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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

In re:

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

Debtor.

Bankruptcy Case No.: 23-40523 WJL

Hon. William J. Lafferty

Chapter 11

LONDON MARKET INSURERS' OMNIBUS OPPOSITION TO THE: (1) DEBTOR'S THIRD MOTION IN LIMINE TO LIMIT INSURERS' ARGUMENT AND EVIDENCE TO THE SCOPE OF THEIR CONFIRMATION OBJECTIONS; AND (2) OFFICIAL COMMITTEE OF UNSECURED CREDITORS' MOTION IN LIMINE TO PRECLUDE OR LIMIT INSURER PARTICIPATION AT THE HEARING ON CONFIRMATION OF THE DEBTOR'S MODIFIED FOURTH AMENDED PLAN

Date: June 12, 2026
Time: 9:00 a.m.
Place: United States Bankruptcy Court
1300 Clay Street, Courtroom 220
Oakland, CA 94612

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TABLE OF AUTHORITIES

Cases

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David Sansone Co., Inc. v. Waiaha Ridge LLC,
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Hana Fin., Inc. v. Hana Bank,
735 F.3d 1158 (9th Cir. 2013) 3

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Heathcoat v. Potts,
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Horowitz v. Kaplan,
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In re AIO US, Inc.,
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In re Glob. Indus. Techs., Inc.,
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In re Overview Equities, Inc.,
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In re Public Service Co. of New Hampshire,
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In re River Bend-Oxford Assoc.,
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In re Roman Cath. Diocese of Albany,
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In re Roman Catholic Diocese of Syracuse,
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Kiviti v. Bhatt,
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Lexmark Int'l v. Static Control Components, Inc.,
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Moore v. The Wiz, Cablevision,
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N. Pipeline Constr. Co. v. Marathon Pipe Line Co.,
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Official Unsecured Creditors' Comm. v. Michaels (In re Marin Motor Oil, Inc.),
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Pioneer Inv. Servs. Co. v. Brunswick Assoc.,
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Robertson v. Allied Solutions, LLC,
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United States v. Heller,
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United States v. Real Prop. Located at Incline Vill.,
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Wellness Int'l Network, Ltd. v. Sharif,
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28 U.S.C. § 151 11

28 U.S.C. § 157(b) 11

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Other Authorities

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U.S. Const., art. III ..... passim

Secondary Sources

1 Collier on Bankruptcy ¶ 3.02[1] (2023) 11

Certain Underwriters at Lloyd's, London and certain London Market Companies (collectively "London Market Insurers" or "LMI")[1] by and through their undersigned counsel, in accordance with the *Confirmation Scheduling Order* ("Scheduling Order"),[2] oppose the *(1) Debtor's Third Motion in Limine to Limit Insurers' Argument and Evidence to the Scope of their Confirmation Objections* [Dkt No. 3073] ("Debtor Motion")*; and (2) The Official Committee Of Unsecured Creditors' Motion in Limine to Preclude or Limit Insurer Participation at the Hearing on Confirmation of the Debtor's Modified Fourth Amended Plan of Reorganization* [Dkt No. 3059] ("Committee Motion" and "Debtor Motion" together, "Motions") filed by the Romah Catholic Bishop of Oakland ("Debtor") and Official Committee of Unsecured Creditors ("Committee"), respectively.[3] In support thereof, LMI respectfully state as follows:

I. PRELIMINARY STATEMENT

If the Plan (defined below) is approved, it could affect LMI's rights. Nothing more is required. Because of that potential effect, LMI are parties in interest under 11 U.S.C. § 1109(b), with the statutory right to appear and be heard on any issue.[4] The Motions rest on procedurally improper, factually inapposite grounds, and a legal theory the Supreme Court expressly rejected. LMI participated in discovery, though they had no obligation to do so, and the Debtor and Committee's alternative request to confine LMI's role to its narrow objections seeks to impose the insurance neutrality limitations condemned in *Truck* and unavailable here. The Motions should be denied in their entirety.

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[1] LMI are Certain Underwriters at Lloyd's, London, subscribing severally and not jointly to Slip Nos. CU 1001 and K 60034 issued to the Roman Catholic Bishop of San Francisco, and Nos. K 78318 and CU 3061 issued to the Roman Catholic Bishop of Oakland; Catalina Worthing Insurance Ltd f/k/a HFPI (as Part VII transferee of Excess Insurance Co. Ltd.); the Ocean Marine Insurance Company Limited (as Part VII transferee of the World Auxiliary Insurance Corporation Limited); River Thames Insurance Company Limited; Dominion Insurance Company Limited; Companhia de Seguros Fidelidade-Mundial f/k/a Fidelidade Insurance Company of Lisbon; and R&Q Gamma Company Limited (as Part VII transferee of Anglo French Ltd.).

[2] Dkt No. 2790.

[3] Dkt. No. 3059.

[4] *Truck Ins. Exch. v. Kaiser Gypsum Co.*, 602 U.S. 268 (2024).

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II. FACTUAL BACKGROUND

On May 8, 2023, the Debtor filed a voluntary chapter 11 petition.[5] On June 22, 2023, the Debtor filed an adversary proceeding ("Coverage Action")[6] against LMI and other insurers. In the Coverage Action, the Debtor seeks findings concerning the insurers' obligations to defend and/or indemnify the Debtor for state court actions brought by Abuse Claimants.[7] On March 29, 2026, the Debtor filed the *Debtor's Fourth Amended Plan of Reorganization* ("Plan"). The confirmation trial on the Plan is scheduled to begin on June 15, 2026.

LMI actively participated in the discovery conducted by the parties in connection with confirmation of the Plan. As one of the "Certain Insurers," LMI joined in the Certain Insurers' Interrogatories and Requests for Production of Documents propounded on both the Debtor and the Committee, each propounded on or around April 6, 2026.[8] LMI along with other Certain Insurers meet and conferred with the Committee's counsel on April 23, 2026, and the Debtor's counsel on April 29, 2026, to resolve issues with the Committee's and the Debtor's responses to the Interrogatories and Requests for Production of Documents propounded on both of them. LMI also served Requests for Admissions on the Debtor to establish the authenticity LMI's policies and pursued a corresponding stipulation regarding the same.[9]

LMI have also appeared at, participated in, or monitored every deposition taken in this matter, including the depositions of the Rule 30(b)(6) designees for the Debtor, the Committee, the RCWC, and the RCC, as well as the parties' retained fact and expert witnesses, all taken between April 27 and June 3, 2026.[10]

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[5] Dkt. No. 1.

