doctrine of Unconstitutional Conditions, the government cannot condition a party's receipt of a discretionary benefit on a basis that infringes that party's constitutional rights. Courts have applied this to improper government denials because of this exercise of religious rights. In *Girouard v. U.S.*, the Supreme Court held that the government violated the Doctrine where it denied citizenship to a Canadian who sought naturalization because he would not agree to take up arms for the United States, based on his religious beliefs as a Seventh Day Adventist. *Girouard v. U.S.*, 328 U.S. 61 (1946); *see also Cantwell v. Connecticut*, 310 U.S. 296 (1940) (holding that statute requiring religious organization to

[15] The district court in *Puri* relied on this Doctrine as an additional basis for relief. *Puri,* 321 F.Supp.3d at 1249-50.

secure State approval to solicit funds and giving State power to determine whether entity qualified permitted censorship and violated Doctrine as applied to Jehovah's witnesses found to have violated it); *New Hope Family Servs., Inc. v. Poole*, 966 F.3d 145 (2d Cir. 2020) (finding, under Doctrine, that faith-based adoption agency had plausible claim that its constitutional rights were violated by rules that required agency to not discriminate on the basis of sexual orientation and marital status); *Board of Cty. Comm'rs Waubansee Cty, Kansas v. Umbehr*, 116 S.Ct. 2342 (1996) (finding, under Doctrine, that County could not terminate at-will contractor based on exercise of freedom of speech rights).

So here, it would be a violation the Doctrine of Unconstitutional Conditions to say that the Debtor does not qualify for a chapter 11 reorganization because it will not put in peril the churches needed worship or jeopardize the religious and spiritual needs of its 500,000 Catholic faithful.

Simply put, to hold that the Debtor must sell all churches (or the churches it deemed critical to its mission) or that it will lose its rights as a debtor in bankruptcy if it does not do so would offend the Debtor's statutory and constitutional rights.

C. <u>The Insurer Objections Should Be Overruled.</u>

The Federal Companies, Travelers, LMI, Westport, and the Pacific Insurers object to confirmation on overlapping grounds relating to insurance rights, the Insurance Assignment, bad-faith and extra-contractual claims, the Litigation Option, claim allowance and participation rights, the Channeling Injunction, contribution and judgment-reduction provisions, exculpation, Plan settlement findings, and proposed Confirmation Order language. The objections should be overruled.

At the outset, the Insurers' objections largely do not address matters properly before the Court on confirmation and should be denied on that basis alone. These objections are premature and speculative, addressing contingencies that have not materialized and may never arise. They largely ask the Court to decide, at confirmation, future coverage, allocation, reimbursement, contribution, claim-administration, or inter-insurer disputes that the Plan preserves for the appropriate forum if and when those disputes become concrete. The Insurers have argued adamantly that this Court is not the proper forum to adjudicate issues of insurance coverage and the rights of Insurers. The Debtor does not disagree, which is why the Plan preserves those issues for resolution at an appropriate time in an appropriate forum.

Additionally, the Debtor notes that nearly all of the Insurer Objections are fundamentally a matter of dispute between the Committee and the Insurers. The Insurance Assignment is provided for the benefit of the Survivors. To the extent the Insurers objections relate to those terms, their resolution should ultimately be a matter between the Insurers and the Committee. While the Debtor submits that the Insurer objections are not well taken, to the extent the Court determines there is merit to any such objections, the remedy should be modification of the Plan language either directly or through the confirmation order, not denial of confirmation.

1. The Insurers' Lack Standing as to Objections That Do Not Affect Their Rights.

At the outset, the Non-Settling Insurers lack standing to raise many of their objections. The Supreme Court's decision in *Truck Insurance Exchange v. Kaiser Gypsum Co.*, 601 U.S. 335 (2024), recognized that insurers may qualify as "parties in interest" under § 1109(b) of the Bankruptcy Code in certain circumstances. *Truck's* holding did not, however, grant insurers carte blanche to object to every aspect of a chapter 11 plan. Post-*Truck* caselaw has clarified that insurer standing to object depends on whether the insurer bears financial responsibility for bankruptcy claims and whether the specific objection directly implicates the insurer's own rights and interests.

