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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 POST-TRIAL BRIEF IN SUPPORT OF CONFIRMATION OF DEBTOR'S MODIFIED FOURTH AMENDED PLAN OF REORGANIZATION

Judge: Hon. William J. Lafferty

Date: Closing Arguments TBD
Time: TBD
Place: United States Bankruptcy Court
1300 Clay Street, Courtroom 220
Oakland, CA 94612

Table of Contents

I. PRELIMINARY STATEMENT 1

A. The Framework for Addressing this Case 2

B. The Court's Identified Issues and the Debtor's Responses 5

1. Good Faith 5

2. The Best Interests Test 6

3. The Fair and Equitable Standard 7

C. The Collective-Remedy Imperative 9

II. BACKGROUND 9

A. The Plan. 10

B. The Confirmation Hearings. 10

C. The Objections to the Plan. 10

III. ARGUMENT 10

A. The Plan Satisfies Each Requirement for Confirmation Under Section 1129(a) Except Section 1129(a)(8). 11

1. Uncontested or Inapplicable Provisions of Section 1129(a). 11

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

a) Legal Standard: Confirmation Not Likely to be Followed by Liquidation or Further Reorganization. 11

b) The Record Overwhelmingly Supports Feasibility 12

3. The Plan Has Been Proposed in Good Faith and Not by Any Means Forbidden by Law Pursuant to Section 1129(a)(3). 15

a) Legal Standard: The Ninth Circuit's Process-Focused Inquiry. 15

b) The Record Establishes the Debtor's Honest Effort. 17

c) The Committee's Good-Faith Attacks Are Mischaracterized Substantive-Adequacy Arguments 21

4. The Plan is in the Best Interests of Creditors and Satisfies Section 1129(a)(7). 23

a) Legal Standard(s): Plan Recoveries Exceed Hypothetical Chapter 7 Liquidation. 23

b) The Record Establishes Both of the Debtor's Liquidation Analyses Satisfy the Best Interest Test. 24

i. The Debtor's Supplemental Liquidation Analysis Satisfies the Best Interests Test 25

ii. The Best Interests Test is Also Satisfied Under the Primary Liquidation Analysis 33

c) The Committee's Attacks on the Liquidation Analyses Fail. 36

d) The Committee's Experts Do Not Undermine the Liquidation Analyses. 37

B. The Plan Meets the Requirements for Cramdown (Section 1129(b)) 40

1. Class 4 Voted Against the Plan, Necessitating Cramdown 41
2. The Plan Does Not Discriminate Unfairly With Respect to the Impaired Rejecting Classes. 42
3. The Plan is Fair and Equitable With Respect to the Rejecting Classes. 43
a) The Plan Satisfies the Absolute Priority Rule 45
b) The Debtor's Satisfaction of the Honest Effort Standard Supports the Plan is Fair and Equitable, Too. 46
c) The Debtor's Expert Witness Supports That the Plan is Fair and Equitable. 48
d) The Insurance Assignment Has Tremendous Value the Committee Cannot Contest. 50
e) The Committee's Expert Testimony Does Not Defeat Honest Effort or Demonstrate the Debtor Should Pay More. 52
C. The First Amendment and RFRA Require Deference to Bishop Barber's Determinations of What Churches and Properties Are Necessary to Fulfill the Church's Religious Mission. 54
1. Both Sides Agree the Debtor Has the Right to Attend to Its Parishioners' Religious and Spiritual Needs 55
2. The Forced Sale of Churches Would Violate the RFRA 55
a) Forcing the Sale of Churches Used for Worship Would Violate the Establishment And Free Exercise Clauses of the First Amendment. 57
b) By Analogy, the Ministerial Exception Prevents Interference With Church Governance. 59
c) To Condition Debtor's Emergence from Bankruptcy on the Sale of Churches Would Violate the Doctrine Of Unconstitutional Conditions. 60
IV. OMNIBUS RESPONSE TO REMAINING OBJECTIONS 61
A. The Committee's Remaining Objection Should be Overruled: The Plan Satisfies Section 1129(a)(10). 61
B. The Catholic Cemeteries of the East Bay Settlement Should Be Approved 62
C. The Insurance Assignment Should be Approved 64
1. The Insurance Assignment Complies with the Bankruptcy Code and is Consistent with Treatment in Other Diocesan and Religious-Order Cases 64
a) The Insurance Assignment is Consistent with Other Plans. 65
b) The Insurance Assignment Is Grounded In The Third Amended Plan Supported By The Insurers. 65
2. The Delayed Discharge Does Not Violate the Bankruptcy Code 67
3. Willingness to Consider Plan and Confirmation Order Language Changes 69
D. The UST Objection Should be Overruled 69
V. CONCLUSION 70

Table of Authorities

Page(s)

Cases

Acequia Inc. v. Clinton,
787 F.2d 1352 (9th Cir. 1986) 11

Am. Title Ins. Co. v. Lacelaw, Cor., 861 F.2d 224 (9th Cir. 1988) 15

Apache Stronghold v. United States,
101 F.4th 1036 (9th Cir. 2024) 55

Bank of Am. Nat'l Tr. & Sav. Ass'n,
526 U.S. 43

Behrend v. San Francisco Zen Center, Inc.,
108 F.4th 765 (9th Cir. 2024) 59, 60

Cantwell v. Connecticut,
310 U.S. 296 (1940) 60

Everett v. Perez (In re Perez),
30 F.3d 1209 (9th Cir. 1994) 3, 4, 40

Garvin v. Cook Invs. NW, SPNWY, LLC,
922 F.3d 1031 (9th Cir. 2019) 15

Hankins v. Lyght,
441 F.3d, 96 (2d Cir. 2006) 57

Holt v. Hobbs,
574 U.S. 352 (2015) 55

Hosanna-Tabor Evangelical Lutheran Church v.EEOC,
565 U.S. 171 (2012) 59

In re 2655 Bush, LLC,
2012 WL 2792325 (Bankr. N.D. Cal. July 6, 2012) 4, 46

In re 2712 Mission Partners, L.P.,
2010 WL 431738 (Bankr. N.D. Cal. Jan. 20., 2010) 4, 46

In re Archdiocese of Saint Paul and Minneapolis,
579 B.R. 188 (Bankr. D. Minn. 2017) 59

In re Armstrong World Indus., Inc.,
348 B.R. 111 (D. Del. 2006) 42

In re Avondale Gateway Ctr. Entitlement LLC,
2011 WL 6936526 (Bankr. D. Az. Dec. 27, 2011) 46

In re Brotby,
303 B.R. 177 (B.A.P. 9th Cir. 2003) 11, 12

In re BSA,
642 B.R. 504 (Bankr. D. Del. 2022) 3, 16

In re Corcoran Hosp. Dist.,
233 B.R. 449 (Bankr. E.D. Cal. 1999) 44

In re Diocese of Camden, N.J.,
653 B.R. 309 (Bankr. D.N.J. 2023) 47

In re Drexel Burnham Lambert Grp.,
138 B.R. 687 (Bankr. S.D.N.Y. 1992) 42

In re Hawaiian Telcom Communs., Inc.,
430 B.R. 564 (Bankr. D. Haw. 2009) 42

In re Hawthorne Plaza, Ltd.,
2002 WL 1181057 (Bankr. N.D. Cal. May 30, 2002) 4

In re Henry Mayo Newhall Mem'l Hosp.,
282 B.R. 444 (B.A.P. 9th Cir. 2002) 44

In re Independence Village,
52 B.R. 715 (Bankr. E.D. Mich. 1985) 45

In re Indian Nat'l Finals Rodeo,
453 B.R. 387 (Bankr. D. Mont. 2011) 44

In Re Juarez,
603 B.R. (9th Cir. BAP 2019) 22

In re Khan,
2014 WL 10474969 (E.D.N.Y. Dec. 24, 2014) 57

In re Manhattan Jeep Chrysler Dodge, Inc.,
602 B.R. 483 (Bankr. S.D.N.Y. 2019) 23

In re McCormick,
49 F.3d 1524 (11th Cir. 1995) 17

In re PG&E Corp.,
617 B.R. 671 (Bankr. N.D. Cal. 2020) 11

In re Roman Catholic Archbishop of Portland,
335 B.R. 842 (Bankr. D. Or. 2005) 56, 57

In re Rosenblum,
2019 WL 5782589 (Bankr. D. Nev. July 15, 2019) 23

In re Sagewood Manor Assocs., Ltd P'ship,
223 B.R. 756 (Bankr. D. Nev. 1998) 46

In re Sun Country Development,
764 F.2d 406 (5th Cir. 1985) 17

In re Sylmar Plaza, L.P.,
314 F.3d 1070 (9th Cir. 2002) 3, 16

In re The Roman Catholic Church of the Archdiocese of New Orleans,
No. 20-10846 (Bankr. E.D. La. Dec. 8, 2025) 64

In re Station Casinos, Inc.,
2011 Bankr. LEXIS 5822 (Bankr. D. Nev. June 8, 2011) 23

In re USEC, Inc.,
2011 WL 13492693 (Bankr. D. Del., Apr. 4, 2011) 45

In re W. Asbestos Co.,
313 B.R. 832 (Bankr. N.D. Cal. 2003) 64

In re Whittaker Mem'l Hosp. Ass'n, Inc.,
149 B.R. 812 (Bankr. E.D. Va. 1993) 44

In re WorldCom, Inc.,
2003 Bankr. LEXIS 1401 (Bankr. S.D.N.Y Oct 31, 2003) 12

In re Young,
82 F.3d 1407 (8th Cir. 1996) 56

Jones v. Wolf,
443 U.S. 595 (1979) 58

Kane v. Johns-Manville Corp.,
843 F.2d (2d Cir. 1988) 11

Kane v. Johns-Manville Corp.,
846 F.2d 636 (2d Cir. 1988) 17

Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church,
344 U.S. 94 (1952) 57

Kohler v. Inter-Tel Techs.,
244 F.3d 1167 (9th Cir. 2001) 50

Markel v. Union of Orthodox Jewish Congregations of America,
124 F.4th 796 (9th Cir. 2024) 60

Matter of Johns-Manville Corp.,
68 B.R. 618 (Bankr. S.D.N.Y. 1986) 42

Matter of Wabash Valley Power Ass'n, Inc.,
72 F.3d 1305 (7th Cir. 1995) 43

New Hope Family Servs., Inc. v. Poole,
966 F.3d 145 (2d Cir. 2020) 60

Our Lady of Guadalupe Sch. v. Morrissey-Berru,
591 U.S. 732 (2020) 60

Pietrzak v. Mukasey,
260 F. App'x 337 (2d Cir. 2008) 50

Presbyterian Church v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church,
393 U.S 440 (1969) 58

Puri v. Khalsa,
321 F. Supp.3d 1233 (D. Ore. 2018) 58, 59

Security Farms v. General Teamsters, Warehousemen & Helpers Union, Local 890 (In re General Teamsters),
265 F.3d 869 (9th Cir. 2001) 2, 16, 36, 43, 44

Santiago-Rodriguez v. Holder,
657 F.3d 820 (9th Cir. 2011) 50

Serbian E. Orthodox Dioceses of the U.S. & Canada v. Milivojevich,
426 U.S. 696 (1976) 58

U.S. v. Wilmer,
799 F.2d 495 (9th Cir. 1986) 50

U.S. v. Zamudio,
787 F.3d 961 (9th Cir. 2015) 50

Union Gospel Mission of Yakima, Washington v. Brown,
162 F.4th 1190 (9th Cir. 2026) 58

United States ex. rel. Farmers Home Admin. v. Arnold & Baker Farms (In re Arnold & Baker Farms),
177 B.R. 648 (B.A.P. 9th Cir. 1994) 11

United States, based on his religious beliefs as a Seventh Day Adventist.,
328 U.S. 61 (1946) 60

Watson v. Jones,
80 U.S. 679 (1871) 57

White v. ARCO/Polymers, Inc.,
720 F.2d 1391 (5th Cir. 1983) 15

Statutes

11 U.S.C. §303(a) 41

11 U.S.C. §726(a) 23

11 U.S.C. §§ 1122, 1123, and 1129 11

11 U.S.C. §§1123(b)(6), 1129 ..... 64, 65, 68

11 U.S.C. §1129 ..... 1, 10, 11, 46

11 U.S.C. § 1129(a) 11, 16, 21

11 U.S.C. § 1129(a)(3) 2, 17

11 U.S.C. § 1129(a)(7) 2, 23, 24, 41

11 U.S.C. § 1129(a)(7)(a)(ii) 24, 41

11 U.S.C. § 1129(a)(8) 11, 40

11 U.S.C. § 1129(a)(11) 2, 11, 12

11 U.S.C. § 1129(b) 3, 4, 22, 40, 41, 42, 46

11 U.S.C. § 1129(b)(1) 4, 40, 42

11 U.S.C. § 1129(b)(2) 2, 4, 41, 43, 46

11 U.S.C. § 1129(b)(2)(B) 43

11 U.S.C. §1129(b)(2)(B)(ii) 44, 45

11 U.S.C. §§ 1129(b)(2)(B)(ii), (b)(2)(C)(ii) 43

11 U.S.C. § 1141 ..... 67, 68
11 U.S.C. § 1141(d) 68
28 U.S.C. §157 6
28 U.S.C. §1930 69
42 U.S.C. § 2000bb 24
42 U.S.C. § 2000bb-1(a) 55
42 U.S.C. § 2000bb-1(b)(1) 55
42 U.S.C. § 2000bb–1(c) 57

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"), submits its post-trial brief (the "Brief") requesting confirmation of 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"). This Brief supplements the Debtor's *Memorandum of Law in Support of Confirmation of Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 3100] (the "Pretrial Brief"), responds to questions and comments of the Court at and prior to the status conference on July 7, 2026 ("July 7 Hearing"), and summarizes the evidence admitted at the contested hearings in June 2026 (the "Confirmation Hearings").[1]

I.
PRELIMINARY STATEMENT

The Plan satisfies every requirement of §1129 of the Bankruptcy Code and should be confirmed. The Debtor will commit a minimum of approximately $247 million in value to the resolution of the case, including $180 million cash *plus* an assignment of key insurance rights to Survivors[2] that cannot currently be valued. It will close and sell 13 worship sites plus over 30 parcels of vacant land and residential properties, borrow $55 million from RCC (the most it can borrow, from its only viable lending source), and secure post-Effective Date contributions with deeds of trust on additional real estate—a recovery that, when compared to every confirmed and pending joint plan in the universe of diocesan and religious-order bankruptcies, ranks at or above the 90th percentile of comparable outcomes. No competing plan exists.[3] The only alternative to confirmation—dismissal—eliminates the sole mechanism for collective, equitable recovery and returns 345 Survivors to serial state court litigation where the first to trial will exhaust the Debtor's limited assets.

The Plan is built on four integrated components. *First*, it creates the Survivors' Trust, providing a

[1] Capitalized terms used but not otherwise defined herein shall have the same meaning ascribed to them in the Plan, Pretrial Brief, or other Plan document, as applicable.

[2] Holders of Abuse Claims are referred to herein as "Abuse Claimants" or "Survivors."

[3] The Committee withdrew its own plan within 48 hours of the April 22, 2026 state court verdict and has not proposed an alternative.

funded, administered mechanism for distributing the Debtor's $150 million contribution and RCWC's $30 million contribution to all 345 Survivors (plus Unknown Abuse Claimants) on a *pro rata* basis based on scoring determined by an objective Abuse Claims Reviewer, ensuring equitable treatment rather than a race to the courthouse. *Second*, the Insurance Assignment—to which the Committee has not objected—transfers the Debtor's rights under all abuse-related insurance policies to the Survivors' Trust, giving Survivors direct access to insurance proceeds the Committee has repeatedly admitted are very valuable. *Third*, the Litigation Option permits each Survivor to pursue individual litigation against the Debtor's Insurers, preserving state court remedies the Committee has argued are essential. *Finally*, the Child Protection Protocols, developed during mediation and in consultation with national experts, will carry the force of a federal court order. The Protocols reflect the Debtor's genuine commitment to institutional reform and to eradicating the scourge of sexual abuse from the Catholic Church in the East Bay.

This brief describes how the Debtor satisfies each statutory requirement for confirmation. It begins with the specific questions the Court raised at the July 7 Hearing.

A. The Framework for Addressing this Case

This case presents four primary confirmation issues:

1. whether the Plan is feasible under §1129(a)(11);
2. whether the Plan was proposed in good faith under §1129(a)(3);
3. whether the Plan satisfies the best-interests-of-creditors test under §1129(a)(7); and
4. whether the Plan is "fair and equitable" with respect to the rejecting Class 4 under §1129(b)(2).

Feasibility is not seriously in dispute. The Debtor's witnesses—Charles Moore, Daniel Flanagan, Ronald Gies, and Attila Bardos—each confirmed the Plan can be funded and performed as proposed. The Committee's corporate representative, Matthew Babcock, admitted under oath that the Plan is feasible.

Regarding good faith, the Ninth Circuit applies an "honest effort" standard to a non-profit debtor as articulated in *Security Farms v. General Teamsters, Warehousemen & Helpers Union, Local 890 (In re General Teamsters)*, 265 F.3d 869, 877 (9th Cir. 2001) ("Teamsters II"). The question is whether the debtor proposed its plan as an honest effort to satisfy the demands of its creditors within the constraints

of its actual financial capacity, with a legitimate reorganizational purpose, and with a basis for believing reorganization can be achieved. *In re BSA*, 642 B.R. 504, 645 (Bankr. D. Del. 2022). Good faith cannot seriously be in question here. The Debtor is giving up all of its excess and vacant land and persuaded Adventus non-debtor to contribute the sale proceeds of the Livermore Property to the Survivors' Trust if sold within 3.5 years of the Effective Date, something neither the Debtor nor Adventus is required to do. Furthermore, the undisputed record shows Bishop Barber's decision about which Churches are mission-critical was informed by quantitative and qualitative data through the Mission Alignment Process ("MAP"), tested through consultation with the canonical bodies that exist to advise him, and constrained by the Debtor's limited borrowing capacity confirmed by Ronald Gies and the financial projections prepared by VeraCruz's Daniel Flanagan. Bishop Barber's sincerity in balancing two competing obligations—compensating Survivors and meeting the spiritual needs of 500,000 Catholics entrusted to his care—was evident to the Court and uncontroverted on the record. There is no evidence suggesting Bishop Barber acted in bad faith, that his process was pretextual, or that his determinations were insincere. Similarly, the mere fact of a debtor proposing a cramdown plan—something expressly allowed by the Bankruptcy Code—cannot possibly establish bad faith. *See In re Sylmar Plaza, L.P.*, 314 F.3d 1070, 1075 (9th Cir. 2002).