[6] Adv. Proc. No. 23-04028. The Debtor also filed an adversary proceeding against the California Insurance Guarantee Association ("CIGA").

[7] The Coverage Action is pending before the District Court. Adv. Proc. No. 24-00709.

[8] Timothy W. Evanston Declaration ("Evanston Decl."), Exhibit A.

[9] Evanston Decl., Exhibit B.

[10] Evanston Decl., Exhibit C.

On June 4, 2026, the Committee and Debtor filed their respective Motions, which improperly seek to preclude or limit LMI's participation in the confirmation hearing.

III. MEMORANDUM OF POINTS AND AUTHORITIES

A. A Motion *in Limine* Is Not a Vehicle to Restrict Statutory Participation Rights

A motion *in limine* is a procedural mechanism to limit testimony or evidence in a particular area.[11] The purpose is to exclude prejudicial evidence before the evidence is introduced at trial.[12]

The Motions do not seek to exclude evidence. Rather, they seek to extinguish LMI's statutory right to participate in confirmation proceedings under "Section"[13] 1109(b). That request is not evidentiary in nature, and motions *in limine* are not the proper procedural vehicle for obtaining such relief.[14]

Because the Motions target a statutory right rather than evidence, it is procedurally improper on its face. The Court should deny the Motions on this ground alone.

B. Potential Financial Responsibility Confers the Right to Be Heard

The Committee incorrectly contends that the insurers must acknowledge financial responsibility before participating as parties in interest. This baseless interpretation is unsupported by the text, history, and precedent of Section 1109(b)'s broad scope, and the wording and record of *Truck,* as discussed below.

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[11] *United States v. Heller*, 551 F.3d 1108, 1111 (9th Cir. 2009).

[12] *Gwen H. v. Foreman*, 766 F. Supp. 3d 976, 980 (C.D. Cal. 2025).

[13] "Section" means the listed section of Title 11 of the United States Code.

[14] *See Hana Fin., Inc. v. Hana Bank*, 735 F.3d 1158, 1162 n.4 (9th Cir. 2013) ("A motion in limine is not the proper vehicle for seeking a dispositive ruling on a claim"); *see also Elliott v. Versa CIC, L.P.*, 349 F. Supp. 3d 1000, 1002 (S.D. Cal. 2018) (denying a dispositive motion a party has "disguised as a motion *in limine*" to bar the other party from raising cause of action at trial); *see also David Sansone Co., Inc. v. Waiaha Ridge LLC*, 2023 WL 6958813 at *4 (D. Haw. Oct. 20, 2023) ("A motion *in limine* is not a proper vehicle for a party to ask the Court to weigh the sufficiency of the evidence in support of a particular claim or defense").

1. The Broad Scope of Section 1109(b)

> Section 1109(b)'s broad wording necessarily permits a debtor's insurers to be heard:[15]
> A party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, or any indenture trustee, may raise and may appear and be heard on any issue in a case under this chapter.[16]

Section 1109(b) confers a right to "appear" and "be heard" on "any issue" to any "party in interest." The word "including" clarifies that the enumerated list is illustrative rather than exhaustive,[17] and "including" is "not limiting."[18]

Because "party in interest" is nowhere defined in the Code, interpreting it begins with the words' ordinary meaning.[19] "Party" is best understood as "one concerned in an affair,"[20] and "interest" denotes "[c]oncern, or the state of being concerned or affected, esp. with respect to advantage, personal or general."[21] Whether a party qualifies as a party in interest is determined on a case-by-case basis, taking into consideration whether that party has a sufficient stake in the outcome of the proceeding.[22]

In 1978, Congress broadened participation rights by replacing the specified list of participants with the general term "party in interest" followed by a non-exclusive, illustrative enumeration.[23] The Bankruptcy Code does not define the term "party in interest."[24] Legislative history makes clear that

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[15] *See In re Ionosphere Clubs, Inc.*, 101 B.R. 844, 849-50 (Bankr. S.D.N.Y. 1989); *In re Overview Equities, Inc.*, 240 B.R. 683, 686 (Bankr. E.D.N.Y. 1999); *In re Thorpe Insulation Co.*, 677 F.3d 869, 884 (9th Cir. 2012).

[16] 11 U.S.C. § 1109(b).

[17] *Herb's Welding, Inc. v. Gray*, 470 U.S. 414, 423 n.9 (1985); *U.S. Bank Nat'l Ass'n v. Village at Lakeridge, LLC*, 583 U.S. 387, 390 (2018).

[18] 11 U.S.C. § 102(3).

[19] *See Schindler Elevator Corp. v. United States ex rel. Kirk*, 563 U.S. 401, 407 (2011).

[20] *Truck*, 602 U.S. at 278.

[21] *Id.* at 278.

[22] *In re Heating Oil Partners, LP*, 422 Fed. Appx. 15, 17 (2d Cir. 2011) (quoting *In re Stone Barn Manhattan, LLC*, 405 B.R. 68, 74 (Bankr. S.D.N.Y. 2009).

[23] Bankruptcy Reform Act of 1978, Pub. L. No. 95-598, § 1109, 92 Stat. 2549, 2629.

[24] *In re Owen-Moore*, 435 B.R. 685, 690 (Bankr. S.D. Cal. 2010).

the lack of clarity is intentional.[25] "The entities listed in 11 U.S.C. § 1109(b) are not the only parties in interest that may appear under that section."[26] Hence, Section 1109(b) "continues the pattern" and "tradition" of "permitting interested parties in bankruptcy cases the absolute right to be heard"[27] and expanded participatory rights to embrace any entity "potentially concerned with or affected by a proceeding."[28] Thus, even prior to *Truck*, courts recognized that Section 1109(b) confers broad participatory rights[29]:

Similarly, in 1983, the Bankruptcy Court for the Southern District of New York held that a debtor's insurers were parties in interest.[30] In *In re Marin Motor Oil*, the Third Circuit found that Section 1109(b) confers an unconditional right to intervene and "should be given as broad and absolute a reading as section 206 had received"; In *In re Caldor Corp.,* the Second Circuit found that Section 1109(b) confers an unconditional statutory right, as a party in interest, to intervene; and in *In re Thorpe Insulation,* the Ninth Circuit held that non-settling insurers have standing to participate in a chapter 11 case, and object to a chapter 11 plan, because parties with potential liability for claims against the debtor have standing to participate in bankruptcy proceedings.[31]

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[25] *Id*. citing *In re River Bend-Oxford Assoc.*, 114 B.R. 111, 113 (Bankr. D. Md. 1990).