Courts have recognized two key limitations on insurer standing post-*Truck*. First, where an insurer has not accepted financial responsibility for bankruptcy claims, it lacks statutory standing under § 1109(b). *See In re Roman Cath. Diocese of Albany, New York*, No. 23-10244, 2025 WL 2536165, at *3 (Bankr. N.D.N.Y. Sept. 3, 2025) ("[T]he Insurers have not accepted financial responsibility for claims against the Diocese. Thus, it is difficult to argue that Truck can be relied upon as a basis for finding standing in this case as it exists today."); *In re Hopeman Bros., Inc.*, No. 24-32428-KLP, 2025 WL 3688940, at *5 (Bankr. E.D. Va. Oct. 31, 2025) ("In the absence of any financial responsibility for bankruptcy claims—either through affirmative commitment to provide plan funding or official recognition of a legal obligation to creditors, [the insurer] is not a party-in-interest under Truck Insurance and does not have standing to object to the Plan."). The Non-Settling Insurers here have not accepted financial responsibility for claims against the Debtor and have not committed to fund any portion of the Plan. Under *Albany* and *Hopeman*, they lack statutory standing to object.

Second, even insurers with statutory standing may only assert their own rights—not the rights of creditors or third parties. *See In re AIO US, Inc.*, 672 B.R. 261, 269 (Bankr. D. Del. 2025) ("[T]he case law on party-in-interest standing under § 1109(b) limits an objector to asserting its own rights—it may not assert the rights of others."); *In re Roman Cath. Church of Archdiocese of New Orleans*, No. 20-10846, 2025 WL 3545484, at *12 (Bankr. E.D. La. Dec. 9, 2025) ("How can insurance companies claim standing to object to proofs of claim on the basis that they are likely to contribute to the bankruptcy distribution while simultaneously claiming they are under no obligation to make said contribution?"). The Non-Settling Insurers' objections concerning claim-allowance procedures, solicitation procedures, and trust-fiduciary selection are objections to provisions designed to protect creditor rights—not insurer rights—and fall outside the scope of permissible party-in-interest objections.

Third, insurers must also satisfy Article III and prudential standing requirements on an issue-by-issue basis. *See In re Thorpe Insulation Co.*, 677 F.3d 869, 880 (9th Cir. 2012) ("[T]o have standing in bankruptcy court, Appellants must meet three requirements: (1) they must meet statutory 'party in interest' requirements under § 1109(b) of the bankruptcy code; (2) they must satisfy Article III constitutional requirements; and (3) they must meet federal court prudential standing requirements."); *In re Roman Cath. Diocese of Syracuse*, 665 B.R. 866, 886 (Bankr. N.D.N.Y. 2024) ("Silence is not rejection, and nothing in Truck suggests the Supreme Court intended to eliminate general standing requirements for insurers or any other party in interest."). The Non-Settling Insurers lack prudential standing to object to matters implicating only third-party survivors' rights. Nonetheless, should the Court reach the merits, the Insurers' objections fail for the additional reasons set forth below.

2. The Plan Clearly and Expressly Preserves the Rights of Non-Settling Insurers

The Abuse Insurer Objections all argue, but fail to show, that the Plan impermissibly alters insurance rights or coverage obligations. The Plan preserves the Non-Settling Insurers' rights and defenses under applicable policies and non-bankruptcy law, including coverage defenses, cooperation-related defenses, offsets, recoupments, deductibles, self-insured retentions, and rights to defend Litigation Claims. This language was negotiated extensively with, and support by, every Abuse Insurer in connection with the Debtor's Third Amended Plan.

The Insurance Assignment transfers only insurance-related rights available under the relevant policies and applicable law, and it does not adjudicate coverage, expand Insurer liability, bind any Non-Settling Insurer on the amount or reasonableness of any Abuse Claim, or prevent later policy-specific arguments in a court of competent jurisdiction.

To avoid any confusion on this point, the Plan expressly provides that:

> With respect to Non-Settling Insurers, nothing in the Plan, the Plan Documents, the Confirmation Order, or the Survivors' Trust Documents, including any provision that purports to be preemptory or supervening, shall in any way operate to, or have the effect of, impairing, altering, supplementing, changing, expanding, decreasing, or modifying (i) the terms and conditions of an Abuse Insurance Policy, (ii) the rights and obligations of the Debtor, its Estate or the Reorganized Debtor and any Non-Settling Insurers (and third-party claims administrators) under the Abuse Insurance Policies, or (iii) the coverage or benefits provided under the Abuse Insurance Policies.