The best interests of creditors test is satisfied. Under each of the Debtor's two chapter 7 liquidation analyses, the Plan provides more to creditors than they would receive in a hypothetical liquidation.

Regarding the fair-and-equitable standard, the principal purpose of cramdown is to implement the absolute priority rule, under which an objecting class must be paid in full before any junior claim or interest gets anything at all on account of such interest. *Everett v. Perez (In re Perez)*, 30 F.3d 1209, 1212-23 (9th Cir. 1994) (noting that "fair and equitable" under § 1129(b) "implements the so-called absolute priority rule under which an objecting class must be paid in full before any claim or interest junior to it gets anything at all."). The Debtor is a non-profit religious entity with no equity holders, no shareholders, and no ability for those in control to extract profit. No holder of an interest junior to creditors is receiving or retaining anything under the Plan. The absolute priority rule is thus satisfied, as many courts have

concluded. (*See* Section II.B.3, *infra*.) Beyond this, some courts (including Judge Carlson[4]) have looked at other objective facts to decide if a non-profit debtor's plan is fair and equitable. Should the Court do so here, the "honest effort" standard in *Teamsters II* supports finding the Plan is fair and equitable. The Ninth Circuit has rejected a construction which renders §1129(b)(2) "a vague exhortation to bankruptcy judges that they do the right thing." *Perez*, 30 F.3d at 1212. In other words, the Court's decision on the fair and equitable standard does not turn on whether the Committee wishes the Plan offered more.

In practice, the honest-effort standard requires the Court to evaluate three elements: the Debtor's subjective intent with respect to Plan treatment, the process through which the Debtor determined what it could contribute, and the totality of circumstances surrounding the case. The Debtor has satisfied each element. Bishop Barber's decision about which properties are mission-critical was informed by quantitative and qualitative data through the Mission Alignment Process ("MAP"), tested through consultation with the canonical bodies that exist to advise him, and constrained by the outer boundary of affiliated borrowing capacity confirmed by Ronald Gies and the financial projections prepared by VeraCruz's Daniel Flanagan. Bishop Michael C. Barber, S.J. ("Bishop Barber")'s sincerity in balancing two competing obligations—compensating Survivors and meeting the constitutionally-protected spiritual needs of 500,000 Catholics entrusted to his care—was evident to the Court and uncontroverted on the record. No witness for any party testified that Bishop Barber acted in bad faith, that his process was pretextual, or that his mission-critical determinations were insincere. Moreover, Dr. Denise Martin's analysis established that the Debtor's financial contribution—even before considering the Insurance Assignment and the Restricted Assets Adversary Proceeding—stands at or above the 90th percentile when compared to every confirmed and pending joint plan in comparable diocesan and religious-order bankruptcies. If the "honest effort" standard has meaning, this record satisfies it.

[4] *See, e.g., In re 2712 Mission Partners, L.P.*, 2010 WL 431738, at *5 (Bankr. N.D. Cal. Jan. 20., 2010) ("A plan may fail to be fair and equitable in a more general sense even if it satisfies the requirements of section 1129(b)."); *In re 2655 Bush, LLC*, 2012 WL 2792325, at *3 (Bankr. N.D. Cal. July 6, 2012) ("[A] court may determine that a plan is not fair and equitable in a more general sense, even if it satisfies the minimum requirements identified in section 1129(b)(1)."); *In re Hawthorne Plaza, Ltd.*, 2002 WL 1181057, at *4 (Bankr. N.D. Cal. May 30, 2002) (noting other courts have "held that payment of the claim in full with interest is the *minimum* requirement for a plan to be considered fair and equitable.").

B. The Court's Identified Issues and the Debtor's Responses

At the July 7 Hearing, the Court posed questions related to one or more of these four issues. This section responds directly to those and explains how each should be analyzed. Each response provides a substantive answer addressed more fully later in the brief.

1. Good Faith

Intent Versus Objective Metrics. The Court asked, "how much does the diocese's intent count here, and what else should I be looking at for those issues?" (July 7, 2026 Tr. ("7/7 Tr.") at 24). The Debtor's response: (1) the Ninth Circuit's inquiry begins with the provisions of the plan at issue and the consistency of those provisions with the Bankruptcy Code. (2) Bishop Barber's credible and uncontroverted testimony about his honest intent in balancing competing obligations is relevant but not all that supports good faith, because Bishop Barber also considered the objective metrics including the MAP data, property valuations, financing arrangements, the potential value of the Debtor's insurance rights, and the unconditional financial commitments. Bishop Barber also weighed qualitative considerations including but not limited to the spiritual needs of approximately 500,000 Catholics in the East Bay, the needs of specific and diverse ethnic and language groups within the Diocese, and geographic accessibility. He considered all of these inputs in consultation with the canonical advisory groups required by Church law but was the ultimate decisionmaker for the Debtor. *See* Section III.A.3(b). (3) The First Amendment and RFRA call for deference to the Debtor's ecclesiastical governance, of which the establishment and closure of Churches is a part.

The Factual Predicate for Evaluating the Survivor-Mission Balance. The Court asked what evidence, beyond Bishop Barber's testimony, supports the Debtor's assessment of the balance between Survivor recoveries and the demands of the Debtor's mission. (7/7 Tr. at 21:3-11). The answer is a structured, multi-input decision process the Court can evaluate for credibility and reasonableness without substituting its own ecclesiastical judgment. Bishop Barber's determination of which properties are mission-critical was informed by objective MAP data on attendance trends, sacramental activity, priest availability, declining ordination rates, language and ethnic community needs, and geographic location. (*See, e.g.,* Exs. D-73, D-75, D-76, D-77, D-78). As he and Attila Bardos testified, Bishop Barber's

determination was supported by the consultative canonical process required by Church law, including the College of Consultors, the Presbyteral Council, and the Finance Council, which included lay experts on financial repercussions. Bishop Barber's determination was reinforced by expert testimony from John Satter and Adam Zimmerman regarding market-value appraisals and liquidation valuations, respectively; Century Urban's consultation on development potential; RCC's willingness to loan the Debtor the most it possibly could as confirmed by Ronald Gies; and Daniel Flanagan's financial projections establishing minimum liquidity thresholds below which the Reorganized Debtor cannot operate. Finally, the Debtor's Plan obligations will be secured through deeds of trust on remaining real estate, ensuring that the Debtor's post-Effective Date payment obligations are enforceable. This all shows Bishop Barber's judgment was the product of data, consultation, independent valuation, and financial considerations, along with his constitutionally protected religious obligations, which together establish the appropriate factual predicates for the Court's evaluation. *See* Section III.B.3(b).

2. The Best Interests Test

How to Apply the Best Interests Test When Constitutional Constraints Limit Forced Liquidation. The Debtor's two hypothetical liquidation analyses each satisfy the best interests test. Both show creditors will receive more under the Plan than in a hypothetical chapter 7 liquidation. Responding to the Court's specific question, a hypothetical liquidation must be legally possible. As detailed below, a bankruptcy court cannot order the sale of church property over religious objections under the RFRA and the First Amendment. The Unconstitutional Conditions Doctrine prevents conditioning confirmation on inclusion of constitutionally protected assets—Churches—in the liquidation analysis. This is the basis for the Debtor's first liquidation analysis. The Debtor nevertheless made a supplemental liquidation analysis, which included all of the Debtor's assets. Charles Moore testified the Plan value exceeds net liquidation proceeds under that analysis, too. The Committee had no contrary evidence. *See* Section III.A.4(c).

The Court commented it has "seen [the costs of liquidation] in this case in a way that, I will confess, I don't think I've quite had to appreciate before." (7/7 Tr. at 25). The litigation-cost assumptions in Charles Moore's analyses are legally compelled by 28 U.S.C. §157, which requires individual state court adjudication of approximately 345 unliquidated tort claims in the absence of an otherwise consensual

process (like mediation or allocation). Mr. Moore's expert opinion is based on this as one cannot ignore this cost of liquidation. The Committee's demonstrated nonconsensual posture (as representative of that class) makes a global consensual claims-resolution mechanism incredibly unlikely. Moreover, Mr. Moore's assumption that a Chapter 7 trustee would try twelve cases before an alternative dispute-resolution process took over means that if no such process arises consensually, his cost projections could be understated. Thus, if the estate had to litigate more cases to liquidate those claims, it would cost even more money than Mr. Moore projected. *See* Section III.A.4(b). Mr. Moore's assumptions were unrebutted.

3. The Fair and Equitable Standard

The Legal Standard Governing "Fair and Equitable" for a Non-Profit Religious Debtor. The absolute priority rule is satisfied on its face. §1129(b)(2)(B)(ii) requires that no holder of a junior claim or interest receive or retain property on account of such interest unless senior classes are paid in full. Because the Debtor has no equity holders, no shareholders, and no mechanism for profit extraction, there are no holders of junior interests retaining or receiving property on account of such interests, and the negative condition of §1129(b)(2)(B)(ii) is met by its own terms. The Debtor's secondary argument is that even if the Court views the absolute priority rule as inapplicable rather than satisfied, the Ninth Circuit's "honest effort" standard from *Teamsters II* fills the resulting gap and provides the framework the Court has requested. And the Debtor has satisfied the "honest effort" standard in spades. *See* Section III.B.3.

Recent Developments and Their Effect on the Comparables. The Court noted that "recent developments have given us a reason to talk about [the comparison to other plans] differently" and asked parties to address this. (7/7 Tr. at 25:23-26:6). This refers to the announced settlement in the Archdiocese of San Francisco bankruptcy case ($395 million for approximately 535 claims). The Debtor's response: the settlement announced in the Archdiocese of San Francisco (which has not been finalized) does not disturb Dr. Martin's conclusions about the Debtor's contribution to the Survivors' Trust, but merely provides another data point by increasing the sample size of comparable cases to 31. The Debtor remains at the very upper end of bankruptcy outcomes (the 90th percentile or higher). Moreover, if the announced settlement in the Archdiocese of San Francisco is to be considered, the age of that Archdiocese (established in 1853), its size, and the relatively higher value of real estate across the Bay, are factors that

must be considered. It is hardly surprising to find a higher per-claim contribution by the Archdiocese of San Francisco than the Diocese of Oakland. The comparison is favorable to the Debtor, not unfavorable. *See* Section III.B.3(c).

The McNally Valuation and Whether It Is Useful to the Court. The Court posed two specific sub-questions: (1) how should the claims-valuation testimony help the Court reach a conclusion, and (2) is it reliable? (7/7 Tr. at 26:7-12). The Debtor's response: Ms. McNally's $420 million tort-based face-value number has no probative value because it expressly does not address ability to pay, fairness, or reasonableness; its reliability is undermined by its exclusion of bankruptcy outcomes; no bankruptcy court has ever accepted it as a basis for plan valuation; and in cases where it was presented, Ms. McNally's projected "face value" numbers were 11x (*BSA*) and 3x (*Camden*) the actual settlement outcomes. Ms. McNally's methodology attempts to answer a question the Court is not being asked to decide—the aggregate tort face value of the claims—rather than the question before the Court, which is whether the Debtor's Plan satisfies the requirements of Section 1129. *See* Section III.B.3(e).

The Philosophy of Chapter 11 As Applied in the Noncommercial Context. The Court asked for the parties' "best thoughts on, for lack of a better word, the philosophy of Chapter 11 and how that applies to this case, which does present a little differently." (7/7 Tr. at 27:3-7). Specifically, the Court questioned whether the Code's "democratic and, frankly, rational market-based" assumptions translate when the creditors are tort victims and the debtor provides a non-commercial product. (*Id.* at 26:20-24). The Debtor's response: Judge Weissbrodt confronted similar issues in the *Teamsters* case, observing that "traditional bankruptcy analysis is not always a comfortable fit" with non-profit entities and that courts are left with "the awkward process of fitting the square peg of a non-profit association into the round hole of the Absolute Priority Rule." *Teamsters I*, 225 B.R. at 737. But he confirmed the plan anyway because §1129 provides an objective standard for confirmation that applies to all debtors—non-profit or otherwise—and because Congress chose not to exempt non-profits from the cramdown provisions or create a different standard for them. That choice is dispositive. If Congress had intended that non-profit debtors could not cram down a plan over creditor dissent, or that tort claimants should receive different treatment from commercial creditors in the confirmation analysis, it knew how to say so. It did not.

The *Teamsters* honest-effort standard is the judicial adaptation that makes the existing framework workable for non-profit debtors without rewriting the statute. And the alternative—allowing the margin of a 331-to-8 rejection to determine whether a plan is fair and equitable—would nullify cramdown in precisely the cases where it matters most: cases where a committee controls the vote and has instructed its constituents to reject. *See* Section III.B.3(b), III.B.1.

C. The Collective-Remedy Imperative

The fundamental purpose of Chapter 11 is to provide a collective remedy that treats similarly situated creditors equitably rather than rewarding the fastest to file. That purpose is especially urgent in this case. If the Plan is not confirmed, there is no apparent collective remedy. Rather, a denial would likely be followed by dismissal, which would return 345+ Survivors to a state court litigation regime where the Woodall verdict—$16 million for a single plaintiff—demonstrates that the first claimants with judgments would quickly exhaust the Debtor's available assets, leaving the vast majority of Survivors with nothing except the possibility of insurance (which the Plan already provides). The Committee, which urged its constituents to reject this Plan, has offered no alternative. It withdrew its own plan immediately after the Woodall verdict and has identified no other mechanism by which all Survivors can be compensated. A second Chapter 11 filing—which this Court previously acknowledged would likely follow a dismissal—would repeat the same three-year process at greater expense with fewer resources, as tens of millions of additional administrative costs and professional fees would consume whatever assets remain, leaving Survivors inevitably worse off. This Plan offers the only way to accomplish what chapter 11 requires: ensuring every Survivor receives a meaningful distribution through an orderly, equitable, and timely process administered by independent fiduciaries, rather than leaving recovery to whomever reaches the courthouse first.

II.

BACKGROUND

To avoid duplication, the Debtor incorporates the Background section of its Pretrial Brief, specifically Article II(A)-(H) (pages 4-16) as if fully set forth herein. [Docket No. 3100.]

A. The Plan.

On March 29, 2026, the Debtor filed the Plan. The product of nearly three years of litigation, dozens of mediation sessions, and six successive iterations, the Plan represents the Debtor's comprehensive effort to balance its obligations to Survivors and its mission to serve the religious and spiritual needs of 500,000 Catholics within the Diocese of Oakland.

B. The Confirmation Hearings.

The Court held the Confirmation Hearings in person over seven days in June 2026, during which it heard testimony from 15 witnesses by either declaration, live testimony, or a hybrid of the two. The Court accepted dozens of exhibits into evidence and took judicial notice of significant issues.

C. The Objections to the Plan.

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 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").

Various insurers and/or insurer groups filed objections in connection with confirmation, organized by objecting party. A full list of the objections and/or joinders filed in connection with the Plan is set forth in the Pretrial Brief. (Docket No. 3100). The remaining objections can be organized into two primary buckets—that of the Committee and the Insurers.[5] The UST Objection is addressed separately.

III.

ARGUMENT

The Plan reorganizes the Debtor while providing fair and equitable treatment for creditors. As demonstrated below, the Debtor has satisfied each requirement for confirmation under section 1129 of the Bankruptcy Code. Under these circumstances, section 1129 mandate a court "shall" confirm a plan.

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

A. The Plan Satisfies Each Requirement for Confirmation Under Section 1129(a) Except Section 1129(a)(8).

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); *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). Based on the record, 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. The Court must therefore confirm the Plan.

1. Uncontested or Inapplicable Provisions of Section 1129(a).

Certain subsections of section 1129(a) and/or elements necessary for confirmation have not been legitimately contested or are clearly satisfied based on the record before the Court. A chart summarizing these provisions, the arguments made in support of them, and the evidence and testimony adduced, is included in the Appendix attached hereto as **Exhibit 1**. *See* Appendix A-1. Any objection to the same should be overruled.

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

a) Legal Standard: Confirmation Not Likely to be Followed by Liquidation or Further Reorganization.

Section 1129(a)(11) of the Bankruptcy Code requires 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) (debtor "presented ample evidence . . . 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)"). A plan is feasible if a debtor can show a reasonable assurance that consummation of the plan will not likely be followed by a further need for financial reorganization. *See id*.

Courts consider multiple factors when assessing feasibility, 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 (vii) 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).

b) The Record Overwhelmingly Supports Feasibility.

The Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor. The record overwhelmingly supports feasibility:

Charles Moore (Alvarez & Marsal). Mr. Moore testified that the Debtor's financial projections (2026-2030) are reasonable and achievable based on his independent review of the underlying assumptions and methodology. ((6/15 Tr. at 143:22-144:1, 144:15-145:6); *see* Exs. D-165, D-86). Mr. Moore testified that while all projections, as predictions of the future, are "inherently wrong," they should be assessed for reasonableness. (June 16, 2026 Tr. ("6/16 Tr.") at 92:23-18, 93:5).[6] Mr. Moore did just that; he reviewed the Debtor's historical information to assess "the reasonableness of the assumptions going forward, taking into account any known changes that will occur with operations, understanding that for any particular line item, what is expected to drive changes and making sure that those drivers are reasonable in themselves." (6/16 Tr. at 93:10-15). Based thereon, Mr. Moore determined that the Debtor's projections were reasonable, it would have sufficient capital going forward, and it should be able to satisfy

[6] Mr. Moore emphasized the Debtor's financial projections are not *unreliable*. (6/16 Tr. at 89:25-90:10 [Q. Everything's projection. And like all projections, they're inherently unreliable, right Mr. Moore? . . . A: I have never said that projections are unreliable. Certainly not these."]). He explained that "[u]nreliable would mean that one could not make a decision based on this information," which he "[didn't] believe that is the case at all" here. (*Id.* at 94:8-12).

its post-Effective Date obligations as they become due. (6/15 Tr. at 143:5-151:19, 155:15-158:25; 6/16 Tr. at 92:23-94:15). Thus, the Plan was feasible. (6/15 Tr. at 165:18-24; 6/16 Tr. at 94:13-15).

Daniel Flanagan (VeraCruz Advisory, LLC). As the primary draftsperson of the D-165 cash-flow analysis utilized by Mr. Moore, Mr. Flanagan testified that the Debtor's projections are "directionally correct" and "reasonable," and that "the diocese will be able to meet these." (June 24, 2026 Tr. ("6/24 Tr.") at 20:1-3). He is "very confident in [the cash flow] projections" and explained the assumptions "are not aggressive by -- by any means," noting the projections use "about a two percent growth rate in receipts overall and a similar growth rate in expenses." (6/24 Tr. at 19:18-20:11). When asked if the Debtor will make its settlement contributions, he stated: "[W]ill we be hitting these numbers to make the settlement contributions? I'm confident we will do so." (6/24 Tr. at 20:20-21). He also confirmed $150 million "is the most the [D]ebtor can pay" (6/24 Tr. at 52:19-20) and Hilco's appraisals return "just over $200 million of property value" which he calculated was "enough to meet RCC's requirements from a loan-to-value perspective, and – and it's enough to get to the 110 million for the trust." (6/24 Tr. at 38:2-12).