[26] *In re Torrez*, 132 B.R. 924, 934 (Bankr. E.D. Cal. 1991).

[27] *Id.*; *In re Amatex Corp.*, 755 F.2d 1034, 1042 (3d Cir. 1985) (citation omitted).

[28] *Truck*, 602 U.S. at 277.

[29] *See, e.g.*, *Stone Barn Manhattan*, 405 B.R. at 74 (holding that an entity, which had served as a stalking horse bidder but subsequently defaulted, retained party in interest standing based on two grounds: its direct interest in an escrow account from which a proposed settlement would be funded, and contingent administrative claims that certain debtors held against the entity's estates); *In re Overview Equities, Inc.*, 240 B.R. at 686-87 (holding that party with legal interest in property, rather than claim, is a party in interest); *Horowitz v. Kaplan*, 193 F.2d 64, 66 (1st Cir. 1951) (holding that the right to be heard on all matters in a reorganization case could not be limited to stockholders of record or holders of record of voting trust certificates; beneficial owners of stock or voting trust certificates were entitled to appear and be heard in the case).

[30] *In re Johns-Manville Corp.*, 31 B.R. 965, 971 (S.D.N.Y. 1983).

[31] *Official Unsecured Creditors' Comm. v. Michaels (In re Marin Motor Oil, Inc.)*, 689 F.2d 445, 453 (3d Cir. 1982); *In re Caldor Corp.*, 303 F.3d 161, 170, 176 (2d Cir. 2002); *Thorpe Insulation*, 677 F.3d at 886 (citing *Baron & Budd, P.C. v. Unsecured Asbestos Claimants Comm.*, 321 B.R. 147, 158 (D.N.J. 2005); *see also Frontier Ins. Co. v. Westport Ins. Corp. (In re Black, Davis, and Shue Agency, Inc.)*, 460 B.R. 407, 413-15 (Bankr. M.D. Pa. 2011); *In re Standard Insulations, Inc.*, 138 B.R. 947, 950 (Bankr. W.D. Mo. 1992) ("The insurers are parties in interest under 11 U.S.C. § 1109(b) and

Based on the above, it was well-established that insurers with potential coverage obligations were determined to be parties in interest well before *Truck* because courts have consistently held that such insurers are parties in interest in bankruptcy proceedings.

2. The *Truck* Decision

In *Truck*, the Supreme Court confirmed the trend towards broad participation. In its bankruptcy case, Kaiser proposed a reorganization plan that established a trust to assume Kaiser's uninsured asbestos liabilities ("Trust") and transferred insurance coverage rights for its insured asbestos liabilities to the Trust.[32] The Trust was responsible to pay uninsured claims, which were subject to strong anti-fraud procedures, thereby protecting the Trust. There were no anti-fraud provisions to protect insured claims, however, and those claims were allowed to proceed in state court, where the insurers were exposed to fraudulent claims.[33] Truck Insurance Exchange ("Truck"), one of Kaiser's insurers, objected, asserting that the plan facilitated fraudulent claims and violated the Bankruptcy Code.[34] The Bankruptcy Court for the Western District of North Carolina ruled that Truck did not have the right to object because the plan was "insurance neutral", *i.e.*, it neither increased Truck's obligations nor impaired its contractual rights.[35] The District Court and the Fourth Circuit affirmed.[36]

The Supreme Court rejected the idea that "insurance neutrality", *i.e.*, a lack of Article III standing, would negate the right to be heard under Section 1109(b), and reversed. It held the "insurance neutral" test to be "conceptually wrong" because it "conflates the merits of an objection

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502(a) and have standing to object to claims against the estate."), *abrogated on other grounds* by *Pioneer Inv. Servs. Co. v. Brunswick Assoc.*, 507 U.S. 380 (1993); *see also In re Quigley Co.*, 391 B.R. 695, 705-06 (Bankr. S.D.N.Y. 2008) (insurance carriers have standing to object to confirmation and obtain discovery).

[32] *Truck*, 602 U.S. at 274-75.

[33] *Id*. at 275.

[34] *Id*. at 276.

[35] *Id*.

[36] *Id*.

with the threshold party in interest inquiry."[37] It found that Section 1109(b) "asks whether the reorganization proceedings *might affect* a prospective party, not how a particular reorganization plan *actually affects* that party". [38] It focused on the *potential* effect of *any part of a bankruptcy case*, not only the *actual* effect of chapter 11 plans.[39] Consequently, it held that "entities [such as, here, LMI] *potentially concerned* with or affected by a proceeding" had a right to be heard.[40] The Supreme Court recognized that insurers are parties in interest because bankruptcy proceedings "can affect an insurer's interests in myriad ways,"[41] ***including impairing rights to control settlements, abrogating contribution rights, inviting fraudulent claims through collusive arrangements, or allowing claims "at amounts far above their actual value and out of line with the claimants' injuries … for which little to no proof of injury is required***."[42] The same is true here.

The Supreme Court held that Truck's financial responsibility arose from the insurance policies that Truck had issued. The Court never once mentioned the fiction raised here by the Committee – that Truck was required to "acknowledge financial responsibility." As discussed below, Truck continuously *denied* financial responsibility, even while the arguments were made in the Supreme Court.

The term "party in interest" is "an expandable concept depending on the particular factual context in which it is applied."[43] The concept is flexible to permit the involvement of those persons

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[37] *Id.* at 283.

[38] *Id.* at 281, 283 (emphasis added).

[39] *Id.* at 278-79.

[40] *Id*. at 283 (emphasis added) (holding that the inquiry of whether an entity is a party in interest "asks whether the reorganization proceedings *might* affect a prospective party, not how a particular reorganization plan actually affects that party … The phrase 'party in interest' is meant to be interpreted broadly and should include any party who is 'potentially concerned with, or affected by, a proceeding.'"). *Id.* (citation omitted).

[41] *Id.* at 281.

[42] *Id.*(citation omitted).