Plan, Section 8.3.1. Further:

> With respect to the Non-Settling Insurers, notwithstanding any provision in the Plan, the Plan Documents, the Confirmation Order, or the Survivors' Trust Documents, nothing contained in any such documents or in this paragraph shall impose, or shall be deemed or construed to impose, any obligation on any Non-Settling Insurer to provide a defense for, settle, or pay any judgment with respect to, any Abuse Claim. Rather, a Non-Settling Insurer's obligations, if any, with respect to an Abuse Claim shall be determined solely by and in accordance with the applicable Abuse Insurance Policy or Abuse Insurance Policies issued by that Non-Settling Insurer subject to applicable non-bankruptcy law. Nothing in the Plan, the Plan Documents, the Confirmation Order, or the Survivors' Trust Documents shall diminish or impair, or be deemed to diminish or impair, the rights of any Non-Settling Insurer to defend any Abuse Claim or to assert any claim, defense, right, or counterclaim in connection with any Abuse Claim or Abuse Insurance Policy in accordance with applicable law; provided, however, that any claim or counterclaim for Contribution against a Settling Insurer shall be addressed as provided herein.

Plan, Section 8.3.2. The negotiated provision of Section 8.3 go on to detail that the rights and obligations of Non-Settling Insurers with regard to any policy and defense of any abuse claim litigation, including as to coverage, are to be governed solely by the terms of any applicable policy and non-bankruptcy law. Sections 8.3.1-8.3.15.

The reality is that most of what the Insurers object to relates to treatment of Abuse Claims within the Survivors' Trust, and distributions to Abuse Claimants from the Survivors' Trust. These provisions of the Plan have no bearing on the Insurers' rights and obligations under any applicable Insurance policy, applicable law, or otherwise. If there was any doubt on this point, it is removed by Sections 8.3.4-8.3.7, which make express that no evaluations, determinations, distributions, or anything else that happens with

regard to treat of claims within the Survivors' Trust have any bearing on the rights or obligations of the Insurers with respect to coverage and Abuse Claim Litigation. *See id.*

To the extent the Insurers' objections are related to post-confirmation jurisdiction, those objections are misplaced. This Court retains Jurisdiction over the Plan, Confirmation Order, and related issues to the extent permissible under applicable law. Nothing in the standard retention of jurisdiction provision of the Plan creates jurisdiction over post-confirmation coverage disputes or Abuse Claim Litigation. Indeed, Abuse Claims Litigation is specifically recognized to be in a "non-bankruptcy court of competent jurisdiction." Plan 8.2.2. Further, any disputes regarding liability of a Non-Settling Insurer expressly "shall be resolved under applicable nonbankruptcy law in a court of competent jurisdiction or such other venue as the affected parties (including the Non-Settling Insurer(s)) may agree." Plan Section 8.3.10. To the extent the Insurers are specifically concerned about the right to bring actions to challenge coverage actions post-confirmation, nothing in the plan limits that right, so there is no basis for an argument that the Plan needs to include additional provisions to preserve it.[16] Indeed, the Insurers simply ignore Section 8.3.13 of the Plan, which includes the following provision:

> Subject to the terms of the Plan, each Non-Settling Insurer and each Abuse Claimant **reserves their rights, if any, to (i) bring proceedings** concerning the application and interpretation of the terms of the Abuse Insurance Policies and rights thereunder, as well as whether defense and/or indemnity are owed under the Abuse Insurance Policies….

Plan, Section 8.3.13 (emphasis added).

To the extent the Insurers objections are related to the duty of cooperation under the Policies, that objection is likewise misplaced. First, the provisions discussed above make clear that the Insurers' rights of cooperation are not vitiated. Critically, the Insurers preserve any rights they may have at any point to raise coverage defenses or make other arguments in a court of competent jurisdiction regarding a failure of any cooperation obligations. The Insurers seek to argue that it is unclear what party has the cooperation obligations post-confirmation. This is simply not the case. The rights and obligations under the policies

[16] Ironically, in raising this concern, the Insurers ignore that there is already a coverage action pending in District Court. To the extent the Insurers would prefer, the Debtor understands that the Committee would likely have no objection to coverage issues being resolved in that action post-confirmation, after substitution of the Survivors' Trust as Plaintiff. This would certainly resolve any concerns of the Insurers regarding ability to litigate coverage in a Court of competent jurisdiction.

are assigned to the extent assignable under applicable law. The Survivors' Trust therefore has the obligation to cooperate in defense of claims as required under the policies, to the extent such obligations are assignable. To the extent they are not, they remain with the Reorganized Debtor.