Attila Bardos, (Debtor's Chief Financial Officer). Mr. Bardos corroborated Mr. Flanagan's assessment and the data he relied on to make it. On direct examination, Mr. Bardos testified he "absolutely" had confidence the Debtor could make all scheduled Plan payments, going so far as to say that he had "no doubt we can do this [P]lan." (June 25, 2026 Tr. ("6/25 Tr.") at 20:3-14).

Ronald Gies (RCC CFO). Mr. Gies testified RCC is ready, willing, and able to fund the $55 million Exit Facility in Section 11.1 of the Plan on the Effective Date. [Docket No. 3103-6, ¶ 8, 16]. In addition to a refinance of the $15 million DIP, the RCC Exit Facility will fund $40 million in new money on the Effective Date, allowing the Debtor to make the $40 million Debtor Effective Date contribution to the Survivors' Trust. (*Id.*, ¶ 9). Mr. Gies further testified that RCC has agreed to accept as collateral the real property identified as RCC Collateral on Exhibit G to the Debtor's Amendment to Plan Supplement [Docket No. 3037]. (*Id.*, ¶ 13). RCC's board of directors has approved the Exit Facility on the terms set forth in the Plan, and other than occurrence of the Effective Date and conditions precedent in the Plan, no no other conditions or internal approvals would prevent RCC from providing the Exit Facility. (*Id.*, ¶ 17). Mr. Gies also testified $55 million represents the absolute maximum RCC is willing and able to lend to

the Debtor. (*Id.*, ¶ 15; June 23, 2026 Tr. ("6/23 Tr.") at 196:5-21, 201:12-21). The Committee offered no evidence or testimony to the contrary.

Dr. Andrew Currier (RCWC President). Dr. Currier testified by declaration and on examination that RCWC is ready and able to fund the $30 million RCWC Contribution on the schedule set forth in the Plan, on an independent and voluntary basis. (Ex. D-49, ¶¶ 7, 18-19; 6/22 Tr. at 195:23-196:6).

John Satter (Hilco). Mr. Satter testified regarding his appraisal of the market value of the forty properties identified by the Debtor as being used to fund the Plan, including properties to be contributed by Adventus and Furrer Properties. (6/23 Tr. at 13:24-14:19). Mr. Satter prepared market value appraisals for each of these properties based on his extensive experience. These values reflect his assessment of the highest and best use for each property in its current condition, either for continued use or redevelopment. (*Id.* at 15:8-18, 21:11-35:24). Mr. Satter's appraisal report was admitted into evidence, together with a summary of appraised values. (*See* Exs. D-100, D-167). The appraisal reflects a total value of $174,385,000 for the forty properties. (*See id.*). Mr. Satter's testimony and appraisal provide uncontroverted evidence that the Debtor can satisfy the Plan requirement to provide collateral secured by deeds of trust to the Survivors' Trust valued by Hilco's appraisal at not less than the $110 million amount of the Debtor's post-Effective Date contribution obligations. (*See* Plan, §9.3). Specifically, the total appraised value reflected on Mr. Satter's appraisal report for just the Trust Collateral properties is $112,915,000. (Exs. D-100, D-167).

There cannot be any reasonable argument that Plan confirmation is likely to be followed by further liquidation or restructuring based on the Debtor's funding obligations when the Survivors' Trust is receiving deeds of trust on property with an appraised value exceeding the amount of the Debtor's post-Effective Date obligations. To be clear, the Debtor will not default on its payment obligations. However, even if it did, it would not need further liquidation or restructuring because the Survivors' Trust would simply foreclose on its collateral. The reliability of Mr. Satter's valuations is not contested. Indeed, Randi Rosen, the Committee's valuation expert, acknowledged her values for the same properties were "pretty similar for the most part." (June 29, 2026 Tr. ("6/29 Tr.") at 49:25-50:7).

Matthew Babcock (BRG) (by deposition designation). The Committee's financial advisor, Matthew Babcock of BRG, conceded that the Plan is feasible during the Rule 30(b)(6) deposition of the Committee, for which he sat as the Committee's designated representative on all issues:

> 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.

[Docket No. 3222 at 52 (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 Debtor's Plan impossible to maintain. At the Confirmation Hearings, the Court took judicial notice of the existence (and withdrawal) of the Committee's plan (6/29 Tr. at 180:21-181:14), thereby serving as an admission that the Debtor's Plan is feasible. *See, e.g., Am. Title Ins. Co. v. Lacelaw Cor.,* 861 F.2d 224, 227 (9th Cir. 1988) (noting that "a superseded pleading must be offered into evidence for opponent to use admission therein"); *White v. ARCO/Polymers, Inc.*, 720 F.2d 1391 (5th Cir. 1983).

The evidence establishes the Reorganized Debtor will be able to fund every obligation under the Plan without further liquidation or restructuring while maintaining its charitable and religious mission. The Debtor's leadership is uniquely equipped by education and calling to continue the Debtor's ministries. The Committee presented no evidence to rebut feasibility, nor did any party object on that basis. There is nothing left to decide on this issue.

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

a) Legal Standard: The Ninth Circuit's Process-Focused Inquiry.

The Ninth Circuit's good faith inquiry under section 1129(a)(3) looks at the *proposal* of the plan, not its *terms*. *See Garvin v. Cook Invs. NW, SPNWY, LLC*, 922 F.3d 1031, 1034-35 (9th Cir. 2019). The question is whether the debtor proposed its plan honestly, with a legitimate reorganizational purpose, and

with a basis for believing reorganization can be achieved. *In re BSA*, 642 B.R. 504, 645 (Bankr. D. Del. 2022). The inquiry is not whether creditors wish the plan offered more. Similarly, the mere fact a debtor proposes a plan that avails itself of an applicable provision of the Bankruptcy Code—including cramdown—does not constitute evidence of bad faith. *In re Sylmar Plaza, L.P.*, 314 F.3d 1070, 1075 (9th Cir. 2002). And in the non-profit context, where the Ninth Circuit has applied an "honest effort" standard, the good faith inquiry asks whether the debtor genuinely attempted to satisfy creditor demands within the constraints of its actual financial capacity. *Teamsters II*, 265 F.3d at 877.

Although not a diocese or religious-order case, *Teamsters* (I and II) includes a non-profit debtor and adjudication of issues similar to those presented here. In the case, a non-profit labor union proposed a plan of reorganization to which one of its creditors objected necessitating a cram down analysis by the court. The Bankruptcy Court construed the creditor's objection as challenging good faith under §1129(a)(3), the best-interest test under (a)(7), and whether the plan was fair and equitable under (b)(2)—each an issue raised here. Regarding good faith, in the underlying bankruptcy court decision, Judge Weissbrodt distilled a three-part test from applicable Ninth Circuit case law: 1) the plan must be consistent with the objectives of the Bankruptcy Code, 2) it must demonstrate fundamental fairness in dealing with creditors, and 3) the totality of the circumstances must be considered. *In re General Teamsters, Warehousemen and Helpers Union Local 890*, 225 B.R. 719, 729 (Bankr. N.D. Cal. 1998), *aff'd*, 265 F.3d 869 (9th Cir. 2001) ("Teamsters I"). The court found §1129(a)(3) satisfied even though the debtor did not take steps— specifically, increasing membership dues—that could have increased the amount paid to unsecured creditors. The decision not to increase dues "appears to have been a rational one that was not based upon bad faith." *Id*. at 731. Going further, Judge Weissbrodt held a debtor need not "explore and consider all possible alternative forms of plans, or all feasible alternative forms, or even any alternative forms so long as the one that is proposed meets the requirements of 11 U.S.C. §1129(a)." *Id*. at 729.

The Ninth Circuit affirmed and distilled Judge Weissbrodt's three-part analysis into a single question: does the plan represent the debtor's "honest effort" to satisfy its creditors' demands? *Teamsters II*, 265 F.3d at 877. That standard, controlling here, is not novel. It has become common across multiple circuits: a plan satisfies the good faith requirement when it is proposed with the legitimate and honest

purpose to reorganize and has a reasonable hope of success. *See In re Sun Country Development*, 764 F.2d 406, 408 (5th Cir. 1985) ("Congress made the cram down available to debtors; use of it to carry out a reorganization cannot be bad faith."); *accord Kane v. Johns-Manville Corp.*, 846 F.2d 636, 649 (2d Cir. 1988) (good faith satisfied where debtor "honestly believed" it needed the plan terms to reorganize and the plan "was negotiated and proposed with the intention of accomplishing a successful reorganization"); *In re McCormick*, 49 F.3d 1524, 1526 (11th Cir. 1995) ("Where the plan is proposed with the legitimate and honest purpose to reorganize and has a reasonable hope of success, the good faith requirements of section 1129(a)(3) are satisfied."). Whether the result satisfies every creditor's preference is not relevant to the good faith analysis. The record answers the Ninth Circuit's question decisively.

b) The Record Establishes the Debtor's Honest Effort.

At the Confirmation Hearings, the evidence showed the Debtor proposed the Plan in good faith and for the 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. [7] Bishop Barber's unrebutted testimony, in particular, proved the Plan's purpose is to balance the Debtor's competing interests in an equitable way.

Bishop Michael Barber, SJ. Bishop Barber is a Jesuit priest who has served the Catholic Church since 1973 and was ordained in 1985. Before being appointed Bishop of Oakland in 2013, he served for over two decades as a chaplain in the United States Navy, where he volunteered during the 1991 Gulf War to say Mass on warships passing through Naples on their way to the Middle East. (6/16 Tr. at 112:9-113:14). He rose through the ranks to serve as senior chaplain advisor to the Commander of the Pacific Fleet, a four-star command with authority over all naval assets in California, Hawaii, Japan, Korea, and throughout the Pacific. (*Id.* at 115:22-116:8). His career has been defined by service—first to other priests and students, then to sailors and marines, now to 500,000 Catholics in the East Bay.

[7] 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 Tr. at 79:48).

On direct examination, Bishop Barber addressed the Survivors directly: "I am so ashamed, and I'm so sorry of what [abusive clergy] did, because it is not who we are [or] who we want to be, that we represent Jesus Christ, the Good Shepherd who takes care of sheep. And you were the lambs that were harmed. And I detest that activity, and I pray for you, and I want to do all that I can to help you with healing and recovery and—and to be able to, once again, know and love the God who knows and loves you and created you in His image." (6/16 Tr. at 176:18-177:1). Asked what he hoped would be accomplished if the Plan is confirmed, he first answered: "I hope that survivors will receive the money in a timely manner according to the plan, that every survivor will receive a financial award" and "that they will be able to take advantage of the insurance rights that we are making available to them." (*Id.* at 177:4-9). Only after that did he turn to the Debtor's mission, expressing hope that "all the good people out there right now, all those kids making first communion, the teens making their confirmation, all the people coming to Mass on Sunday" would "continue to receive the love and mercy of God through the sacraments and the ministry of the priests as we go forward." (*Id.* at 177:9-16).

The record supporting the Debtor's honest effort begins with that testimony and extends through every aspect of this bankruptcy case and the Plan's development. When Bishop Barber sought permission from the Holy See to file Chapter 11, he identified two competing goals he felt obligated to keep in balance: "to help those who have been harmed by priests to achieve healing and also my responsibility to all those 500,000 people in our diocese to be able to practice their faith, to receive the sacraments, to grow in love of God, to have their children baptized, to receive a Christian funeral and burial." (*Id.* at 123:18-23). That was not litigation language crafted for the courtroom. It was the language Bishop Barber used in his formal submission to the Vatican, before the case was even filed. He then described MAP, which predated this case and combined operational, demographic, and sacramental data to identify which parishes and worship sites could be consolidated or closed while still serving the faithful. (*Id.* at 145:10-148:7). Bishop Barber described how the Debtor organized its property into three categories with escalating mission impact, each category with a different level of mission impact.

First, he identified "all empty properties that the diocese or parishes owned that weren't being used or had no buildings on them"—vacant land the Churches acquired but never developed. (*Id*. at

138:19-21). These properties could be sold with no impact on worship or ministry because, as Bishop Barber testified, "they wouldn't have to stop having services on it" and the land "was not essential to the mission of the Church or serving them with the sacraments." (*Id*. at 139:25-140:6).

Second, he identified "buildings . . . parishes owned that were not being used directly for worship or church purposes like houses or things like that." (*Id.* at 138:22-24). These properties could be parted with at some cost but without disrupting the delivery of religious services or access to the sacraments.

Third, he turned to MAP and identified "churches and even whole parishes that had been identified in that process through a lot of consultation as not essential to the mission that they could be closed and those properties sold and contributed to the settlement." (*Id.* at 138:25-139:4). This is the category that produced the 13 worship-site closures. Bishop Barber did not start there. He started with vacant land. He moved to unused buildings. He closed churches only when the first two categories were insufficient to fund a plan that would provide meaningful compensation to Survivors. That sequence is the factual predicate the Court asked about. It is not a mathematical formula. It is a structured process of escalating sacrifice, informed by data and consultation, which moved from properties with no mission impact to properties with the greatest mission impact only when necessary.

Bishop Barber did not make these decisions alone. He consulted the College of Consultors, the Presbyteral Council, and the Finance Council. These canonical bodies exist under Church law to advise the diocesan bishop on exactly these kinds of decisions. Bishop Barber also met with the pastor of every Church slated for closure. He wrote to the entire diocese on April 28, 2026, explaining both the closures and the reasons for them, stating that "the status quo is not sustainable, nor is it serving God's people" and that the closures would proceed "regardless of [the] outcome" of the bankruptcy. (June 22, 2026 Tr. ("6/22 Tr.") at 47:18-48:25). This letter demonstrates the Church closures are not a litigation tactic. The closures will happen whether the Plan is confirmed or not. If the Plan is confirmed, sale proceeds go to the Survivors' Trust. If it is not confirmed, the Debtor keeps all sale proceeds. (*Id.* at 84:24-85:1). *The Plan is the mechanism that converts mission-retained value into survivor compensation*.

Bishop Barber also participated personally in approximately half of the 30 mediation sessions conducted over three years, rearranging his schedule at one point on one day's notice to attend a dinner

meeting with mediator Timothy Gallagher to discuss the case, feeling "very positive" and "very optimistic" about the prospects thereafter. (6/16 Tr. at 160:12-25). He met with Survivors who asked to speak with him and participated in two days of Survivor statements at the Committee's request. He asked the pastors of every parish in the Diocese to contribute cash from their unrestricted accounts, resulting in those parishes contributing a projected $5 million to fund the Plan. (6/22 Tr. at 91:13-22). He noted one parish, in particular, that lives "hand to mouth" that, when its pastor heard about the Plan, "sat down and wrote a check for every penny in his savings account and said we want to do all we can to help the diocese and we care, you know, and to help the victims. And here's—here's what we have. They gave everything." (*Id*. at 167:9-14).

Attila Joseph Bardos, the Debtor's CFO, corroborated and supplemented Bishop Barber's testimony. Mr. Bardos testified that through "months of intense dialog and thinking," the Debtor "tried to structure the plan in which it would be, basically, the best of the worlds for the survivors, with the survivors in mind." (6/25 Tr. at 52:24-53:2). He also provided critical context for the $3.5 million prepetition settlement that the Committee used to attack the Plan's per-claim average: only $500,000 of that settlement came from the Diocese, with the remaining $3 million paid from insurance. (*Id*. at 51:16-19). That shows the value of the insurance policies to the Debtor and, by extension, to those who share the Debtor's rights under the policies. Mr. Bardos' unrebutted testimony lays bare the weakness of the Committee's comparison. Mr. Bardos further testified the Adventus contribution of the Livermore property is a voluntary, uncompensated transfer by a non-debtor entity that has no claims against it. (*Id*. at 25:12-19).

Mr. Bardos also testified about the Insurance Assignment and the Litigation Option, which together represent a component of Plan value not quantified by any dollar figure. Mr. Bardos explained that the Plan was structured so that survivors "not only get a piece of the [$180 million] settlement, but they have what we call the litigation option. They can choose, if they wish, to pursue the legal action." (*Id*. at 53:2-5; *see also Id*. at 53:5-10 ("we are transferring the rights and obligations of our insurance policies to the survivors because we believe that these contractual obligations have potentially significant value to them in terms of potentially getting awards, paying for legal bills, all of these things").

The Court recognized the significance of that testimony, saying "the debtor has a good faith belief

that those are rights that can be utilized in connection with the plan" and that this belief "is enough for a proponent to make that argument and to rely on the possibility of that asset as a benefit to creditors." (*Id.* at 47:14-19). Mr. Bardos's response was simple: "I believe it's good faith and that's why we did it." (*Id.* at 54:4-6). The insurance assignment is not a guarantee of recovery. It is a transfer of rights whose value will be determined in another forum. But it is an additional benefit that the Plan makes available to every survivor—a benefit that will not exist if the Plan is not confirmed—and reflects the Debtor's genuine effort to give Survivors every tool available to pursue maximum compensation. Even the Committee recognizes the value of the Debtor's insurance rights. Its counsel went so far as to say, in April 2024, that "the insurance is inarguably the debtor's largest asset, potentially." (April 26, 2024 Tr. at 93:1-13).

c) The Committee's Good-Faith Attacks Are Mischaracterized Substantive-Adequacy Arguments.

The Committee contends that the Plan was not proposed in good faith because, among other things, the Debtor allegedly failed to maximize estate value and "unilaterally declared" certain assets "off-limits" to Survivors. This is really just the Committee arguing the Debtor should pay more, though it never states how much more it contends would satisfy section 1129(a)(3). Strip away the rhetoric and the Committee's actual arguments are: the Debtor is paying what it is *willing* to pay rather than what it is *able* to pay; it *could* sell more property if it chose to; and, as a result, it *could* ultimately pay more money. Every one of these arguments challenges the *amount* of the Plan's distributions. None challenges the *process* by which the Plan was proposed. The Committee's argument here is the same argument rejected in *Teamsters I*: the plan is not proposed in good faith because the debtor could pay creditors more if it sacrificed something else. Judge Weissbrodt rejected this and held he could locate no authority "for the proposition that, in order to propose a plan in good faith, a Chapter 11 debtor must explore and consider all possible alternative forms of plans, or all feasible alternative forms, or even any alternative forms so long as the one that is proposed meets the requirements of 11 U.S.C. §1129(a)." *Teamsters I*, 225 B.R. at 729. The Ninth Circuit affirmed. The Committee cites no contrary authority.