[43] *Owen-Moore*, 435 B.R. at 690.

in interest which will be affected by the reorganization process.[44] In determining party in interest status, the court has "great latitude to insure fair representation of all constituencies impacted in any significant way by [a bankruptcy.]"[45] "The test to determine whether an entity is a party in interest is 'whether the prospective party in interest has a sufficient stake in the outcome of the proceeding so as to require representation."[46]

In short, the Supreme Court held that Truck was a "party in interest because it *may* be directly and adversely affected by the reorganization plan."[47] The italicized words above, "potentially", "might", and "may" conclusively show that *Truck* contradicts the Committee's unsupported argument.

3. ***Truck* Does not Require a Party to Acknowledge Financial Responsibility to be a Party in Interest**

The *Truck* decision does not require LMI to acknowledge financial responsibility for claims to be a party in interest. The notion that Truck "expressly acknowledged its financial responsibility"[48] is unquestionably false.

At the time Truck objected to Kaiser's chapter 11 plan, Truck was actively disputing its coverage obligations, including by: (i) filing an insurance coverage action adversary proceeding, which asserted that it owed no further coverage because Kaiser breached the terms of the policies in its bankruptcy case, which adversary proceeding was withdrawn to the District Court for the Western District of North Carolina; (ii) issuing a reservation of rights letter threatening to deny coverage based on Kaiser's refusal to incorporate Truck's desired provisions in the chapter 11 plan;[49] and (iii)

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[44] *Id*.

[45] *Id*. citing *In re Johns-Manville Corp.*, 36 B.R. 743, 754 (Bankr. S.D.N.Y. 1984).

[46] *In re Torrez*, 132 B.R. at 934 citing *In re Public Service Co. of New Hampshire*, 88 B.R. 546, 550-551 (Bankr. D. N.H. 1988).

[47] *Truck*, 602 U.S. at 269 (emphasis added); *see also id.* at 270 ("The fact that Truck's financial exposure may be directly and adversely affected by a plan is sufficient to give Truck a right to voice its objections.").

[48] Dkt. No. 2851 at 20:22.

[49] Joint Appendix, Vol. 2 of 2, Case No. 22-1079, at 549-551 (U.S. Dec. 7, 2023) (Truck Insurance Exchange Reservation of Rights Letter).

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opposing a "Plan Finding" that purported to resolve coverage disputes against Truck, over Truck's vigorous objection.[50] The Supreme Court recognized that this finding "directly and adversely affected" Truck's rights on a key coverage dispute.[51] The Court was thus aware that Truck was aggressively denying any financial responsibility. If Truck were to have accepted financial responsibility, which it did not, no such finding would have been included in Kaiser's plan, or disputed by Truck. To the contrary, as recognized by Kaiser's plan, Truck preserved all coverage defenses, including defenses based on the lack of cooperation, fraud, and policy exclusions.[52]

In addition to the foregoing unambiguous efforts of Truck to *deny* its financial obligations, at the very same time of the bankruptcy case, Truck was actively litigating its coverage obligations during its appeal to the U.S. Supreme Court. Oral argument before the U.S. Supreme Court took place on March 19, 2024. Concurrently, Truck raised coverage arguments in the California Supreme Court, which issued a decision on June 17, 2024, *after* oral argument at the U.S. Supreme Court.[53]

Chief Judge Kinsella for the Bankruptcy Court for the Northern District of New York rejected the fabricated argument adopted by the Committee.[54] Judge Kinsella held that "liability ***does not*** need to be acknowledged or adjudicated before the teachings of *Truck* apply" and that, where (as here) a debtor asserts that insurers have financial responsibility for survivors' claims, those insurers are parties in interest.[55] Here, the Debtor filed the Coverage Action to establish LMI's obligations to defend. The *Diocese of Albany* case cited by the Committee[56] in support of its assertion that courts have

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[50] *See Truck*, 602 U.S. at 275-77.

[51] *Id.* at 277.

[52] *See Kaiser Gypsum*, Case No. 16-31602, Dkt. No. 2481 at 164 (Kaiser's plan included Trust distribution procedures preserving all of Truck's defenses to coverage and claims.).

[53] *Truck Ins. Exch. v. Kaiser Cement & Gypsum Corp.*, 16 Cal.5th 67 (2024).

[54] *In re Roman Catholic Diocese of Syracuse*, 665 B.R. 866, 875 (Bankr. N.D.N.Y. 2024).

[55] *Id.* (emphasis added).

[56] *In re Roman Cath. Diocese of Albany*, No. 23-10244, 2025 WL 2536165, at *6-7 (Bankr. N.D.N.Y. Sept. 3, 2025).

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adopted positions requiring actual financial responsibility was under appeal at the time LMI settled and therefore does not constitute persuasive authority.[57]

LMI subscribed certain excess umbrella policies on behalf of the Debtor for periods from March 12, 1962, to October 25, 1966 ("LMI Policies"). As in *Truck*, the LMI Policies potentially cover some of the Debtor's liabilities for Abuse Claims. The LMI Policies are excess indemnity policies sitting above the Debtor's primary coverage layer that only trigger after the exhaustion of underlying primary limits. In its coverage adversary proceeding, the Debtor alleges that, in part, certain of the LMI Policies "are responsive" to approximately 38 Abuse Claims.[58] LMI's initial review indicates that approximately nine of these 38 claims are objectionable. Hence, LMI *may* have financial responsibility for covered Abuse claims. This potential financial impact is demonstrated by LMI's active participation in mediation and in this bankruptcy case. LMI would have had no reason to hire lawyers to represent it in the Debtor's bankruptcy case absent such potential financial responsibility. Accordingly, LMI are parties in interest and there is no missing requirement that LMI "accept financial responsibility" for the Abuse Claims to be parties in interest.

C. If Article III Were to Apply, LMI Satisfy Its Standing Requirements

1. Article III Standing Does Not Apply to Bankruptcy Cases

Article III's requirements, including its "case or controversy" do not apply to bankruptcy courts. Article I authorizes Congress to establish bankruptcy laws and governs the power of the bankruptcy courts.[59] While bankruptcy cases must be filed in District Court, the District Courts routinely refer bankruptcy cases, including all of the matters within a Bankruptcy Court's Article I

[57] *Lloyd's Underwriters and Certain London Market Companies v. The Roman Catholic Bishop of Albany, New York, et al.*, No. 1:25-cv-1569 (N.D.N.Y.).