3. The Assignment of Rights Regarding Extra-Contractual Claims Does Not Violate Law

Every Abuse Insurer objects to the provisions of the Insurance Assignment that contemplate extra-contractual, or "bad faith" insurance claims. Initially, it must be noted that the Insurers' position is disingenuous. The Insurers insist that their rights should not be modified in any way by the Plan, and yet this argument can only be understood as an effort to use the Debtor's bankruptcy case as a shield against any potential bad-faith or extra-contractual liability. The Plan does not create any new liability for the Insurers. As set forth above, the Plan makes clear repeatedly that the Insurers' rights and obligations are as provided in any applicable policies and non-bankruptcy law.

Much of the Insurers' objections on this point are directed to the issues of the assignability of bad faith claims. This is a red herring that asks this Court to determine state law insurance issues that are simply not before it and not necessary to confirmation of the Debtor's Plan. The Insurance Assignment assigns rights "to the maximum extent permissible under applicable law and the terms of the Abuse Insurance Policies." *See* Plan Section 8.1.6. As set forth above, the Plan also preserves all rights and defenses of the Insurers under non-bankruptcy law, subject to adjudication in an non-bankruptcy forum of competent jurisdiction. In other words, (1) the package of rights that the Survivors' Trust receives under the Plan is only such rights as can be assigned; and (2) the insurers are free to argue in any court of competent jurisdiction that the Survivors' Trust or any individual Survivor who has asserted rights under the litigation option, cannot assert claims for bad faith or extra-contractual damages because such claims are not assignable. The Insurers state that they seek to have all issues of insurance law determine non-bankruptcy court, and the provisions of the Plan accomplish exactly that.

Any arguments regarding whether or not bad faith claims have accrued or are merely hypothetical is likewise misplaced for the same reasons. First, of course, except as to CIGA and LMI, bad faith claims are not merely hypothetical. The Debtor's *Sixth Amended Complaint* in the pending District Court

Insurance Coverage Action asserts claims for bad faith against every Abuse Insurer other than CIGA and LMI. To the extent those claims are assignable, they are assigned by the Plan. To the extent they are not, the Insurers are free to assert that argument to the District Court or any other court with jurisdiction. What the Insurers actually seek is elimination of any possibility of bad faith exposure. This is not, nor should it be, the purposes of the Debtor's Plan.

The Plan does not create, adjudicate, or expand any bad-faith or extra-contractual claim against any Insurer, require any Non-Settling Insurer to pay uncovered claims, eliminate policy defenses, or expose the Reorganized Debtor to direct collection on Abuse Claims. Any later dispute over accrual, assignability, coverage, enforceability, or the amount of a particular claim can be addressed in the appropriate forum.

4. The Plan Provisions Regarding Claim Objections do not Affect the Insurers and Are Consistent With the Bankruptcy Code

All five Abuse Insurer Objections argue that the Plan impermissibly restricts Non-Settling Insurers' post-Effective Date rights to object to Abuse Claims in Bankruptcy Court. While these objections have no legal merit, it is also noteworthy that the Insurers seek to use the Claims objection process as a weapon at the same time they argue the Plan cannot be allowed to affect their rights. As set forth above, the Plan preserves the full rights of the Insurers to assert any defense, including those arising under the Bankruptcy Code, in defense of Litigation Claimant's state court action. *See* Plan Section 8.3.12. While the Insurers complain that this prevents them from objecting without agreeing to defend, they would never have that ability outside bankruptcy.