The Committee also fails to demonstrate Bishop Barber did not act in good faith. It does not contend Bishop Barber's canonical consultations were a sham. It does not contend Bishop Barber's

testimony about the difficulty of balancing competing obligations was insincere or that he has not actually attempted to do so. It does not contend the six plan iterations were pretextual or that the Debtor refused to engage with creditor concerns. These facts are undisputed.

Moreover, the Committee never even attempted to rebut Bishop Barber's judgment about which properties should be sold. Paul Shields testified on direct he was "not making a recommendation that any particular parish should be closed." (June 29, 2026 Tr. ("6/29 Tr.") at 144:1-2). On cross-examination, he confirmed he was "not making a recommendation of any churches being sold" and that he was "not saying they made a mistake" by closing only 13. (*Id.* at 166:13-19; 167:3-5). He further confirmed he has "never been the head of a church," that running a diocese is not within his expertise, and "it's [the Bishop's] obligation as you understand the structure of the diocese to make those hard choices as to what he can and can't do." (*Id.* at 165:12-14, 15-18, 22-25). The Court itself observed Mr. Shields's testimony was not "normative" about what the Debtor should contribute but was a financial calculation rather than a judgment regarding the Debtor's religious mission. (*Id.* at 178:14-21). The Committee presented evidence of what certain real estate parcels (some of which the Debtor does not own) might be worth. It did not present a single witness to testify Bishop Barber was wrong about which properties are necessary for the Debtor's religious mission going forward.

What the Committee really wants is for this Court to deny confirmation because it wants the Debtor to pay more. This is not an attack on good faith; indeed, every committee in a contested confirmation proceeding always wants a debtor to pay more. Instead, good faith under controlling Ninth Circuit precedent looks at the 3-part test Judge Weissbrodt articulated and which the Ninth Circuit affirmed in *Teamsters I and II* (summarized as honest effort) and which courts since, including *In Re Juarez*, 603 B.R. 210 (9th Cir. BAP 2019) have accepted. The breadth of this good faith analysis also shows why it is an appropriate consideration for what is fair and equitable should this court decide to look beyond the confines of the absolute priority rule as codified by §1129(b). If a plan is fair to creditors for purposes of the good faith assessment, it is equally fair for purposes of fair and equitable. Indeed, if "the debtor should pay more" argument was sufficient to defeat a cramdown plan, that would effectively nullify §1129(b), which Congress enacted precisely to permit confirmation over creditor dissent.

The record overwhelmingly demonstrates the Debtor has proposed the Plan in good faith, with the best intentions for its creditors and stakeholders, and with a thoughtful balancing of the Debtor's dual interests of Survivor compensation and mission survival.

4. <u>The Plan is in the Best Interests of Creditors and Satisfies Section 1129(a)(7).</u>

a) Legal Standard(s): Plan Recoveries Exceed Hypothetical Chapter 7 Liquidation.

Section 1129(a)(7) of the Bankruptcy Code, also referred to as the "best interests" test, requires 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 stakeholders who 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 WL 5782589, at *5 (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."); *In re Station Casinos, Inc.*, 2011 Bankr. LEXIS 5822, at *33 (Bankr. D. Nev. June 8, 2011) (finding plan satisfies best interests test where general unsecured claims "are receiving under the Plan at least as much as they would receive in a chapter 7 liquidation"). The best interests test does not apply to unimpaired classes or disallowed claims. *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").

On behalf of the Debtor, Charles Moore from Alvarez & Marsal prepared two liquidation analyses. The Primary Liquidation Analysis contemplates the liquidation of only those properties do not include Churches or worship sites. (Ex. D-84). The Supplemental Liquidation Analysis (Ex. D-85), prepared at the Court's suggestion after the Committee objected to the Primary Liquidation Analysis, includes all Debtor real estate including Churches and worship sites.

The Debtor's premise for excluding Churches and worship sites from the Primary Liquidation Analysis was based on the Debtor's position, discussed in detail below, that under the First Amendment's Free Exercise and Establishment Clauses, judicial doctrines developed based on these principles, and the Religious Freedom Restoration Act (RFRA), 42 U.S.C. §2000bb et seq., a bankruptcy court lacks authority to compel the sale of church property over Bishop Barber's religious objections and prayerful decisions on which assets are necessary to sustain the Debtor's religious mission. In other words, for the best interests test to have any meaning, the hypothetical chapter 7 liquidation must be one the Bankruptcy Code and the Court is legally capable of compelling. For nearly two years, the Committee has falsely characterized this argument as the Debtor asserting it need not satisfy section 1129(a)(7)(a)(ii) to win confirmation. The Debtor has never contended this. What the Debtor actually contends is:

First, the Court should find based on the evidentiary record that the Debtor satisfies the best interests test under the Supplemental Liquidation Analysis. The Supplemental Liquidation Analysis includes all Debtor properties including its Churches and worship sites. It demonstrates that the Plan's value exceeds net chapter 7 liquidation proceeds. The Court may reach this determination and confirm the Plan without having to consider the constitutional or RFRA questions to find section 1129(a)(7) satisfies.

Second, if the Court does not agree, it should nevertheless find based on the evidentiary record that the Debtor satisfies the best interests test under the Primary Liquidation Analysis, as well. Even without factoring the Churches and other worship sites into a liquidation, the Plan value exceeds the net chapter 7 liquidation proceeds.

Finally, and concurrently with its review of the Primary Liquidation Analysis, if the Court finds, constitutional protections independently establish compliance with the best-interests test as discussed below in Section C.

b) The Record Establishes Both of the Debtor's Liquidation Analyses Satisfy the Best Interest Test.

The Plan satisfies the best interests test under either of the Debtor's two liquidation analyses. Under either liquidation analysis, the overall Plan value is at least $247 million.[8] This amount includes not only

[8] (6/15 Tr. at 142:22-143:1 ["Q. Right. And the plan recovery doesn't change depending on whether we're

the Debtor's $150 million contribution and RCWC's $30 million contribution to the Survivors' Trust, but also the treatment of all other creditors under the Plan. (6/15 Tr. at 135:12-18). In fact, Mr. Moore testified that when the treatment of all creditors is evaluated, the Plan value totals *at least* $247 million. (*Id.* at 135:9-18, 127:6-128:14 [testifying certain contributions to the Plan could not be quantified but were nonetheless valuable, *e.g.* restricted assets litigation and insurance assignment], 109:16-21).

Summary Best Interests Test – Liquidation Analysis

Class	Claims / Equity Interests	Projected Midpoint Amount of Claims	Projected Amount of Recovery Under the Plan	Projected Midpoint Recovery % Under the Plan	Projected Midpoint Recovery % Under Liquidation	Pass / Fail
0	DIP Claims	$ 15,249,715	$ 15,249,715	100.0%	17.1%	PASS
1	Secured Claims	25,872,322	25,872,322	100.0%	0.0%	PASS
2	Priority Unsecured Claims	8,840,494	8,840,494	100.0%	0.0%	PASS
3	General Unsecured Claims [1]	16,738,714	16,738,714	100.0%	0.0%	PASS
4	Abuse Claims	172,300,000	172,300,000	100.0%	0.0%	PASS
5	Unknown Abuse Claims	7,700,000	7,700,000	100.0%	0.0%	PASS
6	Non-Abuse Litigation Claims	750,000	750,000	100.0%	0.0%	PASS
7	Contribution and Indemnification Claims Related to Class 4/5 Claims	-	NA	NA	0.0%	PASS
8	OPF Claims [2]	-	NA	NA	NA	PASS
	TOTAL	**$ 247,451,245**	**$ 247,451,245**	**100.0%**	**1.0%**	

(Ex. D-81 [Summary of Best Interest Test for Primary Liquidation Analysis]).

i. The Debtor's Supplemental Liquidation Analysis Satisfies the Best Interests Test.

The primary difference between the Supplemental Liquidation Analysis and the Primary Liquidation Analysis described in detail below is the assumption that all of the Debtor's real estate, including the Churches, would be liquidated under chapter 7. (6/15 Tr. at 92:6-10; 6/16 Tr. at 95:3-5, 95:22-96:1). Using Hilco's liquidation valuations, Mr. Moore concluded the Debtor's complete real estate portfolio produces estimated net liquidation sale proceeds ranging between $146 million (low) and $198 million (high). (6/15 Tr. at 141:4-10). The following table from Mr. Moore's report illustrates this:

considering what the full real estate assets or the subset, correct? A. That's correct. The plan value is 247 million in both of these tables."]).

	Assumptions Paragraph	Book Value at 12/31/25	Adj. to Book Value	Pro Forma Value at 8/31/26	Estimated Recovery (%) Low	Mid	High	Estimated Recovery ($) Low	Mid	High
Assets										
Cash and Cash Equivalents - Unrestricted	A	$ 48,569,456	$ (10,929,983)	$ 37,639,473	100.0%	100.0%	100.0%	$ 37,639,473	$ 37,639,473	$ 37,639,473
Cash and Cash Equivalents - Restricted	A	17,331,772	4,124,163	21,455,935	–	–	–	-	-	-
Investments - Unrestricted	B	50,651,109	(49,071,684)	1,579,425	100.0%	100.0%	100.0%	1,579,425	1,579,425	1,579,425
Investments - Restricted	B	16,112,620	-	16,112,620	–	–	–	-	-	-
Accounts Receivable	C	13,773,543	(9,641,605)	4,131,938	25.0%	37.5%	50.0%	1,032,984	1,549,477	2,065,969
Loan & Loan Interest Receivable	D	39,301,434	485,450	39,786,884	80.0%	90.0%	100.0%	31,829,507	35,808,196	39,786,884
Contributions Receivable	E	-	-	-	–	–	–	-	-	-
Property, Plant & Equipment (net)	F.ii	159,646,975	-	159,646,975	91.5%	107.7%	124.0%	146,085,000	171,865,000	198,015,000
Prepaid Expenses	G	3,601,467	(3,156,467)	445,000	100.0%	100.0%	100.0%	445,000	445,000	445,000
Investments in Other Entities	H	1,415,659	-	1,415,659	111.6%	131.4%	151.2%	1,580,000	1,860,000	2,140,000
Unqualified Pension and Benefit Plans	I	-	-	-	–	–	–	-	-	-
Assets Held in Trust for Others	J	-	-	-	–	–	–	-	-	-
Right to Appoint 50% of Directors of CTN	K	-	-	-	NA	NA	NA	-	-	-
Insurance Proceeds (Abuse Claims)	L	-	-	-	NA	NA	NA	-	-	-
Total Gross Liquidation Proceeds		**$ 350,404,035**	**$ (68,190,125)**	**$ 282,213,910**	**78.0%**	**88.8%**	**99.8%**	**$ 220,191,390**	**$ 250,746,571**	**$ 281,671,752**

(Ex. D-85 [Supplemental Liquidation Analysis]).

Moreover, deductions for trustee's professional fees and broker fees increase, while other expenses essentially remain the same as under the Primary Liquidation Analysis:

(-) Less Liquidation Deductions				
(-) Operational Wind Down Expenses	M	$ (3,400,000)	$ (2,380,000)	$ (1,360,000)
(-) Chapter 7 Trustee Fees	N	(6,605,742)	(7,522,397)	(8,450,153)
(-) Trustee's Professional Fees	O	(7,706,699)	(8,776,130)	(9,858,511)
(-) Incremental Litigation Costs	P	(98,027,461)	(93,359,487)	(88,691,513)
(-) Broker Fees	Q	(7,304,250)	(8,593,250)	(9,900,750)
Total Liquidation Costs		**$ (123,044,152)**	**$(120,631,264)**	**$(118,260,927)**
Total Net Liquidation Proceeds ex-Insurance		**$ 97,147,239**	**$ 130,115,307**	**$ 163,410,825**

(Ex. D-85 [Supplemental Liquidation Analysis]; *see also* 6/15 Tr. at 141:11-15). Under the Supplemental Liquidation Analysis, the net proceeds available for distribution yield a 33% (low) to 62% (high) recovery for *all* general unsecured creditors:

Proceeds Available for General Unsecured Claims					**$ 73,057,030**	**$ 106,025,098**	**$ 139,320,617**
Class 3 - 8: General Unsecured Claims							
Trade Payables and Accrued Expenses	$ 104,363	33%	47%	62%	$ 34,135	$ 49,539	$ 65,096
Other Claims	27,206,673	33%	47%	62%	8,898,771	12,914,473	16,970,061
Pension Claims	15,300,000	33%	47%	62%	5,004,331	7,262,610	9,543,318
Abuse Claims	172,300,000	33%	47%	62%	56,355,963	81,787,427	107,471,485
Unknown Abuse Claims	7,700,000	33%	47%	62%	2,518,520	3,655,039	4,802,846
Non-Abuse Litigation Claims	750,000	33%	47%	62%	245,310	356,010	467,810
Contribution and Indemnification Claims Related to Class 4/5 Claims	-	NA	NA	NA	-	-	-
Oakland Parochial Fund Claim	-	NA	NA	NA	-	-	-
Total General Unsecured Claims	**$ 223,361,036**	**33%**	**47%**	**62%**	**$ 73,057,030**	**$ 106,025,098**	**$ 139,320,617**

(Ex. D-85 [Supplemental Liquidation Analysis]; *see also* 6/16 Tr. 99:11-23).

Mr. Moore applied this methodology to compare the recoveries under the Plan for each creditor class to the recoveries under the Supplemental Liquidation Analysis:

Summary Best Interests Test – Supplemental Liquidation Analysis

Class	Claims / Equity Interests	Projected Midpoint Amount of Claims	Projected Amount of Recovery Under the Plan	Projected Midpoint Recovery % Under the Plan	Projected Midpoint Recovery % Under Liquidation	Pass / Fail
0	DIP Claims	$ 15,249,715	$ 15,249,715	100.0%	100.0%	PASS
1	Secured Claims	25,872,322	25,872,322	100.0%	47.5%	PASS
2	Priority Unsecured Claims	8,840,494	8,840,494	100.0%	100.0%	PASS
3	General Unsecured Claims [1]	16,738,714	16,738,714	100.0%	47.5%	PASS
4	Abuse Claims	172,300,000	172,300,000	100.0%	47.5%	PASS
5	Unknown Abuse Claims	7,700,000	7,700,000	100.0%	47.5%	PASS
6	Non-Abuse Litigation Claims	750,000	750,000	100.0%	47.5%	PASS
7	Contribution and Indemnification Claims Related to Class 4/5 Claims	-	NA	NA	NA	PASS
8	OPF Claims [2]	-	NA	NA	NA	PASS
	TOTAL	$ 247,451,245	$ 247,451,245	100.0%	50.4%	

[1] General Unsecured Claims recovery under the Plan does not contemplate the payment of interest.
[2] Class eliminated

(Ex. D-82 [Summary of Best Interests Test under Supplemental Liquidation Test]; 6/15 Tr. at 141:11-142:19-142:1; 6/16 Tr. at 98:12-99:9). If all the Debtor's real estate is to be liquidated, Mr. Moore concludes the Plan is better and creditors will receive more under the Plan than in a chapter 7 liquidation. (6/15 Tr. at 92:11-18; 6/16 Tr. at 95:22-96:6, 99:24-25).

Debtor-Owned Real Estate. The estimated recovery from the liquidation of the Debtor's real estate parcels is based on the parcels' liquidation value, not their market value. Adam Zimmerman of Hilco Real Estate testified a chapter 7 trustee could realize a potential recovery ranging from $28.2 million (low) to $38.15 million (high). (6/23 Tr. at 104:24-105:3). Hilco is one of the leading national firms in disposition of distressed assets, handling more section 363 sales of real property than any other brokerage group in the country. (*Id.* at 103:12-15). Mr. Zimmerman has extensive experience with calculating liquidation value of real property and was accepted as an expert without dispute. (*Id.* at 105:19-106:7). Mr. Zimmerman was the only expert who testified on the liquidation value of the Debtor's real estate. His testimony was unrebutted.

Mr. Zimmerman prepared a market study of the liquidation value of eighty-five religious campuses, including churches, single-family homes, multi-family buildings, and other ancillary buildings that make up the Debtor's unencumbered real property holdings, totaling 196 parcels. (*Id.* at 106:18-

107:17). In doing this analysis, he followed the valuation approach Hilco generally applies in preparing liquidation values in distressed situations, including chapter 7 cases. (*Id.* at 107:24-109:10). Mr. Zimmerman explained that a liquidation value is inherently different from a market value appraisal, because of the pressure on the seller to liquidate, and this distinction is recognized by the Appraisal Institute. (*Id.* at 109:21-111:15; 116:19-117:9). His liquidation values are the result of a detailed and thorough analysis described in his testimony. (*Id.* at 112:16-115:14). This includes analysis of pricing and price guidance based on relevant market data. (*Id.* at 117:10-120:14). Unlike appraisals adjusted to account for individual property characteristics, a liquidation analysis uses a larger data set with zero adjustments in order to analyze how the properties will perform in the market in the aggregate. (*Id.* at 120:16-121:14).

Mr. Zimmerman further applied a liquidation discount, which he calculated based on his and Hilco's extensive real-world experience in how portfolio liquidations are actually conducted. (*Id.* at 121:15-124:13). The discount reflects both the liquidation nature of the sale (as-is/where-is, the seller's need to liquidate, etc.) and the additional price depression from listing multiple properties on the market at once. (*Id.* at 124:15-128:23; 133:10-136:23). Based on this uncontested analysis, Mr. Zimmerman concluded the total liquidation value of the Debtor's unencumbered properties totaled approximately $173 million, which he set as the midpoint of his $147.7-200.15 million range. (*Id.* at 112:9-15, Ex. D-103).[9] It is standard practice for this type of valuation to reflect a range. (6/23 Tr. at 132:8-18). The range for all of the Debtor's unencumbered properties was $147.7 million at the low end, to $200.15 million at the high end, with a midpoint of $173.7 million. (*Id.* at 132:25-133:7). Using industry standards, Mr. Zimmerman assumed a chapter 7 trustee would have to liquidate the real estate within 60-90 days, and the liquidation values of the properties were adjusted based on that assumption. (*Id.* at 136:24-137:14). He testified that 60-90 days was generally an appropriate period in a Chapter 7 liquidation as the carrying costs are "ticking against the [sic] clock or estate." (*Id.* at 137:4-7). Mr. Moore testified that based on his experience this timeline was "very reasonable" because the tremendous carrying costs associated with the real estate would motivate a Chapter 7 trustee to sell the property "as soon as possible in order to cut off that burn

[9] These conclusions are reflected on the summary admitted into evidence as Exhibit D-169.

from the holding costs associated with the properties, as well as bring assets into the chapter 7 estate to be able to continue on with the liquidation." (6/15 Tr. at 214:11-19).