[58] *See* Sixth Amended Complaint at ¶ 14, Dkt. No. 238, Case No. 3:24-cv-00709.

[59] U.S. Const., art. I, § 8 ("Congress shall have Power to…establish…uniform Laws on the subject of Bankruptcies throughout the United States[.]"); *see also In re Arbco Cap. Mgmt., LLP*, 479 B.R. 254, 259 (S.D.N.Y. 2012) (citing U.S. Const., art. I, § 8, cl. 4); *In re Dambowsky*, 526 B.R. 590, 595 (Bankr. M.D.N.C. 2015) (noting that bankruptcy courts' powers are governed by Article I).

jurisdiction, to a Bankruptcy Court.[60] "Once a case is validly referred to the bankruptcy court, the Constitution does not require it be an Article III case or controversy for the bankruptcy court to act."[61]

Because Bankruptcy Courts do not wield the "judicial power of the United States" ("Judicial Power") in bankruptcy cases, Bankruptcy Courts are not subject to Article III's case-or-controversy limitations.[62] The Supreme Court established that Bankruptcy Courts do not exercise Judicial Power over forty years ago in *Northern Pipeline Constr. Co. v. Marathon Pipe Line* and again in *Stern v. Marshall*.[63] Moreover, Congress's designation of bankruptcy courts as "units" of the district court does not impose Article III's requirements on bankruptcy courts, because Congress cannot expand or narrow the scope of Article III through statutory enactments.[64]

If the contrary were true, and Article III were to apply to bankruptcy cases, the practical implications of applying Article III's requirements would create insurmountable problems for the day-to-day operations of bankruptcy courts. Bankruptcy courts routinely determine administrative matters

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[60] *Kiviti v. Bhatt*, 80 F.4th 520, 533, n. 9 (4th Cir. 2023) ("In practice, referrals occur automatically because virtually all district courts have entered standing orders of reference.") (citing 1 Collier on Bankruptcy ¶ 3.02[1] (2023)).

[61] *Id.* (citing *In re Technicool Sys., Inc.*, 896 F.3d 382, 385 (5th Cir. 2018)).

[62] *Id.*; *see also In re Coho Energy, Inc.*, 395 F.3d 198, 202 (5th Cir. 2004) ("Bankruptcy courts are not authorized by Article III of the Constitution, and as such are not presumptively bound by traditional rules of judicial standing."); *Bestwall LLC v. Off. Comm. of Asbestos Claimants of Bestwall, LLC*, 2025 WL 2177391, at *4, n.10 (4th Cir. Aug. 1, 2025).

[63] *N. Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 59 (1982); *Stern v. Marshall*, 564 U.S. 462, 503 (2011); *see also Wellness Int'l Network, Ltd. v. Sharif*, 575 U.S. 665, 689 (2015) (Roberts, J., dissenting) (stating "With narrow exceptions, Congress may not confer power to decide federal cases and controversies upon judges who do not comply with the structural safeguards of Article III.")

[64] *Kiviti*, 80 F.4th at 535; *see also* 28 U.S.C. § 151 ("In each judicial district, the bankruptcy judges in regular active service shall constitute a unit of the district court to be known as the bankruptcy court for that district."); *Stern*, 564 U.S. 462 ("The bankruptcy courts under the 1984 Act are not 'adjuncts' of the district courts. The new bankruptcy courts, like the courts considered in *Northern Pipeline,* do not 'ma[k]e only specialized, narrowly confined factual determinations regarding a particularized area of law' or engage in 'statutorily channeled factfinding functions.' [citation omitted]. Whereas the adjunct agency in *Crowell v. Benson* 'possessed only a limited power to issue compensation orders ... [that] could be enforced only by order of the district court," [citation omitted], a bankruptcy court resolving a counterclaim under § 157(b)(2)(C) has the power to enter 'appropriate orders and judgments'—including final judgments—subject to review only if a party chooses to appeal, see §§ 157(b)(1), 158(a)-(b). *Such a court is an adjunct of no one*.") (emphasis added).

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that do not involve an Article III "case" or "controversy" yet are critical to the bankruptcy case. No Article III "case" or "controversy" exists when a bankruptcy case is filed. Debtors may file "first day motions" to streamline case administration. If unopposed, these motions do not satisfy Article III's case or controversy requirements. Nonetheless, despite the lack of compliance with Article III,[65] bankruptcy courts routinely decide these matters. Making such decisions would be outside the Bankruptcy Court's constitutional authority if Article III were to apply.

Truck implicitly recognized this principle. In *Truck*, despite the parties disputing whether Article III limited Truck's right to be heard, the Supreme Court found Article III irrelevant to whether Truck could object to Kaiser Gypsum's chapter 11 plan.[66] As the Ninth Circuit has acknowledged, the failure of an appellate court to address an argument on appeal constitutes rejection of such argument.[67]

In *Truck*, the Supreme Court ignored the Article III arguments raised by the parties on appeal, to find the wording of Section 1109(b) was in and of itself sufficient to reverse the Fourth Circuit's denial of Truck's right to be heard.[68] Instead of discussing whether Truck had Article III standing, the

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[65] Likewise, as a case progresses through bankruptcy court, there are many administrative motions that may be unopposed and do not satisfy Article III's case or controversy requirements. For instance, a debtor may file a motion to sell property or to abandon property, a motion to assume a contract, or applications to pay professionals. When a case concludes, a trustee may seek approval of their final report, or a debtor may file a motion for final decree. Again, these types of motions do not satisfy the justiciability doctrines of standing, ripeness and mootness. Absent opposition, none of these matters involve a case or controversy under Article III.

[66] *Truck*, 602 U.S. 268; *In re AIO US, Inc.*, 672 B.R. 261, 268 (Bankr. D. Del. June 6, 2025) ("As a starting point, it bears note that *Truck Insurance* itself never even discusses the question of Article III standing."). When an argument is briefed, but not addressed, the Supreme Court construes its own silence to reject such arguments. *See Castille v. Peoples*, 489 U.S. 346, 351 (1989) ("the claim has been presented as of right but ignored (and therefore impliedly rejected)").

[67] *See Thomas v. Bible*, 983 F.2d 152, 154–55 (9th Cir. 1993) (concluding that appellate court's denial of attorney's fees to prevailing civil rights defendant on ground that claim was not frivolous necessarily implied finding that claim was non-frivolous for purposes of summary judgment), *cert. denied*, 508 U.S. 951 (1993).