The objections rely solely on Section 502(a) as their sole authority for the proposition that a Chapter 11 plan cannot restrict the rights of parties-in-interest to object to claims. Section 502(a) simply provides that a claim "is deemed allowed, unless a party in interest … objects." 11 U.S.C. § 502(a). Even if this provision could be read as granting a right to object, nothing in it provides that such a right must be preserved post-confirmation. Indeed, while the Insurers cite no authority, there is in fact contrary authority from this District. The exact argument the Insurers make here was squarely rejected by Judge Tchaikovsky in the case *In re W. Asbestos Co.*, 313 B.R. 832 (Bankr. N.D. Cal. 2003). As the Court held there, "11

U.S.C. § 502(a) only governs the right of a party in interest to object to a claim until the plan is confirmed." *Id.* Thus, "[o]nce a plan is confirmed, the terms of the plan govern who may object to the claim." *Id.* On that basis, the Court found that a plan provision limiting objection rights to a claims trust post-petition was confirmable. *See id.*[17]

As with all of the Insurer objections, even if the Court were to come to a different conclusion that Judge Tchaikovsky, the appropriate result would be a minor modification to the Plan, not denial of confirmation. This is an issue of some important to the Committee, and the provision the Insurers object to was included based on the Committee's position in an effort to compromise issues where possible. This is therefore effectively a dispute between the Insurers and the Committee, and the Debtor is content to live with any result the Court determines is appropriate.

5. The Discharge Provision Does Not Violate the Bankruptcy Code

The Abuse Insurers argue that the discharge provisions of the Plan relating to Abuse Claims are not confirmable. Specifically, the Insurers take issue with the following language from the discharge provision of the Plan:

> Nothing in this Section 13.3 shall prohibit an Abuse Claimant from exercising the Litigation Option to pursue recovery from any applicable Non-Settling Insurer Abuse Insurance Policy in accordance with this Plan, and anything herein to the contrary notwithstanding, to the extent the Holder of an Abuse Claim elects the Litigation Option, such Abuse Claim shall not be discharged or released to the extent that such Holder may assert claims in a court of competent jurisdiction against the Debtor in name only and cannot recover any additional amounts from the Debtor other than the Debtor Contribution to the Survivors' Trust as provided herein. For avoidance of doubt, subject to the foregoing, the discharge provided under the Plan and Section 1141 will be effective as to each such Abuse Claim upon conclusion of any such litigation in a court of competent jurisdiction.

Plan, Section 13.3.

Nothing about the foregoing language violates Section 1141 of the Bankruptcy code. Section 1141 provides that confirmation of a plan discharges claims against the debtor, "Except as otherwise provided in this subsection, in the plan, or in the order confirming the plan, the confirmation of a plan…." 11 U.S.C. § 1141(d) (emphasis added). Section 1141 therefore expressly permits the Plan or confirmation order to

[17] The Debtor will assume that the Insurers were unaware of this case, because it would be concerning if they were aware and failed to cite known contrary authority directly on point. It is surprising, however, that this would be missed in preparing four separate objections on the issue.

modify the discharge. To the extent Section 13.3 of the Plan does so, it is simply for the purposes of effectuating the Litigation Option and permitting Abuse Claim Litigation to go forward post-confirmation, something that is routine as part of insurance assignments in similar cases.

The argument that this provision of the Plan is intended to manufacture bad faith claims is nonsensical. Nothing about the provision creates any bad faith claim against any insurer that does not result under applicable non-bankruptcy law from that Insurers' conduct. The Insurers' desire to use the bankruptcy process to shield themselves from any potential liability for their own conduct is once again transparent.

Finally, this is once again an issue that the Debtor ultimately does not have a stake in, beyond confirmation of its Plan. This provision was included in an effort to seek compromise and narrow issues with the Committee. If the Court ultimately determines that it offends the Bankruptcy Code, in can be revised accordingly.

6. The Remaining Insurer Objections Should be Overruled.

The Channeling Injunction is addressed in section III.A.1.b.(ii).(b). above, and the Insurer Objections thereto should be overruled for the reasons set forth there.

Likewise, there is amble basis for the good faith findings in the proposed confirmation order, for the reasons set forth in section III.A.3. above, and the Insurer objections thereto should be overruled. To the extent the objections assert that the exculpation provisions improperly extend to the Plan Supplement, the Survivors' Trust Documents, and other Plan Documents, these objections are not well taken. These documents are expressly incorporated into the Plan, and proposal of the Plan properly includes the Plan Documents. Theses objections should also be overruled simply because the Insurers fail to articulate any way in which they are actually affected.

The Insurer Objections regarding the Survivors' Trust fiduciaries should be overruled in the first instances because the Insurers simply have no interest in the this selection, and it in no way affects their rights. Even if this were not the case, the objection is not well taken as a basis to deny confirmation. To the extent the Court directs any particular disclosure from the fiduciaries prior to their appointment, this can certainly be provided.