Cemeteries. Mr. Moore's conclusion that creditors will receive more under the Plan than they would under a Chapter 7 liquidation is unaffected by treatment of RCC's cemetery properties, as demonstrated by the testimony of Ronald Gies, RCC's CFO. The cemetery collateral consists of cemetery properties owned by RCBO, which are both leased to RCC for its operations, and pledged to RCC pursuant to deeds of trust as collateral for its secured pre-petition and DIP loans to RCBO. Mr. Gies testified that RCC holds liens on the three "flagship" cemeteries, Queen of Heaven, St. Joseph, and Holy Sepulchre. (6/23 Tr. at 182:6-182:22). These liens secure RCBO's pre-petition debt to RCC, which is just under $26 million dollars. (*Id.* at 199:14-200:4). The cemetery properties represent no distributable value for unsecured creditors because they are fully encumbered by liens, which RCC would "absolutely" credit bid in a liquidation sale, as Mr. Gies confirmed. (*Id.* at 200:5-7). Additionally, RCC was granted DIP liens on four additional properties as security for its $15 million DIP loan: the Lafayette Retreat Center, Holy Sepulchre Funeral Home/Mortuary, Holy Cross Cemetery, and St. Michael Cemetery. (Final Order on DIP Financing, Docket No. 3165, Ex. A).

The testimony from Mr. Gies that RCC would credit bid its secured debt to acquire its collateral in a liquidation is uncontroverted by any evidence to the contrary. Any argument from the Committee that there would somehow be equity for the estate in a liquidation, above RCC's approximately $41 million in pre-petition and DIP liens on these seven properties is pure speculation. Mr. Gies testified that the value RCC attaches to the cemetery properties is based specifically on RCC's use and would not be the same for any other operator. (6/23 Tr. at 199:14-200:4). Indeed, Mr. Gies testified that the value of the cemetery properties as used by RCC is affected by their nature as Catholic cemeteries and their relationship to the potential customers as a result. (*Id.* at 200:20-21 ["Because it's — it — its what creates our connection to potential patrons and customers."]). There are no other Catholic cemetery operators in Contra Costa or Alameda counties, and the value of the cemeteries would be lower for any other operator. (*Id.* at 200:11-13; 200:22-201:3). Beyond this, RCC holds substantial funds to provide perpetual care for existing burials: some $60 million in untrusted investment funds (*Id.* at 196:10-12), in addition to trusted funds, which are

the sole property of RCC and would not go to any other purchaser. (*Id.* at 201:4-11). Any other buyer in a liquidation sale would therefore have to not only fund enough cash to overcome RCC's credit bid but also fund perpetual care obligations in an amount of at least $60 million.

Finally, only one cemetery property is not currently subject to an existing RCC lien: St. Mary Cemetery. There is no credible evidence in the record that selling St. Mary would lead to a material recovery for RCBO. On the contrary, the evidence supports RCC is the only potential buyer. The Committee may point to the 2024 Partner Valuation appraisal. This assigns a value of $5.6 million. (Ex. C-205). On its face, this appraisal is expressly based on use by RCC (*see id.*), and therefore cannot be considered evidence of potential sale value to any other buyer, especially in light of Mr. Gies's testimony that RCC is the sole viable purchaser within the geographic bounds of the Diocese. Beyond this, even taken at face value, $5.6 million simply would not change the outcome under either liquidation analysis.

Accounts Receivable. Mr. Moore's calculations of the Debtor's accounts receivable accounted for significant debts that cannot be paid back. (6/15 Tr. at 102:15-21). These uncollectable debts include, among others, receivables from Catholic Cemeteries of the East Bay ("CCCEB"), the separate corporate entity that owns the Cathedral, and receivables from Churches that cannot afford to repay the Debtor. (*Id.* at 102:11-103:6, 103:7-17). The Primary Liquidation Analysis estimates a collectable amount from the receivables of 25-50%, typical in a Chapter 7 liquidation. (*Id.* at 103:2-6). The Committee presented no contrary evidence.

Expenses of the Chapter 7 Trustee. Mr. Moore also considered "other potential sources of value" that need to be incorporated into the Liquidation Analyses, and whether those sources should be quantified. (*Id.* at 93:13-17). This included assets that did not show up on the balance sheet, such as the "Right to Appoint 50% of Directors to CTN." (*Id.* at 108:24-109:1). It also included the Debtor's insurance policies and the proceeds related thereto. (*Id.* 109:3-15). Mr. Moore testified that neither Liquidation Analysis identified a "book value" for insurance proceeds because he assumed that "the proceeds would be the same under both the plan and a chapter 7." (*Id.* at 109:9-21, 115:2-21 [agreeing with the Court that because insurance proceeds are equally available under a plan as well as a Chapter 7 liquidation, it is essentially a "wash"]).

As to the liquidation deductions, Mr. Moore stated that his first step was to determine "over what period of time this liquidation would take place," about which Mr. Moore testified he assumed the liquidation "could take up to twelve months to completely liquidate anything in the Chapter 7 proceeding." (6/15 Tr. at 116:12-15). He also adopted the assumption that a Chapter 7 trustee would look to sell the Debtor's real estate properties within sixty to ninety days (*Id.* at 218:5-16). Mr. Moore explained this assumption was reasonable in light of the fact that a Chapter 7 trustee typically looks to sell assets "as quickly as possible." (*Id.* at 216:23-217:1; *see also id.* at 218:5-16).

Next, Mr. Moore explained "operational wind-down expenses are what costs of the debtor [he] would expect to continue during that time period." (*Id.* at 116:16-20). Specifically, he assumed that the Debtor would eliminate 75% - 90% of its current operational costs, which "generally reflects that [debtors] don't operate businesses in 7s." (*Id.* at 116:21-117:3). This is how Mr. Moore determined that there would be between $4 million and $10.2 million of costs for operational wind-down expenses. (*Id.* at 117:4-5).

As to the fees, Mr. Moore assumed the Chapter 7 trustee fees would be 3% of the assets, the Chapter 7 trustee's professional fees would be 3.5% of the proceeds, and 5% of the real estate proceeds would go to brokers. (*Id.* at 117:5-18). These percentages were based on Mr. Moore's vast experience, which he testified were "very standard" and "reasonable." (*Id.* at 117:19-118:3). Mr. Moore noted that 3.5% for the Chapter 7 trustee professional fees were more of a judgment call, "[b]ut based on the assets, and in light of the Chapter 7 trustee's costs, that was reasonable." (*Id.* at 118:1-3). To that end, Mr. Moore explained that his judgment was primarily informed by the Chapter 7 trustee's ultimate goal—i.e., to maximize the value of the estate—and to do so, a trustee "will need to figure out how much and what type of professionals are needed in order to be able to carry out the Chapter 7 liquidation." (*Id.* at 118:8-11).

Mr. Moore recognized the most significant expense for a chapter 7 trustee would be the "Incremental Litigation Costs," relating to the litigation of Abuse Claims in state court. He assumed approximately 400 Abuse Claims filed and 332 complaints filed in state court pre-petition. (*Id.* at 118:18-119:2). From there, Mr. Moore broke these costs down into three general categories:

> The first is that a claims reviewer would review all 400 claims, and this amount per claim, which I've assumed as 1,500 dollars per claim, actually has come from the proposed claims reviewer in this case. So he indicated it would be his estimate that he would spend 1,500

> dollars per claim. So for 400 claims, that would be 600,000 dollars or an initial review. (*Id.* at 119:5-11).
>
> The second category, then, is related to trying cases. And in this regard, I've made an assumption that a Chapter 7 trustee would try twelve cases. This is a very important part, to not only determine claim values, but also to protect for – or I should say preserve any potential rights under insurance.

(*Id.* at 120:1-5). The twelve cases are intended to establish a "benchmark," akin to a multidistrict litigation process. (6/16 Tr. at 111:11-113:3). As Mr. Moore explained, the purpose of pursuing those twelve cases would be to "adjudicate the claims and then also protect any potential insurance assets." (6/16 Tr. at 112:2-5; *see also id.* at 58:17-23). Specifically, he noted that:

> [T]welve cases was an estimate based on what a Chapter 7 trustee may look to do, given the number of different insurers that we have, as well as the time period in which claims occurred. And based on that, not only does that, again, help with insurance, but based on those claim amounts, then that would be used as part of the ADR process.

(*Id.* at 112:10-15).

From there Mr. Moore assumed that the twelve cases "would cost approximately three million dollars each, but there would only be three cases tried per year, so it would take four years to get through all twelve cases. And I have assumed inflation on the costs during that four-year period of time." (6/15 Tr. at 120:6-10). Specifically, Mr. Moore assumed three cases would be tried per year based on the state court's then-operative trial schedule, considering there has been one trial so far in 2026, no other trials scheduled in 2026, and five scheduled in 2027. (*Id.* at 120:13-17). He further testified the $3 million in incurred fees served as a benchmark and was based on Foley's actual post-petition fees related to the Woodall trial. (*Id.* at 120:19-121:4). A chapter 7 trustee would likely retain "top-tier counsel" for state court litigation primarily to preserve insurance assets. (6/16 Tr. at 61:25-62:6, 112:3-5).

> [The third category] After those twelve cases, then I assume some sort of alternative dispute resolution process would occur. And so when we go back to that 332 number, which are the number of cases that were filed in state court, twelve of them have been resolved through the trials that I just mentioned. So then the remaining 320 cases would be resolved for approximately 165,000 dollars each. This is not the proceeds, but this is the cost as part of the alternative dispute resolution process.

(6/15 Tr. at 121:10-17). Mr. Moore explained that he assumed Abuse Claimants would elect alternative dispute resolution because "there are a number of those processes that are occurring right now in [other]

dioceses" as well as the recognition that "trying every case not only is incredibly expensive but it takes a very long time," making an alternative dispute process more attractive. (*Id.* at 121:20-25).

Totaling these costs up ($600,000 for the claims-review process + $36 million for litigation of the first twelve trials + $52.8 million of the remaining claims), Mr. Moore concluded that the midpoint for the Incremental Litigation Costs was approximately $93,359,487, and the "lower amount, which is in the higher recovery scenario, is five percent lower than that, and then five percent higher." (*Id.* at 122:9-14). Mr. Moore testified that these percentage differences would be "pretty typical of what [he] would use" and generates about a ten-million-dollar range, which he believed to be reasonable. (*Id.* at 122:18-20). Mr. Moore further stated that he assumed there would be no reimbursement for defense costs because, among other reasons, the "Debtor has not received any reimbursement[.]" (*Id.* at 123:17-20).

ii. The Best Interests Test is Also Satisfied Under the Primary Liquidation Analysis

The Primary Liquidation Analysis includes only the assets that the Debtor would agree to be liquidated in a hypothetical Chapter 7 case. It starts by first identifying the different assets of the Debtor available for liquidation and then estimating "what the proceeds may be under low, medium, and high scenarios." (6/15 Tr. at 93:6-7). Mr. Moore identified the book value of the Debtor's assets and projected the net proceeds that could be generated from their liquidation as follows:

	Assumptions Paragraph	Book Value at 12/31/25	Adj. to Book Value	Pro Forma Value at 8/31/26	Estimated Recovery (%) Low	Mid	High	Estimated Recovery ($) Low	Mid	High
Assets										
Cash and Cash Equivalents - Unrestricted	A	$ 48,569,456	$ (10,929,983)	$ 37,639,473	100.0%	100.0%	100.0%	$ 37,639,473	$ 37,639,473	$ 37,639,473
Cash and Cash Equivalents - Restricted	A	17,331,772	4,124,163	21,455,935	–	–	–	-	-	-
Investments - Unrestricted	B	50,651,109	(49,071,684)	1,579,425	100.0%	100.0%	100.0%	1,579,425	1,579,425	1,579,425
Investments - Restricted	B	16,112,620	-	16,112,620	–	–	–	-	-	-
Accounts Receivable	C	13,773,543	(9,641,605)	4,131,938	25.0%	37.5%	50.0%	1,032,984	1,549,477	2,065,969
Loan & Loan Interest Receivable	D	39,301,434	485,450	39,786,884	80.0%	90.0%	100.0%	31,829,507	35,808,196	39,786,884
Contributions Receivable	E	-	-	-	–	–	–	-	-	-
Property, Plant & Equipment (net)	F.i	159,646,975	-	159,646,975	17.7%	20.8%	23.9%	28,210,000	33,175,000	38,150,000
Prepaid Expenses	G	3,601,467	(3,156,467)	445,000	100.0%	100.0%	100.0%	445,000	445,000	445,000
Investments in Other Entities	H	1,415,659	-	1,415,659	111.6%	131.4%	151.2%	1,580,000	1,860,000	2,140,000
Unqualified Pension and Benefit Plans	I	-	-	-	–	–	–	-	-	-
Assets Held in Trust for Others	J	-	-	-	–	–	–	-	-	-
Right to Appoint 50% of Directors of CTN	K	-	-	-	NA	NA	NA	-	-	-
Insurance Proceeds (Abuse Claims)	L	-	-	-	NA	NA	NA	-	-	-
Total Gross Liquidation Proceeds		**$ 350,404,035**	**$ (68,190,125)**	**$ 282,213,910**	**36.3%**	**39.7%**	**43.2%**	**$ 102,316,390**	**$ 112,056,571**	**$ 121,806,752**

(Ex. D-84 [Summary of Primary Liquidation Analysis]). As Mr. Moore explained, the Liquidation Analyses should identify "not only the potential proceeds that could be realized from a particular asset, but also whether those assets may be available to all creditors, only some creditors, and how they would flow." (6/15 Tr. at 96:15-18). For that reason, Mr. Moore included both unrestricted *and* restricted assets

in the Liquidation Analyses, but he specifically stated that restricted assets are not available for creditors and thus calculated the "estimated recovery" value of those assets at $0. (*Id.* at 95:24-96:21, 97:20-24).[10]

Similarly, while the Primary Liquidation Analysis identifies the book liquidation value for all the Debtor's real estate of approximately $159.6 million, the analysis only contemplates the sale of twelve vacant properties that the Debtor would agree may be liquidated by a Chapter 7 trustee—*i.e.*, property the Debtor determined to not be mission critical. (*Id.* at 104:10-105:5, 105:15-106:5). As with the Supplemental Liquidation Analysis, the estimated recovery from liquidation of real property in the Primary Liquidation Analysis was based on an analysis of liquidation value by Mr. Zimmerman. For the twelve vacant properties the Debtor agreed may be liquidated by a Chapter 7 trustee, Mr. Zimmerman calculated their aggregated liquidation value (reflected on Exhibit D-169) in a range from $28.2 million (low) to $38.15 million (high). This is the value range Mr. Moore used for the Primary Liquidation Analysis. (6/15 Tr. at 104:17-23).

Next, the Primary Liquidation Analysis estimates "the expenses that may be incurred as part of the liquidating assets and being able to fully realize those proceeds[.]" (*Id.* at 93:18-20; *see also id.* at 88:20-89:2). Mr. Moore testified that these expenses are important "because you have to make sure you take into account any costs that will be incurred as part of realizing proceeds from these assets." (*Id.* at 116:5-7). Mr. Moore identified the following five categories of liquidation expenses, again projecting cost scenarios "low," "medium" and "high":

(-) Less Liquidation Deductions				
(-) Operational Wind Down Expenses	M	$ (10,200,000)	$ (7,140,000)	$ (4,080,000)
(-) Chapter 7 Trustee Fees	N	(3,069,492)	(3,361,697)	(3,654,203)
(-) Trustee's Professional Fees	O	(3,581,074)	(3,921,980)	(4,263,236)
(-) Incremental Litigation Costs	P	(98,027,461)	(93,359,487)	(88,691,513)
(-) Broker Fees	Q	(1,410,500)	(1,658,750)	(1,907,500)
Total Liquidation Costs		**$ (116,288,527)**	**$ (109,441,914)**	**$ (102,596,452)**
Total Net Liquidation Proceeds ex-Insurance		**$ (13,972,136)**	**$ 2,614,657**	**$ 19,210,300**

(D-84 [Primary Liquidation Analysis]).

[10] Mr. Moore was not offering an opinion as to "what" assets were restricted. (6/15 Tr. at 97:9-11).

Lastly, the Primary Liquidation Analysis assesses how the net proceeds from liquidation "may cascade down to the different types of creditors in the case." (6/15 Tr. at 89:3-5, 93:18-94:4, 124:12-20). First, Mr. Moore analyzed the DIP Claim (Class 0) and assumed that as of the liquidation date (August 31, 2026), the full amount of the DIP Loan will be drawn along with certain fees and accrued interest, totaling to approximately $15.3 million. (*Id.* at 124:20-24).

	Estimated Claims Pool	Estimated Recovery (%)			Estimated Recovery ($)		
		Low	Mid	High	Low	Mid	High
Class 0: DIP Claims							
Superpriority DIP Claims	$ 15,249,715	–	17%	100%	$ -	$ 2,614,657	$ 15,249,715
Total Superpriority DIP Claims	$ 15,249,715	–	17%	100%	$ -	$ 2,614,657	$ 15,249,715
Proceeds Available After Secured Claims					$ -	$ -	$ 3,960,586

(Ex. D-84 [Primary Liquidation Analysis]). Only under the "high scenario" would there be proceeds left over after the DIP Loan is paid in full, which Mr. Moore testified would go to holders of administrative and priority claims (Class 2). (6/15 Tr. at 125:1-10). From there, Mr. Moore noted that under the high recovery scenario, Class 2 holders will only recover about 45%. (*Id.* at 126:11-16).

Class 2: Administrative / Priority Claims							
Employee Related Claims	$ 299,672	–	–	45%	$ -	$ -	$ 134,254
Professional Fees	4,635,423	–	–	45%	-	-	2,076,693
Post-Petition Trade Claims	1,533,429	–	–	45%	-	-	686,984
Funds Held for Others	2,371,971	–	–	45%	-	-	1,062,655
Total Administrative / Priority Claims	$ 8,840,494	–	–	45%	$ -	$ -	$ 3,960,586
Proceeds Available for General Unsecured Claims					$ -	$ -	$ -

(Ex. D-84 [Primary Liquidation Analysis]). Mr. Moore "skipped over" Class 1, the RCC pre-petition secured loan, because "under the liquidation analysis on the 'Property, plant, and equipment' line item, the collateral that secures this loan was included as zero by Hilco. And so the fact that there was no value coming from the collateral that supports that loan, none of those proceeds would flow to RCC, and it would then continue on to Class 2." (6/15 Tr. at 125:11-18). After Class 2, there was "nothing available to flow to the general unsecured creditors." (*Id.* at 126:20-21).