[68] Brief for Petitioner, *Truck Ins. Exch. v. Kaiser Gypsum Co.*, No. 22-1079, at 2 (U.S. 2024) ("The insurance-neutrality doctrine has no basis in the text of the Code … [T]he standard set by Congress in the text of Section 1109(b) is coextensive with Article III such that, once Article III standing is satisfied, no further barrier to participation exists"); *Truck*, 602 U.S. at 270 ("The fact that Truck's financial exposure may be directly and adversely affected by a plan is sufficient to give Truck a right to voice its objections.").

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Supreme Court ruled solely that Truck satisfied the "party in interest" requirement under Section 1109(b).[69] The Supreme Court's decision in *Truck* to engage only in statutory analysis is telling[70], because in affirming the District Court, the Fourth Circuit Court of Appeals ruled that Truck lacked Article III standing and therefore precluded Truck from being heard. Thus, if Article III could have had such an effect the Supreme Court would have been obligated to address whether Truck had Article III standing.[71] It did not. Further, it would have made no sense for the Supreme Court to remand the case so that Truck could be heard, only for Article III again to serve as an impediment on remand to hearing Truck's arguments. Hence, Article III's requirements are irrelevant to whether LMI may oppose the plan.

Moreover, Article III standing requirements arise in the context of standard two-party litigation, where a plaintiff invokes a federal court's jurisdiction against a defendant. Bankruptcy is fundamentally different. There is no plaintiff and no defendant as it is an *in rem* proceeding in which a court distributes a res among competing claimants. The party invoking the court's jurisdiction is the debtor, and it is the debtor that must demonstrate a concrete stake in the relief it seeks.[72]

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[69] *Truck*, 602 U.S. at 285.

[70] *Clemons v. Mississippi*, 494 U.S. 738, 747 n. 3 (1990)) (noting that the "[U.S. Supreme] Court implicitly rejected those arguments in both cases by refusing to address them"); *Castille v. Peoples*, 489 U.S. at 35 ("the claim has been presented as of right but ignored (and therefore impliedly rejected)"); *Heathcoat v. Potts*, 905 F.2d 367, 370, 371 (11th Cir. 1990) (concluding that remand order requiring trial court to consider party's defenses necessarily implied ruling that party was properly substituted for another party, and that therefore implicit ruling that party was properly substituted was law of the case on remand); *Knotts v. United States*, 893 F.2d 758, 761 (5th Cir. 1990) (ruling mandate instructing consideration of party's proportional fault necessarily implied rejection of that party's immunity argument, which was briefed and argued on appeal, though not addressed specifically in remand order); *Smith Int'l, Inc. v. Hughes Tool Co.*, 759 F.2d 1572, 1577 (Fed. Cir. 1985) (finding in prior appellate panel's ruling that challenged patent was valid an implied rejection of every argument against validity advanced by challenger, and therefore ruling that validity was law of case), *cert. denied*, 474 U.S. 827 (1985); *United States v. Real Prop. Located at Incline Vill.*, 958 F.Supp. 482, 488 (D. Nev. 1997) ("The Supreme Court implicitly rejected the government's *res judicata* argument; that rejection is now the law of this case and this court may not revisit the argument on remand.").

[71] *In re AIO US, Inc.*, 672 B.R. at 268 ("One would therefore have expected, if the Supreme Court believed that the question of insurer standing to object to confirmation implicated Article III of the Constitution, for the Court to have considered and addressed that question before turning to the statutory issue.").

[72] *See id.* at 269.

Only the party that is "invoking a court's jurisdiction" is required to establish standing.[73] "Article III does not restrict the opposing party's ability to object to relief being sought at its expense."[74] Similar to plaintiffs, each Abuse Claimant voluntarily invoked the Court's jurisdiction by filing a proof of claim and submitting the Abuse Claim to the Court's authority to disallow claims when such claims are not cognizable under applicable state law.[75] LMI, as objectors to the Plan, are acting as defendants and need not establish separate constitutional standing. When the party invoking the Court's jurisdiction has standing, no further Article III analysis is required for parties opposing such relief.[76] Section 1109(b) confirms this structure by granting parties in interest the right to appear and be heard without imposing any threshold jurisdictional showing.

Hence, the Supreme Court recognized that parties objecting to relief need not establish separate Article III standing.

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[73] *Va. House of Delegates v. Bethune-Hill*, 587 U.S. 658, 663 (2019) (The Virginia House of Delegates was free to *defend* against a lawsuit alleging that the State of Virginia had improperly gerrymandered the drawing of state legislative districts. But once the State of Virginia (the party with standing) chose not to appeal an adverse ruling, the House of Delegates lacked standing to seek Supreme Court review.); *see also Scotts Valley Band of Pomo Indians v. Burgum*, 2025 WL 1178598, at *2 n.3 (D.D.C. Apr. 23, 2025) (suggesting that only a "plaintiff or appellant, not an appellee or defendant" is a party that is "invoking the court's jurisdiction" and must demonstrate Article III standing.); *Farmer v. EPA*, 759 F.Supp.3d 101, 107 n.2 (D.D.C. 2024) ("defendant-intervenors not invoking the court's jurisdiction are not required to demonstrate standing.") (citing *Env't Integrity Project v. Wheeler*, 2021 WL 6844257, at *2 (D.D.C. Jan. 27, 2021) (Jackson, J.) and *Childs.' Health Def. v. CDC*, 2024 WL 3521593, at *5 n.3 (D.D.C. July 24, 2024)).

[74] *See also In re AIO US, Inc.*, 672 at 268 (Bankr. D. Del. 2025) ("The question of who may be heard to oppose the relief sought poses no constitutional issue.")

[75] *In re S.G. Phillips Constructors, Inc.,* 45 F.3d 702, 705 (2d Cir. 1995) (quoting 28 U.S.C. § 157(b)(2)(B) (It is settled law that "the determinative factor as to [a] bankruptcy court's jurisdiction ... is that the [creditor] filed a proof of claim resulting in an adversary proceeding that involved the 'allowance or disallowance of claims against the estate.'"); *see also Langenkamp v. Culp,* 498 U.S. 42, 44 (1991) (per curiam) (quoting *Granfinanciera, S.A. v. Nordberg,* 492 U.S. 33, 58-59 (1989)) ("[B]y filing a claim against a bankruptcy estate the creditor triggers the process of allowance and disallowance of claims, thereby subjecting himself to the bankruptcy court's equitable power." (internal quotations omitted)). Additionally, "by filing a proof of claim a creditor forsakes its right to adjudicate before a jury any issue *that bears directly on the allowance* of that claim." *Germain v. Conn. Nat'l Bank,* 988 F.2d 1323, 1329 (2d Cir.1993) (emphasis in original); *Moore v. The Wiz, Cablevision*, 2008 WL 2357406, at *2 (E.D.N.Y. June 4, 2008).