The objections to Section 12.12 of the Plan regarding settlements should be overruled. The Plan may embody compromises that are integral to reorganization. This standard provision of the Plan simply reflects approval of the compromises that are contained in the Plan, including the CCCEB Settlement. Because the Plan expressly preserves the rights of Non-Settling Insurers under the policies and application non-bankruptcy law, this provision has no impact on the Insurers.

7. The Federal Companies Objections Regarding Non-Abuse Insurance Policies Should be Overruled.

The Federal Companies' distinct objection concerns the Debtor's present Non-Abuse Insurance Program and is not related to the other Insurer Objections. The Debtor and the Federal Companies continue to discuss language resolve the Federal Companies' objection, and the Debtor anticipates that it will be consensually resolved. To the extent it is not, it does not warrant denial of confirmation. The Plan does not rewrite the Non-Abuse Insurance Program, relieve the Debtor or Reorganized Debtor of obligations that remain enforceable under applicable non-bankruptcy law, or prevent workers' compensation and direct-action claims from being administered, defended, settled, or paid in the ordinary course to the extent required by applicable policies and non-bankruptcy law.

8. The UST Objection Should be Overruled.

The UST Objection raises three separate alleged problems with the Plan. The first relates to the Channeling Injunction, which has already been addressed above in the context of the Insurer Objections and in Section III.A.1.b.(ii).(b), above. That objection should be overruled.

Similarly, the scope of the proposed exculpation provisions is addressed in Section III.A.1.b.(ii).(b), above. The exculpation provision complies with applicable authority in *Blixseth* and is narrowly tailored. Should the Court find differently, the exculpation can be modified in the confirmation order to resolve any concerns. In any event, the exculpation provision is not a basis to deny confirmation of the Plan. This objection should be overruled.

Finally, the UST Objection asserts that the provisions in the Plan requiring that the Reorganized Debtor file post-confirmation reports—and not the Survivors' Trustee—means the Plan should be amended based primarily on section 1106(a)(7). The problem with this argument is that section 1106(a)(7)

says nothing about post-confirmation trustees of plan trusts; rather, as the UST seems to admit in its Objection, that section applies only to the "trustee," which is defined to mean the debtor in possession or a trustee appointed pursuant to section 1104. This objection, too, should be overruled.

V.

CAUSE EXISTS TO WAIVE STAY OF CONFIRMATION ORDER

Bankruptcy Rule 3020(e) provides that "[a]n order confirming a plan is stayed until the expiration of fourteen (14) days after the entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 3020(e). The Advisory Committee Notes to Bankruptcy Rule 3020(e) state that "the court may, in its discretion, order that Rule 3020(e) is not applicable so that the plan may be implemented and distributions may be made immediately." Fed. R. Bankr. P. 3020(e), Advisory Committee's Note to 1999 amendment. Bankruptcy Rule 6004(h) likewise stays an order authorizing the use, sale, or lease of property, other than cash collateral, for fourteen (14) days after entry unless the court orders otherwise, and Bankruptcy Rules 7062 and 9014 may impose a stay of enforcement in contested matters.

Under the circumstances, it is appropriate for the Court to exercise its discretion to order that Bankruptcy Rules 3020(e), 6004(h), 7062, and 9014 are not applicable, to the extent they otherwise would be, and to permit the Debtor to consummate the Plan and commence its implementation immediately following entry of the Confirmation Order. The Debtor's prompt emergence from chapter 11 will alleviate uncertainty regarding the Debtor's ability to continue its religious and charitable missions post-confirmation. Without relief from the applicable stay periods, the Debtor will also incur additional administrative and professional costs, and waiting fourteen (14) days after entry of the Confirmation Order would serve no purpose. The Debtor, advisors, and other key constituents will expedite the Debtor's entry into and consummation of the documents and transactions necessary to effectuate the Plan so that the Effective Date and funding of the Trust may occur as soon as possible after the entry of the Confirmation Order. Therefore, the requested waiver of any applicable stay is in the best interests of the Debtor, its estate, and creditors and will not prejudice any parties in interest.

VI.

CONCLUSION

WHEREFORE, the Plan complies with all of the requirements of section 1129 of the Bankruptcy Code, and the Debtor respectfully requests that this Court enter the Confirmation Order, and confirm the Plan, and grant such other and further relief as the Court deems just and proper.

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