Mr. Moore then compared the Chapter 7 liquidation to Plan recoveries, concluding "the recovery to creditors under a liquidation in a Chapter 7 would be worse than *this* plan of reorganization." (*Id.* at 91:21-23, 93:23-94:3). A summary of this analysis:

Summary Best Interests Test – Liquidation Analysis

Class	Claims / Equity Interests	Projected Midpoint Amount of Claims	Projected Amount of Recovery Under the Plan	Projected Midpoint Recovery % Under the Plan	Projected Midpoint Recovery % Under Liquidation	Pass / Fail
0	DIP Claims	$ 15,249,715	$ 15,249,715	100.0%	17.1%	PASS
1	Secured Claims	25,872,322	25,872,322	100.0%	0.0%	PASS
2	Priority Unsecured Claims	8,840,494	8,840,494	100.0%	0.0%	PASS
3	General Unsecured Claims [1]	16,738,714	16,738,714	100.0%	0.0%	PASS
4	Abuse Claims	172,300,000	172,300,000	100.0%	0.0%	PASS
5	Unknown Abuse Claims	7,700,000	7,700,000	100.0%	0.0%	PASS
6	Non-Abuse Litigation Claims	750,000	750,000	100.0%	0.0%	PASS
7	Contribution and Indemnification Claims Related to Class 4/5 Claims	-	NA	NA	0.0%	PASS
8	OPF Claims [2]	-	NA	NA	NA	PASS
	TOTAL	$ 247,451,245	$ 247,451,245	100.0%	1.0%	

(Ex. D-81 [Summary of Best Interest Test]). This chart compares the quantifiable Plan value to the recovery estimations at the midpoint under the liquidation analysis; he then determines "whether it passes or fails [the best interests test]." (*Id.* at 135:21-23). "But in every instance here, the recovery is less under the liquidation than under the plan. And that's why it says pass in every row." (*Id.* at 135:24-136:1).

c) The Committee's Attacks on the Liquidation Analyses Fail.

The record does not at all support the Committee's assertion that the Debtor allegedly undervalues estate assets and inflates hypothetical Chapter 7 administrative expenses.

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 I*, 265 F.3d at 877 (determining a collective bargaining and rights to collect future member dues could not be liquidated to pay off creditors under federal law, so debtor rightly omitted them from its liquidation analysis). Applied to this case, if a Chapter 7 trustee cannot force the sale of individual Churches, those Churches should not be included as realizable value in the liquidation analysis.

The evidence at trial demonstrates that the Plan provides a better recovery even if all real property is included in the liquidation analysis even before accounting for 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. As such, 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.

d) The Committee's Experts Do Not Undermine the Liquidation Analyses.

The Committee's expert, Mr. Shields, did not prepare his own alternative liquidation analysis. (6/29 Tr. at 150:2-11). He gave no opinion on the Debtor's hypothetical Chapter 7 expenses, including incremental litigation costs necessary to liquidate Abuse Claims.[11] Instead, he only "did a rebuttal response to the analysis that Mr. Moore did," attempting to identify purported flaws in the Liquidation Analyses. (*Id.* at 148:23-149:1, 150:8-11).

The worst Mr. Shields could say about the Supplemental Liquidation Analysis was that it is "incomplete" because "it [didn't] include all of the debtor's real estate, and in particular, real estate relating to cemetery assets." (*Id.* at 105:6-11). But this purported "flaw" does not change the analysis. As Mr. Shields recognized, the cemeteries are subject to a lien, which he understood would be subject to a credit bid by RCC. (*Id.* at 153:5-16). He understood that "in order to buy a property that has a lien, you got to, among other things, pay off the lien," and acknowledged that "a third-party buyer would have a hurdle in buying lien property." (*Id.* at 153:9-15). He also acknowledged that if there were no other Catholic cemetery operators in Alameda and Contra Costa County, as Mr. Geis of RCC testified without rebuttal (6/23 Tr. at 200:8-13), it would put an extremely "strong limit" on the number of parties that may be available and interested in purchasing a Catholic cemetery. (6/29 Tr. at 153:17-25). Finally, Mr. Shields admitted he could not assign a dollar amount to the cemeteries for purposes of the Supplemental Liquidation Analysis that would change the outcome Mr. Moore projects. (*Id.* at 155:13-16). In other words, he admitted that including or omitting the fully encumbered cemeteries from either Liquidation

[11] Mr. Shields offer no testimony or opinion at the Confirmation Hearing. At his deposition, Mr. Shields admitted that he did not even attempt to quantify the costs of defending (*i.e.*, liquidating) abuse claims in a conversion scenario. (Shields Dep. Tr. 245:10-15 ["Q In other words, RCBO would be sued 375 times, as opposed to having a rubric for resolving these. How would the liquidation trustee pay for those? A So that's not something I've addressed or quantified in my analysis."]).

Analysis makes no meaningful, if any, difference in creditor recoveries. The Court should discount all suggestion that Mr. Moore's omission of the lien-encumbered cemeteries renders his Liquidation Analyses incorrect or even questionable.

The Court should likewise discount Ms. Rosen's testimony that the aggregate appraised value of the Debtor's available real estate was $807.63 million. On cross-examination, Ms. Rosen confirmed that four of the 86 properties she appraised are not owned by the Debtor: the Cathedral of Christ the Light (owned by CCCEB, valued at $265 million), the Livermore property (owned by Adventus, valued at $103 million), Cooper's Mortuary (owned by Furrer Properties, valued at $3.7 million), and All Saints House (valued at $760,000). (6/29 Tr. at 22:13-23:24). Those four properties account for approximately $368 million—46% of Ms. Rosen's total. (*Id.* at 24:14-25:8). Thus, nearly half of the Committee's marquee real estate number consists of property the Debtor **does not own**. (*Id.*).

What remains of Ms. Rosen's analysis is approximately $440 million of Debtor-owned property, appraised at market value using a highest-and-best-use methodology that assumes optimal conditions: a willing buyer and willing seller, adequate market exposure of six to twelve months (for some buildings, for others, like churches, twelve to eighteen months), and no distress. (*Id*. at 18:12-16; 43:14-22). Ms. Rosen did not perform a liquidation analysis, although she conceded that she understands the difference and that a liquidation analysis "assumes a very short time period, typically 30 to 60 to 90 days." (*Id.* at 18:2-4, 7-9, 17-18). She did not read the Plan. (*Id.* at 25:9-10). She did not consider whether any First Amendment challenge could elongate or prevent the sale of any property. (*Id.* at 56:18-57:4). She did not examine any lease documents or contracts encumbering the properties. (*Id.* at 36:13-18). She did not appraise or otherwise value any cemeteries. (*Id.* at 29:22-25). And she did not consider what would happen if 40 church properties were put on the market simultaneously in two counties. Her testimony that there would be no negative impact because "churches are selling continuously" is undermined by her inability to identify more than a handful of recent church sales in all of California. (*Id.* at 48:8-49:20).

Ms. Rosen's opinions do not even rebut the Debtor's evidence. For the 40 properties that both Ms. Rosen and the Debtor's appraiser John Satter valued, which does not include the Cathedral, Ms. Rosen acknowledged their conclusions were "pretty similar for the most part." (*Id.* at 49:25-50:7). Ms. Rosen

thus can hardly be said to rebut Mr. Satter and arguably reinforces Mr. Satter's valuation conclusions. Of course, the difference between Ms. Rosen and Mr. Satter is not the value of the properties they both examined; rather it is that Ms. Rosen included $368 million in non-debtor assets and used a methodology that assumes no distress or compelled sales, thus producing a number designed to look as large as possible rather than to answer the question the Court must decide.

The Cathedral illustrates the problem well. Ms. Rosen valued it at $265 million using a cost approach because she could not find a single comparable sale of a cathedral of that magnitude anywhere in the United States. (*Id.* at 27:2-7; 30:21-31:3). She searched five to seven years' worth of property transfer and found nothing. (*Id.* at 33:13-19). She could not identify any separate use for the Cathedral other than as a religious building, though she suggested it could "possibly" serve as a music venue. (*Id.* at 33:23-25). She did not talk to anyone in the music industry who might want to buy a cathedral. (*Id.* at 34:1-3). She did not analyze whether a redeveloper would buy the Cathedral. (*Id.* at 34:4-7). She did not know what CCCEB earns or could pay on its note debt to the Debtor. (*Id.* at 36:10-12). In short, Ms. Rosen assigned a $265 million value to a property that no one has ever bought, no one has expressed interest in buying, no comparable transaction supports, and that she speculated could "possibly" be used as a concert hall without speaking to a single person who might actually do that. That $265 million—a third of her headline number—belongs to a non-debtor entity that the Plan, and only the Plan, brings into the estate through the CCCEB Settlement. (Plan § 12.3).

There is another, more glaring problem with Ms. Rosen's Cathedral valuation. The Cathedral of Christ the Light is built on top of a mausoleum in which hundreds of dead bodies are interred. Ms. Rosen acknowledged on cross-examination she was aware of the mausoleum, that she saw it "in passing through the subterranean parking lot," and that there are "dead people buried there." (6/29 Tr. at 28:13-29:2). She testified the mausoleum could theoretically be separated from the Cathedral through a legal parcel subdivision or an easement. (*Id.* at 29:11-21). But she could not identify a single instance in which a building with a mausoleum beneath it has ever been separated and sold that way. (*Id.* at 35:3-13). She could not identify any music venue that has ever purchased a property with dead people buried beneath it. (*Id.* at 34:10-12). She has never attempted to sell a mausoleum and is not qualified to do so. (*Id.* at 56:3-

10). She took no deduction from her $265 million figure for the existence of the mausoleum. (*Id.* at 34:17-19). And she did not do any analysis of what the Cathedral and mausoleum would separately be worth if subdivision were even possible. (*Id.* at 55:24-2).

Ms. Rosen's $265 million valuation of the Cathedral assumes someone will pay over a quarter of a billion dollars for a building with no comparable sale anywhere in the United States, sitting on top of a mausoleum which has never been separately sold, that the appraiser herself is not qualified to market, and that she valued without any deduction for these facts. This is simply not credible, and reeks of a purposeful inflation that infects her other value conclusions. The Court should discount Ms. Rosen's entire analysis and conclude Mr. Satter's expert conclusions regarding real estate valuations are credible and appropriate.

B. <u>The Plan Meets the Requirements for Cramdown (Section 1129(b))</u>

"[T]he court, on request of the proponent of the plan, shall confirm the plan notwithstanding the requirements of such paragraph if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan." 11 U.S.C. §1129(b). The Court has no discretion to deny plan confirmation under these circumstances. Critically, §1129(b) uses the word "shall," making confirmation mandatory when the statutory requirements are met. *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)), 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). Notably, the "fair and equitable" standard "is not a vague exhortation to bankruptcy judges that they do the right thing." *Perez*, 30 F.3d at 1212-1213 (quoted by *Teamsters I*, 225 B.R. at 735). Principally, it "implements the so-called absolute priority rule under which an objecting class must be paid in full before any claim or interest junior to it gets anything at all" and "reflect[s] and stand[s] proxy for almost a century of judicial decision-making, and over half a century of legislative guidance." 7 Collier on Bankruptcy §1129.03[4] (Alan N. Resnick & Henry J. Sommer eds., 16th ed. 2009). To the extent "fair and equitable" permits consideration of matters other than the absolute priority rule, the same evidence that shows

Debtor's "honest effort" establishes the Plan is fair and equitable with respect to Class 4 claimants and, indeed, all creditors.

1. Class 4 Voted Against the Plan, Necessitating Cramdown

Class 4 voted to reject the Plan by a margin of 331 to 8. The Debtor does not minimize that fact. But §1129(b) exists because Congress determined that rejecting classes cannot exercise a veto over confirmation. The cramdown provisions are not an emergency override. They are the mechanism Congress designed for exactly this situation: a plan that satisfies every other requirement of the Code but cannot obtain the consent of every impaired class. If the margin of rejection determined whether a plan is fair and equitable, any official committee of unsecured creditors could block any plan simply by urging its constituents to vote no. That result would nullify §1129(b)'s express purpose and render cramdown a dead letter in every case where the committee controls the vote—which, as the Committee itself has acknowledged, it does here.

The Code protects dissenting creditors through substantive standards, not through the vote count. Section 1129(a)(7) ensures that each dissenting creditor receives at least as much as it would in a Chapter 7 liquidation. Section 1129(b)(2) ensures that the plan does not unfairly discriminate and is fair and equitable with respect to the rejecting class. Those standards have meaning and importance. They require the Court to evaluate the Plan's structure, its economic terms, and the debtor's effort—not to count ballots and conclude that a lopsided rejection is itself evidence of unfairness. A plan can be overwhelmingly rejected and still be fair and equitable if it satisfies the statutory requirements. A plan can be narrowly rejected and fail those same requirements. The vote tells the Court that cramdown is necessary. It does not tell the Court whether cramdown is permissible.

It is axiomatic that cramdown under 11 U.S.C. §1129(b)(2) is available to so-called "commercial" debtors. It should be similarly axiomatic that it is available to *this* debtor, too; nothing in the Code or its legislative history creates a different standard for non-profit or noncommercial debtors.[12] Congress did

[12] The debtor's ability to "cramdown" under § 1129(b) was first codified in the enactment of the Bankruptcy Code. *See* H.R. No. 95-595, at 497 (1977). Specifically, Congress indicated that under the "cramdown test," the court "must confirm the plan if the plan does not discriminate unfairly, and 'fair and equitable' with respect to each class of claims or interests that is impaired under, and has not accepted the plan." 124 Cong. Rec. S34,003 (Oct. 5, 1978) (statement of Sen. DeConcini); *id.* at H32,405 (Sept. 28,

not exempt non-profits from Chapter 11; rather, it expressly contemplated *voluntary* bankruptcy filings by such entities by excluding them from *involuntary* filings. *See* 11 U.S.C. §303(a). It did not prohibit non-profits from invoking cramdown.[13] And Congress did not provide the fair-and-equitable standard means something different when the debtor is a religious institution or when the creditors are tort claimants (including tort claimants who are survivors of sexual abuse) rather than commercial counterparties. What Congress did not do through legislative action, the Committee cannot accomplish through argument.

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

The Plan does not discriminate unfairly against any rejecting class. Section 1129(b)(1) prohibits unfair discrimination, not different treatment. The premise of any chapter 11 plan with multiple impaired classes is differentiation among classes based on the legal rights of the claims in each class. *In re Hawaiian Telcom Communs., Inc.*, 430 B.R. 564, 605 (Bankr. D. Haw. 2009) ("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."). Discrimination is unfair when similarly situated classes receive materially different treatment without a reasonable basis. *See In re Armstrong World Indus., Inc.*, 348 B.R. 111, 121 (D. Del. 2006); *Matter of Johns-Manville Corp.*, 68 B.R. 618, 636 (Bankr. S.D.N.Y. 1986); *In re Drexel*

1978) (statement of Rep. Edwards). At no point does the Congressional record indicate that § 1129(b) should be applied differently to different types of debtors. Rather, Congress indicated that the Chapter 11 of the Bankruptcy Code was intended to consolidate prior chapters of the Bankruptcy Act to "contain[] no special procedure for companies with public debt or equity security holders." 124 Cong. Rec. S34,003 (Oct. 5, 1978) (statement of Sen. DeConcini); *id.* at H32,405 (Sept. 28, 1978) (statement of Rep. Edwards).

[13] The concept that a plan be "fair and equitable" was included in the 1933 and 1934 amendments of the Bankruptcy Act. (Bankruptcy Act of Mar. 3, 1933, ch. 204 § 77(g), 47 Stat. 1467, 1468 ("The court shall confirm the proposal if satisfied that (1) it includes an equitable and feasible method of liquidation for secured creditors whose claims are affected and of financial rehabilitation for the debtor . . . ."); (Bankruptcy Act of Aug. 27, 1935, ch. 774, § 77(e)(1), 49 Stat. 911, 918 ("[T]he judge shall approve the plan if satisfied that: (1) It complies with the provisions of this subsection (b) of this section, is fair and equitable, affords due recognition to the rights of each class of creditors and stockholders, does not discriminate unfairly . . . ."). The legislative history of the Bankruptcy Act does not indicate that there is a different "fair and equitable" standard for commercial and noncommercial debtors. *See* H.R. Rep. No. 194, at 5-6 (1933); S.R. Rep. No. 482, at 7-8 (1934). The Bankruptcy Code then codified "fair and equitable" into § 1129(b). Again, nothing in the legislative history indicates that "fair and equitable" should be applied any differently for nonprofit debtors; rather, it was Congress' intent to codify the absolute priority rule as one of the requirements for "fair and equitable." *See* H.R. No. 95-595, at 497 (1977); 124 Cong. Rec. H32,407 (statement of Rep. Edwards); *id.* at S34,006 (statement of Sen. DeConcini).

Burnham Lambert Grp., 138 B.R. 687, 715 (Bankr. S.D.N.Y. 1992) (separate classification and treatment was rational where members of each class "possesse[d] different legal rights"), *aff'd*, 140 B.R. 347 (S.D.N.Y. 1992).

Here, there is no unfair discrimination because the classes are not similarly situated and the treatment differences have a reasonable basis. All Class 4 Abuse Claims are treated equally within the class—each claimant receives a pro rata share of the Survivors' Trust Assets based on the Claims Administrator's evaluation. No abuse claimant receives preferential treatment over any other. Classes 1, 3, and 6 are separately classified because the claims in those classes have different legal rights from the Class 4 claims and are funded from different sources. Class 1 is a secured claim paid from the RCC exit facility. Class 3 consists of general unsecured commercial claims paid from operating cash flow within one year. Class 6 consists of non-abuse tort claims with access to the Debtor's commercial insurance. None of these classes is receiving distributions from the Survivors' Trust, and none is competing with Class 4 for the same pool of assets. The separate classification reflects legal distinctions, not strategic manipulation. And no class is receiving less under the Plan than it would receive in a Chapter 7 liquidation, which means the differential treatment does not come at Class 4's expense.

The Committee has suggested that Class 5 (Unknown Abuse Claims) could hypothetically receive better treatment than Class 4 on a per-claim basis. The Debtor does not believe that is the case when the Plan is read as a whole, but to the extent the Court shares that concern, the Debtor is prepared to include clarifying language in the Confirmation Order to ensure that Class 5 claimants do not receive more favorable treatment than Class 4 claimants on a per-claim basis. To the extent that issue exists, it is one of drafting, not of Plan structure, and it does not support a finding of unfair discrimination.

3. <u>The Plan is Fair and Equitable With Respect to the Rejecting Classes.</u>

The Debtor recognizes no prior court has definitively addressed the proper application of the fair-and-equitable standard in a nonconsensual diocesan (or mass tort) cramdown case. This should not, however, be a reason to deny confirmation. It is instead an opportunity for the Court to apply existing Ninth Circuit law to established facts—not a request for novel or unprecedented law.