[76] *Little Sisters of the Poor Saints Peter & Paul Home v. Pa.,* 591 U.S. 657, at 674 n.6 (2020).

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2. Even If Article III Were to Apply, LMI Satisfy Their Standing Requirements

Article III of the U.S. Constitution authorizes Congress to establish the District Courts and Courts of Appeal to exercise the Judicial Power.[77] Article III limits such exercise of the Judicial Power of the United States to "cases" and "controversies."[78] A case or controversy exists when parties have a personal stake in each litigation stage of a lawsuit.[79] Courts established pursuant to Article III enforce the case or controversy requirement through several justiciability doctrines, including standing, ripeness, mootness, the political question doctrine, and the prohibition on advisory opinions.[80]

"Article III's strictures are met not only when a plaintiff complains of being deprived of some benefit, but also when a plaintiff complains that she was deprived of a chance to obtain a benefit."[81] In *Jevic*, the bankruptcy court approved a structured dismissal of a chapter 11 case that resulted in the settlement of a fraudulent conveyance lawsuit.[82] However, the structured dismissal did not comply

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[77] U.S. Const., art. III, § 1; *see also F.D.A. v. All. for Hippocratic Med.*, 602 U.S. 367, 399 (2024) (Thomas, J., concurring); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 559 (1992).

[78] *See generally Lexmark Int'l v. Static Control Components, Inc.*, 572 U.S. 118, 125 (2014); *Va. House of Delegates v. Bethune-Hill*, 587 U.S. at 662; *Little Sisters of the Poor Saints Peter and Paul Home*, 591 U.S. 657; *Hollingsworth v. Perry,* 570 U.S. 693, 704 (2013); *Truck*, 602 U.S. 268.

[79] *Hollingsworth v. Perry*, 570 U.S. at 704 (A person "invoking the power of a federal court must demonstrate standing to do so," which "requires the litigant to prove that he has suffered a concrete and particularized injury that is fairly traceable to the challenged conduct, and is likely to be redressed by a favorable judicial decision.") (citing *Lujan,* 504 U.S. at 560–561 (1992); *see also Va. House of Delegates*, 587 U.S at 662–63; *Kiviti,* 80 F.4th at 532.

[80] *Ellison v. Am. Bd. of Orthopaedic Surgery*, 11 F.4th 200, 205 (3d Cir. 2021) (quoting *Toll Bros, Inc. v. Twp. of Readington*, 555 F.3d 131, 137 (3d Cir. 2009); *Id.* (A plaintiff can establish standing to be heard in an Article III court, by showing: "(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.").

[81] *Czyzewski v. Jevic Holding Corp.*, 580 U.S. 451 (2017); *Robertson v. Allied Solutions, LLC*, 902 F.3d 690, 697 (7th Cir. 2018); *Teton Historic Aviation Found. v. U.S. Dept. of Defense*, 785 F.3d 719, 724 (D.C. Cir. 2015) (*per curiam*) ("a plaintiff suffers a constitutionally cognizable injury by the loss of an *opportunity to pursue a benefit*…even though the plaintiff may not be able to show that it was *certain to receive* that benefit") (emphasis in original, citation omitted). A contractual breach may also constitute sufficient injury to confer Article III standing. *See, e.g., Narcisse v. Progressive Cas. Ins. Co.,* 778 F.Supp.3d 597, 607 (S.D.N.Y. 2025).

[82] *Jevic*, at 461.

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with the Bankruptcy Code's priority scheme.[83] The petitioners, who were pursuing a separate lawsuit against the debtor, appealed because they would not receive any of the settlement proceeds.[84] Perhaps under the same misconception as the Committee is here, none of the parties argued whether Section 1109(b) applied. Instead, the respondents argued that the petitioners lacked standing because even if the petitioners prevailed in their lawsuit, they would receive no recovery.[85] The Supreme Court disagreed. It noted that the loss of opportunity to pursue a lawsuit can confer standing.[86] This reasoning applies here. The Bankruptcy Code expressly confers on LMI, as parties in interest, the right to object to such claims.

LMI satisfy Article III because denial of their right to participate in confirmation proceedings directly exposes them to injury. The potential injury to LMI is caused by the preclusive effect of bankruptcy confirmation orders. Under Ninth Circuit precedent, "[o]nce a bankruptcy plan is confirmed, it is binding on all parties and all questions that could have been raised pertaining to the plan are entitled to *res judicata* effect."[87] Moreover, "allowance or disallowance of 'a claim in bankruptcy is binding and conclusive on all parties or their privies, and being in the nature of a final judgment, furnishes a basis for a plea of res judicata."[88] LMI's insurance policies will be affected by the confirmed plan's dictates. If LMI cannot fully participate, they cannot challenge provisions that impair its contractual rights before those provisions are finalized.[89] The inability to protect one's rights

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[83] *Id.*

[84] *Id.* at 462.

[85] *Id.* at 462-63.

[86] *Id.* at 464.

[87] *See Trulis v. Barton*, 107 F.3d 685, 691 (9th Cir. 1995).

[88] *Siegel v. Federal Home Loan Mortgage Corp.*, 143 F.3d 525, 529 (9th Cir. 1998).

[89] *See In re Congoleum Corp.*, 414 B.R. 44 (D.N.J. 2009) (holding that the insurers are parties in interest, and that the insurers' injury in fact is based on "the unfairness of a plan which binds them contractually and which directly impacts their financial interests, unfairness which is traceable to conflicts of interest among Claimants' counsel … The alleged injury is redressable by the Bankruptcy Court through a favorable decision, such as amendment of the Plan or denial of confirmation.")

before they are extinguished is itself an injury—it is not necessary to wait for the harm to materialize fully.

D. LMI Had No Discovery Obligation and Participated Regardless

The Committee contends that LMI played virtually no role in discovery relating to confirmation of the Plan and the Debtor contends that the insurers chose "a very limited role."[90] These arguments fail on two independent grounds. Section 1109(b) grants parties in interest the right to appear and be heard on *any* issue. Nothing in the text, legislative history, or case law conditions that right on discovery participation. The Committee and Debtor cite no authority for this proposition, because there is none.

Second, the Motions misrepresent the record. LMI participated in discovery. As stated above, LMI appeared at, participated in, or monitored every deposition taken in connection with confirmation of the Plan, and, as one of the Certain Insurers, propounded and joined in the written discovery directed to both the Debtor and the Committee.[91] LMI's objections to confirmation are predominantly legal in nature, directed at the Plan's treatment of non-settling insurers and its failure to comply with the Bankruptcy Code, rather than at disputed questions of fact. LMI's discovery was therefore appropriately targeted and proportionate to those legal objections. Because no discovery obligation existed and LMI met it anyway, the Motions lack basis to limit LMI's confirmation participation.

E. "Purely Legal" Objections Do Not Bar Participation in Examination

The Committee contends that because LMI's objections are purely legal in nature, LMI have no basis to participate in examination or cross-examination at confirmation. The Debtor similarly seeks to limit LMI's right to examine witnesses. The Committee and Debtor cite no case law for this proposition, because there is none.

Nothing in Section 1109(b) distinguishes between legal and factual objections. The statute grants parties in interest the right to appear and be heard on *any* issue—legal or factual. The Committee's and Debtor's proposed limitation finds no support in any case law or Section 1109(b)'s

[90] Debtor Motion at 3:8.

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text. Nor does *Truck* impose such a restriction. There, the Supreme Court held that insurers are parties in interest with a direct financial stake sufficient to confer the right to participate in confirmation.[92] The Court never suggested that the nature of a party's objections bears on the scope of its participation rights. To read such a limitation into *Truck* would be to add language the Court did not write.

F. LMI's Role Cannot Be Narrowed to Its Specific Objections

The Committee and Debtor argue that, if permitted to participate, LMI's role should be strictly confined to its narrow objections and any evidence directly bearing on those objections. That is the insurance neutrality doctrine by another name, and *Truck* rejected it. The Court held that the "insurance neutral" test is "conceptually wrong" because it "conflates the merits of an objection with the threshold party in interest inquiry."[93] As stated above, Section 1109(b) asks whether the reorganization proceedings might affect a prospective party. Accordingly, party-in-interest status cannot "depend on a plan-specific rule—that standard would be unusable for the Code provisions empowering a party in interest to request acts unrelated to a specific plan or that occur before a plan is confirmed or even proposed."[94]

The Committee's and Debtor's proposed limitation suffers from the same defect. Section 1109(b) does not confer participation rights on an issue-by-issue basis. Because LMI are parties in interest, they have the statutory right to appear and be heard on any issue. The Committee's and Debtor's requests should therefore be denied.

G. The Policy Arguments Are Meritless

1. The Judicial Economy Argument Is Internally Contradictory

The Committee argues that LMI's participation should be limited because its objections are narrow and affect only its own policies. It then argues that LMI's participation will "needlessly burden the proceedings." The Debtor similarly argues that the insurers objections focused on several issues, but that the insurers' involvement could "unnecessarily add hours and/or days" to the plan

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[92] *Truck*, 602 U.S. at 281.

[93] *Id.* at 283.

[94] *Id.*

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confirmation trial.[95] These positions are inconsistent—If LMI's issues are as narrow as the Committee and Debtor claim, there is no burden to speak of. The Committee and Debtor cannot simultaneously minimize LMI's role to justify preclusion and magnify it to invoke judicial economy. The argument defeats itself.

2. There is No Cognizable Prejudice

The Committee asserts that permitting LMI to "expand their participation beyond these boundaries would be unduly prejudicial," but offers no explanation of what that prejudice is, who suffers from it, and how it arises. LMI are statutory parties in interest exercising rights expressly conferred by Section 1109(b). Participation by parties in interest with a direct financial stake in the confirmation outcome is not prejudice—it is the appropriate function of the bankruptcy process.

The Debtor contends that it will be prejudiced if LMI raise "new" arguments at plan confirmation. Any "new" arguments raised by LMI would not be "new," but would be raised in response to any additional contentions that the Debtor raises in support of its plan. As a party in interest, LMI cannot be precluded from addressing any new arguments the Debtor raises at confirmation. Hence, there is no prejudice to the Debtor.

H. LMI's Full Participation Is Necessary to Preserve the Record

Should LMI ultimately seek appellate review, it must first obtain a ruling on its objections in this Court. This requires full participation. If LMI's participation is curtailed, it may be unable to present its legal arguments fully, ensure they are addressed on the merits, and demonstrate preservation for appeal. As in other cases where insurers were denied the right to participate, reversal would require remanding to the Court to re-conduct the confirmation hearing and permit LMI to raise and be heard on all issues.[96] Therefore, the Court should permit full participation to ensure LMI's objections are properly presented and decided.

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[95] Debtor Motion at 7:3.

[96] *See In re Thorpe Insulation Co.*, 677 F.3d at 876; *see also In re Glob. Indus. Techs., Inc.*, 645 F.3d 201, 215 (3d Cir. 2011).

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IV. CONCLUSION

For the foregoing reasons, LMI respectfully request that the Court deny the Motions in their entirety and permit LMI to fully participate in the confirmation hearing.

Dated: June 10, 2026

By: /s/ *Jeff D. Kahane*

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CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2026, a copy of the LONDON MARKET INSURERS' OMNIBUS OPPOSITION TO THE: (1) DEBTOR'S THIRD MOTION IN LIMINE TO LIMIT INSURERS' ARGUMENT AND EVIDENCE TO THE SCOPE OF THEIR CONFIRMATION OBJECTIONS; AND (2) OFFICIAL COMMITTEE OF UNSECURED CREDITORS' MOTION IN LIMINE TO PRECLUDE OR LIMIT INSURER PARTICIPATION AT THE HEARING ON CONFIRMATION OF THE DEBTOR'S MODIFIED FOURTH AMENDED PLAN was filed through the Electronic Case Filing System of the United States Bankruptcy Court, Northern District of California, and served electronically to all parties registered to received notice via ECF.

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Dated June 10, 2026

/s/ Jeff D. Kahane
Jeff D. Kahane