For a plan to be "fair and equitable" to an impaired class of unsecured claims or interests that

rejects or is deemed to reject the plan, the plan must satisfy (and must not violate) "absolute priority rule" and 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. The absolute priority rule requires no junior class receive or retain anything on account of a junior claim or interest unless all senior classes are paid in full. It is the traditional lens through which courts evaluate whether a plan is fair and equitable under §1129(b)(2)(B), and the Ninth Circuit has squarely held the absolute priority rule "is generally applied to for-profit corporations facing bankruptcy, where an equity owner seeks to retain property, often represented by stock," and that "[w]here control 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." *Teamsters II*, 265 F.3d at 873-74. The Seventh Circuit reached the same conclusion, holding that control of a non-profit is not akin to an equity interest because there is no ability for those in control to generate or share profits. *Matter of Wabash Valley Power Ass'n, Inc.*, 72 F.3d 1305, 1320 (7th Cir. 1995). ("[O]ur analysis must differ substantially from that followed in many other cases because a member of a non-profit cooperative occupies a position different from that of a stockholder of a business corporation. . . . **[T]he Members may continue in control of the reorganized co-operative without violating the absolute priority rule**." (emphasis added)).

The Ninth Circuit BAP accepts as a conceded premise the absolute priority rule does not protect unsecured creditors of a California non-profit public benefit corporation. *In re Henry Mayo Newhall Mem'l Hosp.*, 282 B.R. 444, 453 (B.A.P. 9th Cir. 2002). Faced with a creditors' committee's challenge to the debtor's exclusivity period, the *Henry Mayo* court held:

> The Committee adds that the Hospital's nonprofit status puts creditors in an unusually disadvantaged negotiating position because they are not able to assert the Bankruptcy Code's absolute priority rule to block unacceptable plans that give value to junior interests before paying creditors in full. ... The unsecured creditors in the case of a nonprofit entity with no equity owners hold the economic interests at the margin of the debtor and are in the same take-it-or-leave dilemma as chapter 13 unsecured creditors, who are not entitled to accept or reject plans.

Id. at 453 (citing *Teamsters II*, 265 F.3d at 873).

Bankruptcy courts applying these principles have consistently held that the absolute priority rule does not prevent confirmation of a plan of reorganization by non-profit debtors. *See In re Indian Nat'l*

Finals Rodeo, 453 B.R. 387, 401 (Bankr. D. Mont. 2011) ("[T]he Debtor is a non-profit organization. …*General Teamsters* remains binding authority in this Circuit, and under its holding [creditor's] objection based on the absolute priority rule is overruled."), 403 ("The absolute priority rule of 11 U.S.C. §1129(b)(2)(B)(ii) does not apply to non-profit entity such as the Debtor in the instance case."); *In re Corcoran Hosp. Dist.*, 233 B.R. 449, 458-59 (Bankr. E.D. Cal. 1999) ("In a reorganization of . . . a non-profit corporation under Chapter 11, the requirement [that equity holders not retain their interest unless the unsecured class accepts the plan or is paid in full] must be interpreted somewhat differently. …[T]here are no holders of equity interests in the debtor here. *Thus, what is commonly referred to as the 'absolute priority rule'* ***does not prevent the debtor here from continuing to operate the hospital****."*) (emphasis added)); *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, and thus plan that did not pay creditors in full did not violate absolute priority rule); *In re USEC, Inc.* 2011 WL 13492693, at **7-8 (Bankr. D. Del., Apr. 4, 2011) (finding reorganization plan of non-profit debtor where debtor remained in control of its operation "satisfied" absolute priority rule and was fair and equitable); *cf. In re Independence Village*, 52 B.R. 715, 726 (Bankr. E.D. Mich. 1985) (in dicta stating "[Debtor] is a non-profit corporation. It has no shareholders, hence there are no interests inferior to the unsecured creditors. **Thus, there should be little difficulty with the absolute priority rule of §1129(b)(2)(B)(ii)**." (emphasis added)).

a) The Plan Satisfies the Absolute Priority Rule.

The Roman Catholic Bishop of Oakland is a California corporation sole organized as a non-profit religious entity. Bishop Barber and the Debtor's leadership do not own the Debtor's assets. They cannot sell them for personal gain. They cannot distribute profits. They receive no dividends, no equity distributions, and no residual value upon dissolution. Bishop Barber testified that he receives the same salary as every other priest in the Diocese—the lowest-paid person in every parish. When his service as bishop ends, he retains nothing. There is no junior class that receives or retains anything "on account of" a junior claim or interest because no such interest exists. The Plan therefore does not and cannot violate the predicate condition for the absolute priority rule—a junior stakeholder retaining value at the expense

of senior creditors—as a matter of law and as a matter of fact.

The Committee's attempt to recast the Debtor's continued possession of mission-critical property as a species of equity retention proves too much. Every chapter 11 debtor that reorganizes as a going concern retains property necessary to operate post-confirmation. That is the point of reorganization as opposed to dismissal. If retention of operating assets by a non-profit debtor violated the absolute priority rule, no non-profit could ever confirm a plan of reorganization without paying all creditors in full. This result would bar non-profits from Chapter 11 relief that Congress expressly made available to them. Both *Teamsters* courts rejected exactly this reasoning, and this Court should do the same.

b) The Debtor's Satisfaction of the Honest Effort Standard Supports the Plan is Fair and Equitable, Too.

If the Court considers other objective facts to decide whether the Plan is fair and equitable in this context, it should follow what other courts have done. Judge Weissbrodt observed in *Teamsters I* that "traditional bankruptcy analysis is not always a comfortable fit" with non-profit entities and that courts are left with "the awkward process of fitting the square peg of a non-profit association into the round hole of the Absolute Priority Rule." *Teamsters I*, 225 B.R. at 737. That observation helps explain why every prior diocesan bankruptcy has resolved through negotiated settlement rather than judicial determination: the parties recognized the difficulty and chose accommodation over adjudication. That is not an option here. The Committee has refused to settle, withdrawn its own plan, and left the Debtor to pursue cramdown under §1129(b)(2) as its only viable alternative to dismissal.

In determining what is "fair and equitable" for purposes of section 1129, some courts in the Ninth Circuit have considered the facts and circumstances of a bankruptcy case either in addition to the Absolute Priority Rule or where they found that rule to not strictly apply. In *In re Sagewood Manor Assocs., Ltd P'ship*, 223 B.R. 756, 770 (Bankr. D. Nev. 1998), after concluding the Absolute Priority Rule did not apply to a secured lender, the court held that to determine what was fair and equitable it would consider "the entire plan in the context of the rights of the creditors under state law and the particular facts and circumstances" of the case. From this, it concluded that a plan's intention to repay a loan over 25 years was fair and equitable where the lender's interest was adequately protected and lender would receive full

payment on its debt. *Id*. at 771. Similarly, In *In re 2655 Bush, LLC*, 2012 WL 2792325, **4-5 (Bankr. N.D. Cal. July 6, 2012), Judge Carlson used a "fair and equitable" analysis to deny a creditor immediate relief from a stay in order to give the debtor additional time under its plan to sell property where, *inter alia*, the debtor had equity in the property, made a good faith effort to sell, and would pay ongoing interest.

Courts using this analysis have held a debtor fails the "fair and equitable" test only where some statutory requirement or standard industry practice has been violated. In *In re 2712 Mission Partners, L.P.*, 2010 WL 431738, *4 (Bankr. N.D. Cal. Jan. 20., 2010), Judge Carlson explained that courts may look to what is fair and equitable "in the more general sense" even if a plan satisfies §1129(b)'s strict requirements. *Id*. at *4-5; *see also In re Avondale Gateway Ctr. Entitlement LLC*, 2011 WL 6936526, *14 (Bankr. D. Az. Dec. 27, 2011) ("the Court determines that stretching the NBA Loan, a loan with a typical market term of two years, into a loan with a twenty-year term is not fair and equitable"). The Debtor's point here is not that this case is or is not factually similar to the two cases decided by Carlson, but rather the takeaway is that Judge Carlson looked to other objective facts in deciding fair and equitable and here those other objective facts support confirmation.

As explained above, when the facts and circumstances of the Debtor's bankruptcy are considered in light of the Debtor's honest efforts to put forward a fair and equitable plan, the case for cramdown is even stronger. The honest effort standard from *Teamsters II* looks to whether the Debtor committed its reasonably available financial capacity to the Plan in good faith. The question is not whether the Plan pays a creditor every dollar they might wish to receive, but whether the Debtor genuinely attempted to balance its obligations to creditors (primarily Survivors) against the constraints of its religious mission, its finances, and the law. The Court asked on July 7 what factual evidence, beyond Bishop Barber's earnest testimony, supports that balance. The answer, in short, is Bishop Barber reached his decisions regarding which properties are mission-critical through a credible, structured, fact-based, multi-input process that considered both religious and operational factors. *See* Section III(A)(3)(b), *infra*. The Court can and should review this process for sincerity and reasonableness—such as whether the underlying data is genuine, whether the Debtor followed the canonical process, and whether the Debtor made rational

decisions after considering that data—without substituting its own ecclesiastical judgment for the Bishop's determination of what is necessary to sustain the Debtor's religious mission.

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").

c) The Debtor's Expert Witness Supports That the Plan is Fair and Equitable.

Dr. Denise Martin, Ph.D. in Economics from Harvard University and affiliated consultant with NERA Economic Consulting, was asked to assess whether the Plan's proposed contribution provides economically reasonable compensation to Survivors. She determined that the most reliable way to answer that question was to observe how comparable claims in comparable settings have been negotiated and resolved historically. (Martin Dec. ¶ 7 (D-43)). As she explained on redirect, "the best way to understand value or to measure value is to look at the values that have been established in actual market circumstances, actual real-world negotiations between parties," and to do so "in as close a market as you can to make the valuation be as comparable as you can." (6/22 Tr. at 154:22-155:2). For that purpose, she compiled a comprehensive database of 30 confirmed or pending joint plans in diocesan or religious-order bankruptcies at the time of her declaration and compared the RCBO Diocesan Contribution (total diocesan and related-entity contribution) to the equivalent contributions in each of those plans on both an aggregate and per-claim basis, adjusted for inflation. (Martin Dec. ¶¶ 9-12).[14]

The RCBO Diocesan Contribution of $180 million ranks in the 93rd percentile of comparable plans on both a nominal and inflation-adjusted basis. It is more than four times the $44.2 million average. (Martin Dec. ¶ 13). On a per-claim basis, the $522,000 contribution ranks at the 100th percentile in nominal terms and the 93rd percentile inflation-adjusted. (*Id*). Even excluding the RCWC $30 million and using only the Debtor's $150 million, the per-claim figure of approximately $435,000 falls at roughly the 80th percentile. (6/22 Tr. at 132:16-23).

[14] Her summaries of the analysis performed were admitted as D-44 and D-45.

Dr. Martin explained why she rejected Ms. McNally's tort-based approach. Ms. McNally's $420 million aggregate figure was derived exclusively from tort-system settlements and excluded all bankruptcy outcomes. Dr. Martin explained why that exclusion is fatal to Ms. McNally's relevance: "These defendants have all entered bankruptcy because they have concluded they're unable to continue to resolve claims in the tort system with the financial resources that they have left." (6/22 Tr. at 155:9-13). A tort-system benchmark, in other words, measures what claims would be worth if the debtor were solvent and could afford indefinite tort-system litigation. It does not measure what claims are worth in a bankruptcy where, as in this case, the debtor's assets are constrained, and it filed bankruptcy precisely **because** it cannot pay tort-system values. Ms. McNally's approach "is just not informative in this context." (*Id*. at 167:4-6). Reference to other case outcomes confirms the point. In the *Boy Scouts* case, Ms. McNally's tort-based claim values were approximately 11 times higher than the actual bankruptcy outcomes. In Camden, they were more than three times higher. (Martin Dec. ¶ 23). Ms. McNally acknowledged she was not offering an opinion on fairness, reasonableness, or the Debtor's ability to pay. (6/29 Tr. at 85:17-86:12). She was calculating a "face value" of claims "irrespective of payer, irrespective of source." (6/29 Tr. at 92:8-11). That is a number untethered from the reality of this bankruptcy, and no bankruptcy court has ever accepted it as a basis for evaluating plan contributions.

On redirect, Dr. Martin also addressed the insurance component of Ms. McNally's analysis. The 2005 settlements that Ms. McNally used as her primary data source were funded in substantial part by insurance, not solely by the Debtor. Dr. Martin testified that hypothetically, if 55% of those settlement amounts were funded by insurance rather than by the Debtor, Ms. McNally's own data would produce a diocesan-only per-claim figure of approximately $590,000. (6/22 Tr. at 104:14-23). That is close to the Plan's proposed $522,000. (*Id*.). The point is significant: even using Ms. McNally's own methodology and data, once you isolate what the Debtor actually paid in those settlements, the RCBO Diocesan Contribution is in line with what this Debtor historically contributed from its own resources.

The Court asked on July 7 whether "recent developments have given us a reason to talk about [the comparison to other plans] differently." (7/7 Tr. at 25-26). They have not. Since Dr. Martin testified, the Archdiocese of San Francisco reached a consensual bankruptcy settlement, though no plan has yet been

filed. Dr. Martin added the San Francisco settlement to her analysis as a 31st comparable. With San Francisco included, the RCBO Diocesan Contribution (total diocesan and related-entity contribution) moves from the 93rd percentile to the 90th percentile. The per-claim contribution moves from the 100th percentile to the 97th percentile. The updated charts including San Francisco are included in the Appendix as A-2. The movement is modest and does not change the ultimate conclusion. The Debtor's contribution remains near the very top of every comparable diocesan bankruptcy outcome in the United States. San Francisco filed after California's AB-218 revival window closed. Dr. Martin's analysis already showed that whether a revival window was open prior to filing has no statistically significant effect on diocesan contributions once recoverable assets are controlled for. (Martin Dec. ¶ 24). Adding San Francisco—another closed-window case—does not alter that finding.

d) The Insurance Assignment Has Tremendous Value the Committee Cannot Contest.

Most discussion around whether the Plan is "fair and equitable" in the brief has concerned the $180 million in monetary contributions coming from RCBO and RCWC. But this is neither the only valuable consideration being transferred nor, likely, the largest. As described above, particularly in the testimony of Bishop Barber and Attila Bardos, the Debtor believes that the Insurance Assignment itself, which allows for the Litigation Option to be effectuated, has significant value, as well. The Committee cannot now disagree. Its own counsel have repeatedly argued—in this Court, in the District Court, across more than a dozen hearings over two years—that the Debtor's insurance policies are valuable assets, that insurance is "inarguably the debtor's largest asset, potentially," and that the Committee had a fiduciary obligation to investigate and protect those assets. Those statements, made on behalf of the Committee in judicial proceedings, are binding judicial admissions. *Kohler v. Inter-Tel Techs*., 244 F.3d 1167, n.1 (9th Cir. 2001) (quoting *U.S. v. Wilmer*, 799 F.2d 495, 502 (9th Cir. 1986)); *U.S. v. Zamudio*, 787 F.3d 961 (9th Cir. 2015) ("an alien's admission of factual allegations from the NTA "binds the alien and relieves the government of the obligation to present any evidence on th[at] factual question," and "an attorney's in-court admission of the NTA's allegations made on behalf of us client Is treated no differently") (quoting *Santiago-Rodriguez v. Holder*, 657 F.3d 820, 829 (9th Cir. 2011)); s*ee also Pietrzak v. Mukasey*, 260 F.

App'x 337 (2d Cir. 2008) ("Absent egregious circumstances, a distinct and formal admission made before, during, or even after a proceeding by an attorney acting in his professional capacity binds his client as a judicial admission.") (*quoting In re Velasquez*, 19 L&N Dec. 377, 382 (1986)). A representative sample of statements made by counsel are included in Debtor's Appendix as A-3.

The pattern is unmistakable. Over two years, across more than a dozen hearings, five different Committee counsel told this Court and the District Court the Debtor's insurance policies are valuable estate assets, that the Committee's constituency is or should be the ultimate beneficiary of those assets, that bad-faith rights give the insurance "meat," that the insurance assignment is "central" to the Plan, and that prior proposed settlements with insurers "substantially undervalue the insurance asset." The Committee cannot now deny the value of that asset—explicitly or implicitly—as part of the Plan. The Insurance Assignment transfers that asset to the Survivors' Trust. Every Survivor benefits from it. The Committee did not object to it at trial. The value of the Insurance Assignment must be considered as part of the total value the Plan delivers to Survivors when evaluating whether the Plan is fair and equitable.

The Committee's counsel are not the only ones who have acknowledged the value of the insurance rights. The Committee's own designated corporate representative said so under oath. At his sworn deposition, Matthew Babcock—the Committee's Rule 30(b)(6) designee—conceded that the Litigation Option, made possible by the Insurance Assignment, combined with the contributions from RCBO and RCWC, could make Survivors 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.

[Docket No. 3222 at 52 (100:16-25) (cleaned up)]. This is a binding judicial admission by the Committee itself, through its designated representative. The Committee argues that the Plan does not provide enough for Survivors. Its own corporate representative testified under oath that it is possible Survivors could, through the combination of the cash contributions and the Insurance Assignment, be made whole. The Plan does not guarantee full recovery—no bankruptcy plan can. But it provides the cash floor, the

insurance rights, and the litigation mechanism that together give every Survivor the opportunity to pursue it. That is what honest effort looks like.

e) The Committee's Expert Testimony Does Not Defeat Honest Effort or Demonstrate the Debtor Should Pay More.

None of the Committee's expert witnesses established that the Debtor failed to commit its maximum available capacity to the Plan:

Katheryn McNally, Stout Risius Ross: The Court should give no weight to Ms. McNally's testimony in evaluating whether the Plan is fair and equitable because she expressly disclaimed any intention to opine on that question. McNally was asked on cross-examination whether she was opining on what is fair and equitable under the Bankruptcy Code. She said she was not. (6/29 Tr. at 72:19-21). She was asked whether she was opining on what Survivors should receive from the Debtor. She was not. (*Id.* at 72:25-73:4). Whether the compensation being offered is fair. She was not. (*Id.* at 86:1-4). Whether it is reasonable. She was not. (*Id.* at 86:5-7). Whether it is outside the scope of her assignment. It was. (*Id.* at 86:8-12). She confirmed that her $420 million figure represents the "face value of the claims irrespective of payer, irrespective of source." (*Id.* at 92:8-11). She agreed that she did not take into consideration the Debtor's ability to pay, insolvency, or asset constraints. (*Id.* at 73:12-15). She agreed that "generally in bankruptcy cases creditors are paid a fraction of the claim amount." (*Id.* at 74:19-21). And she agreed that she "understand[s] in the insolvency scenario there may be ability to pay issues and so creditor claims aren't always paid a hundred cents on the dollar." (*Id.* at 73:3-6). In sum, Ms. McNally calculated a number that she herself acknowledges has no relationship to what the Debtor can pay, what the Debtor should pay, or what Survivors will receive.

But the gap between tort face value and bankruptcy distributions is inherent in every mass-tort bankruptcy. That is why debtors file for bankruptcy: because they cannot pay tort-system values. Dr. Martin made this point in her own testimony: in the Boy Scouts case, McNally's tort-based figure was 11 times the actual bankruptcy outcome; in Camden, it was three times. [Martin Dec. ¶ 23; 6/22 Tr. at 167:8-14]. The existence of a gap between what claims are theoretically worth in the tort system and what a bankrupt debtor can pay does not establish that the debtor failed to make an honest effort. It establishes

only that the debtor is insolvent. The Court knows that. Thus, Ms. McNally's testimony adds nothing to the confirmation analysis, one reason why no bankruptcy court has ever accepted her methodology as a basis for evaluating plan contributions. (6/29 Tr. at 89:18-23). This Court should not be the first.

The Court asked on July 7 whether the claims-valuation testimony is reliable and how it should help the Court reach a conclusion. (7/7 Tr. at 25-26). The answer to both questions is the same. It is not reliable as a measure of what this Debtor can or should pay because it was not designed to measure that and McNally expressly disclaimed any intention to do so. And Ms. McNally's testimony cannot help the Court reach a conclusion on confirmation because McNally's assignment—calculate a tort face value "irrespective of payer, irrespective of source"—does not intersect with any element of §1129. Not good faith. Not best interests. Not fair and equitable. Not feasibility. It answers a question that no one in this courtroom is asking.

Paul Shields, Berkeley Research Group: The Court should give no weight to Mr. Shields' conclusion that the Debtor has the ability to fund an additional $27.5 million to the Survivors' Trust—if the Debtor were to undergo a further restructuring (i.e., sell more churches) and use more cash and investments from parishes—while still maintaining a reasonable operating reserve (6/29 Tr. at 108:11-109:4). This conclusion is unsupported, infeasible, and unreliable for several reasons.

First, Mr. Shields' testimony that the Debtor could sell more Churches is unsupported and frankly, irrelevant and unhelpful. Indeed, it is not Mr. Shields' recommendation that the Debtor should sell more Churches; rather, it is his opinion that if the Debtor were to sell more assets (specifically, Churches), there would be additional funds. (*Id.* at 166:7-18, 167:3-5, 143:1-17). It is also not Mr. Shields' opinion that the Debtor can sell more Churches while still being able to serve the 500,000 Catholic parishioners of Oakland—Mr. Shields did not even do that assessment. (*Id.* at 162:7-11). In fact, Mr. Shields testified that he was not second-guessing Bishop Barber's decision that the closure of the 13 Churches is the maximum amount that can be done without compromising the Debtor's spiritual and religious mission. (*Id.* at 161:4-17).

Second, Mr. Shields' testimony that parishes will be able to contribute an additional $10 million to the Plan is unreasonable. (*Id.* at 140:10-23). As Mr. Moore testified, the current Church contribution of

$5 million was primarily based on the facts that Churches tend not to generate that much cash and that their main source of revenue are contributions from parishioners. (6/15 Tr. at 177:18-25). Mr. Moore further explained: "There's no obligation. People—parishioners don't have a contractual obligation to contribute." (*Id.* at 178:14-16). To that point, Mr. Moore believed that parishioner contributions could decrease going forward in light of the fact the cash would be funding something other than "activities related to supporting that church or continuing its mission" (*Id.* at 178:17-20). Mr. Shields contemplated none of these considerations.

Third, and lastly, Mr. Shields' hypothetical "Moody's scorecard" methodology is inherently flawed and unreliable. His qualitative subfactors (brand strength, strategic positioning, and financial strategy) were *his own* subjective choices—not a Moody's rating opinion or a reliable, market-accepted independent assessment—and are entirely inapplicable under these circumstances. (6/29 Tr. at 123:10-12). For instance, Mr. Shields assigned the Debtor a "BA" score as to brand strength, which according to him is a "fairly good brand strength." (*Id.* at 129:10-20). His flawed conclusion was based on comparisons to Moody's-rated debt issues for the Archdiocese of Chicago (in 2012-2013, downgraded in 2020) and the Diocese of Phoenix (whose debt was rated in 2022), both of which also received an official rating *by Moody's* of BA, which is "fairly good brand strength." (*Id.* at 129:21-130:4). But as Mr. Shields later testified, the Archdiocese of Chicago and Diocese of Phoenix are not comparable to this Diocese—neither of them have entered bankruptcy and each of which were found to have "manageable" levels of abuse claims. (*Id.* at 193:13-195:9). Further, Mr. Shields views the Debtor as having an "investment grade" without accounting for the Debtor's ongoing bankruptcy or the $16 million verdict from the Woodall trial. (*Id.* at 205:14-25).

C. The First Amendment and RFRA Require Deference to Bishop Barber's Determinations of What Churches and Properties Are Necessary to Fulfill the Church's Religious Mission.

Both the RFRA and the Free Exercise Clause of the First Amendment—including the Church Autonomy Doctrine and, by analogy, the Ministerial Exception to the application of employment law—prevent the government, including the judiciary, from interfering with a religious body's determinations of what is necessary to conduct its faith and serve its congregants. The evidence overwhelmingly supports

the Debtor's satisfaction of the Section 1129 standards without any need to address constitutional issues. Nevertheless, these constitutional and statutory boundaries eviscerate whatever remains of the Committee's objections. If the Debtor believes in good faith it cannot sell more than 13 churches without compromising its religious mission (and it does), its good faith belief cannot possibly be a basis for finding the Debtor lacks good faith. Nor can its unwillingness to sell more churches be a basis for finding the Plan is not in claimants' best interests or is not fair and equitable to creditors. And the Doctrine of Unconstitutional Conditions prevents the Court from denying confirmation on the basis that this faith-based determination means there may not be more cash available to pay Survivors.

1. Both Sides Agree the Debtor Has the Right to Attend to Its Parishioners' Religious and Spiritual Needs.

Mr. Babcock, the Committee's representative witness, admitted the Debtor should have the ability to attend to the religious and spiritual needs of the 400,000-500,000 Catholics in the Diocese.[15] The Committee thus recognizes Bishop Barber's effort to balance the interests of Survivors and East Bay Catholics alike reflects a legitimate and justifiable goal in this process.

2. The Forced Sale of Churches Would Violate the RFRA

Congress passed the RFRA 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 Supreme Court's holding in *Holt v. Hobbs*, where the Court struck down a prison grooming policy because it substantially burdened an inmate's exercise of his faith. 574 U.S. 352, 356 (2015). The *Holt* Court also emphasized that Congress passed the RFRA "'to provide very broad protection for religious liberty.'" *Id.* at 357 (cleaned up).

The RFRA mandates "[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 if a compelling state interest exists. *Id.* at §2000bb-1(b)(1). The RFRA applies to all branches of government, including the judicial branch. *Id.* at §2000bb-1(a). Under Ninth Circuit law, "preventing

[15] Babcock Dep. 123:11-124:24.

access to religious exercise is an example of substantial burden." *Apache Stronghold*, 101 F.4th at 1043.

Apache Stronghold is important for understanding the teeth behind the RFRA. Its holding, in a *per curiam* decision, nevertheless concluded the voluntary transfer to a mining company of U.S. Government-owned land did not violate the RFRA even though the land, which the tribe no longer owned or controlled, had spiritual value to the tribe. The facts of this chapter 11 case are quite different. Here, forcing the sale of the Churches in a Chapter 7 liquidation would result in an involuntary transfer to a third party of all sacred Debtor-owned property actively used for the worship and religious needs of a half million Catholics. It is hard to think of what could "prevent access to religious exercise" more than closing and liquidating every Catholic church in Alameda and Contra Costa Counties.

Similarly, in *In re Roman Catholic Archbishop of Portland*, 335 B.R. 842 (Bankr. D. Or. 2005), the bankruptcy court held that although diocesan property could sometimes be subject to sale in a bankruptcy, the RFRA forbids a sale that would make a property used for worship unavailable for that purpose. *Id*. at 862-63. The court considered whether the application of section 544(a)(3) as a basis to close and sell churches would violate the RFRA. The *Portland* creditors committee argued it would not because (i) even if one church were closed, parishioners could attend alternative parish churches and (ii) parishioners had no right to attend a particular church and that the closing of a particular church would just be an "inconvenience" and not a "substantial burden." *Id.* at 862-63. The bankruptcy court rejected these arguments. It held 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.

Portland rejected the committee's argument 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 court agreed the purpose of section 544(a)(3) is "to maximize the bankruptcy estate and thereby maximize the recovery for creditors." *Id.*

However, the court noted exceptions in the Bankruptcy Code which limited the breadth of the estate and was persuaded. *Id.* It explained why at a minimum this created 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 court further explained that if application of section 544(a)(3) would result in a substantial burden, RFRA provides "[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). *See also In re Khan*, 2014 WL 10474969, at *55 (E.D.N.Y. Dec. 24, 2014) (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)).

To be clear, the Debtor does not claim blanket immunity from the bankruptcy process. The Constitution safeguards sincere religious exercise, not pretextual claims. The Court can and should assess whether Bishop Barber's testimony regarding mission necessity is sincere and whether the discernment process he undertook was genuine. That said, the above principles show that this Court cannot order the sale of Churches where such an order interferes with the Debtor's ability to meet the religious and spiritual needs of its 500,000 Catholic faithful.

a) Forcing the Sale of Churches Used for Worship Would Violate the Establishment And Free Exercise Clauses of the First Amendment.

The Church Autonomy Doctrine[16] traces to *Watson v. Jones*, 80 U.S. 679 (1871). Holding it should not adjudicate a dispute between two factions of the Presbyterian Church over a question of church

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

doctrine, the Court established an abstention principle that still stands 155 years later:

> [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 727. Applying this principle, the Supreme Court later 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 *Kedroff* Court held the First 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) falls within the Church Autonomy Doctrine, and courts should not interfere. *See also Presbyterian Church v. Mary Elizabeth Blue Hull Mem'l Presbyterian 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); *cf. Jones v. Wolf*, 443 U.S. 595, 602 (1979) ("the First Amendment severely circumscribes the role that civil courts may play in resolving church property disputes."). With this Supreme Court precedent in mind, it would equally jeopardize the Church Autonomy Doctrine and the principles underlying it for the Court to weigh in on a dispute between the Committee and the Debtor regarding how many Churches the Debtor needs to fulfill its mission.

Recently, the Ninth Circuit held the Doctrine applies even to laws that have general and neutral application beyond an intra-Church dispute. *Union Gospel Mission of Yakima, Washington v. Brown*, 162 F.4th 1190 (9th Cir. 2026). The plaintiff church showed a likelihood of success of prevailing on its claim that it should not be subject to laws forbidding discrimination on the basis of sexual orientation in hiring or requiring employees to disclose their religious beliefs, because either would interfere with the faith's

belief that only co-religionists could be hired.[17] *Id.* at 1219.

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 administering sacraments, holding celebrations, and deepening faith. The Church Autonomy Doctrine directly applies and prevents this Court from second-guessing and overriding the Debtor's decisions regarding how many, and which, churches are necessary to serve the religious and spiritual needs of its parishioners. The doctrine also prohibits interference with an internal church decision that affects internal management decisions essential to the church's central mission.

b) By Analogy, the Ministerial Exception Prevents Interference With Church Governance.

The Ministerial Exception limits the application of employment statutes where they interfere with religion. It provides analogous support and shows the broad scope of the noninterference required by the Constitution. 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." 565 U.S. 171, 190 (2012). The Supreme Court relied on that principle to overturn an EEOC decision forcing a church to keep an unwanted minister, thus applying the "Ministerial Exception" to employment law.

That same principle equally applies here. If this Court forced the sale of Churches or other property the Debtor uses and in good faith believes it needs for religious and spiritual purposes, the resulting interference with the Debtor's mission and the ability of Catholics to practice their faith would be significant. *See Puri*, 321 F. Supp.3d 1233 (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) (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

[17] The District Court in *Puri v. Khalsa*, 321 F. Supp.3d 1233, 1249-50 (D. Ore. 2018), relied on this Doctrine as an additional basis for relief, besides the Ministerial Exception, discussed next.

the Archdiocese and certain priests).

In *Behrend v. San Francisco Zen Center, Inc*., 108 F.4th 765 (9th Cir. 2024), the Ninth Circuit upheld a determination by the District Court for the Northern District of California that a work practice apprentice at a Zen Buddhist Temple could not bring a disability discrimination claim under the Americans With Disabilities Act based on the Ministerial Exception to employment law. The Court noted that, under the Ministerial Exception, a church's employment relationship with its ministers is exempted from the application of certain employment statutes that would otherwise apply. The doctrine is based on the Establishment and Free Exercise Clauses of the First Amendment—the Establishment Clause protects against forcing a religious group to hire someone, while the Free Exercise Clause prevents interference with the freedom of religious group to select their own minister. *Id*. at 768. The Court held the Ministerial Exception ensures the independence of religious institutions in matters of faith, doctrine and church government. *Id*. (citing *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 747 (2020)). *See also Markel v. Union of Orthodox Jewish Congregations of America*, 124 F.4th 796, 802 (9th Cir. 2024) ((Religion Clauses "protect[ ] the right of religious institutions 'to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.'") (quoting *Morrissey-Berru*, 591 U.S. at 737)). Thus, this Court cannot second guess or override Bishop Barber's determination of what is required to serve the Debtor's parishioners and fulfill its religious mission.

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

The Doctrine of Unconstitutional Conditions prohibits the government from conditioning a party's receipt of a discretionary benefit on a basis that infringes the 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. 328 U.S. 61 (1946); *see also Cantwell v. Connecticut*, 310 U.S. 296 (1940) (as-applied to Jehovah's witnesses, statute requiring religious organization to secure state approval to solicit funds violated Doctrine); *New Hope Family Servs., Inc. v.*

Poole, 966 F.3d 145 (2d Cir. 2020) (faith-based adoption agency had plausible claim that rules requiring it to not discriminate on the basis of sexual orientation and marital status violated Doctrine).

Here, it would violate the Doctrine of Unconstitutional Conditions to say 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 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.[18]

IV.

OMNIBUS RESPONSE TO REMAINING OBJECTIONS

To the extent not consensually resolved or addressed above, 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 Remaining Objection Should be Overruled: The Plan Satisfies Section 1129(a)(10).

Based on the Committee's stipulation that Class 3 voted in favor of the Plan, the Debtor considers §1129(a)(10) conclusively established. To the extent that the Committee continues to object on this basis, that 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. 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.

[18] In the approximately 30 settlements discussed by Dr. Martin, none required liquidation of **all** churches or even more than a fraction. Some involved **no sale** of property, as the Archdiocese of San Francisco appears to do. *See* https://sfarch.org/chapter-11/.

At trial, the testimony of Andres Estrada from Verita, the Debtor's claims and noticing agent, was received without objection or contravention through two declarations. Docket No. 3287 reflected the updated tally of Class 3 votes from 2025, based on a stipulation between the Debtor and the Committee resolving the Committee's challenge to certain claims. *See* Docket No. 3205. Docket No. 3207 reflected the Class 4 voting results from 2026. The declarations confirmed compliance with solicitation procedures and that Classes 1, 3, and 5 accepted the Plan. Class 4 voted to reject.

For his part, Joshua Hogan, the Court-approved representative for Unknown Abuse Claims (Class 5 under the Plan) testified through written declaration [*See* Docket No. 3104-3, Ex. D-47] and on cross-examination and redirect. He confirmed his vote in favor of the Plan on behalf of Class 5, a vote that he was authorized to cast based on the order approving his appointment. (6/24 Tr. at 98:1-3). He assumed 15 Unknown Abuse Claims based on his analysis of existing claims and discussions with his late father, Judge Michael Hogan. He also worked closely with Judge Hogan on multiple diocesan bankruptcy cases before his appointment as successor representative in March 2026. (*See* D-47 ¶ 5). He negotiated an increase to the Unknown Abuse Claims Reserve from $5 million to $7.7 million. (6/24 Tr. at 98:4-6). The $7.7 million calculation used the same percentage-based methodology Judge Hogan employed in other diocesan bankruptcies. (*See* D-47 ¶ 11, 6/24 Tr. at 86:6-22). The decisive factor in Mr. Hogan's vote was the guaranteed nature of the funds under the Plan to each claimant. (*See* D-47 ¶ 10).

B. <u>The Catholic Cemeteries of the East Bay Settlement Should Be Approved</u>

The Plan incorporates a settlement under which CCCEB transfers fee simple title to the Cathedral of Christ the Light and its associated chancery property to the Debtor in exchange for the Debtor's waiver of an approximately $40 million intercompany receivable owed by CCCEB to the estate. The settlement is the only rational outcome. CCCEB's only significant asset is the Cathedral property. It does not have the resources to repay the Debtor, so the Liquidation Analyses treat CCCEB's receivable as uncollectible. (6/15 Tr. at 103:9-11 ["And there are receivables on the balance sheet of the Chancery that are from CCCEB. CCCEB does not have the resources to repay those. So those are viewed as uncollectible in this analysis."]). The Committee presents no alternative evidence. Absent the settlement, the Debtor would hold a $40 million claim against an entity that cannot pay it, and the Cathedral would remain titled in

CCCEB, beyond the reach of RCBO's creditors. In a hypothetical Chapter 7 liquidation of the Debtor, creditors would receive no value whatsoever from the Cathedral because the Debtor does not own it. The only mechanism by which the Cathedral can become a Debtor asset is the Plan itself, through the CCCEB settlement. The Committee's characterization of this settlement as "unaddressed" ignores the fact that it is, by any measure, a transaction that brings (if you believe the Committee's own expert's analysis) hundreds of millions of dollars in asset value into the estate in exchange for a worthless receivable.

Approval of compromises and settlements under Bankruptcy Rule 9019 requires the Court to evaluate four factors: the probability of success in litigation, the difficulties of collection, the complexity and expense of the litigation, and the paramount interest of creditors. Each factor supports approval. The probability of collecting the $40 million receivable from CCCEB is negligible because CCCEB has no independent revenue stream and no assets other than the Cathedral from which to pay. The difficulties of collection are extreme for the same reason—a judgment against CCCEB would be uncollectable. Litigation to collect would consume estate resources pursuing a judgment against an entity that everyone agrees cannot satisfy it. And the paramount interest of creditors is overwhelmingly served by exchanging a worthless paper claim for fee simple ownership of the Cathedral. No creditor can possibly be harmed by the settlement. The CCCEB settlement satisfies Rule 9019 and should be approved as part of confirmation.

If the Court rejects the settlement, the practical outcome would be the same—only slower and more expensive. The Debtor or hypothetical chapter 7 trustee will sue CCCEB to collect the unpaid receivable. CCCEB could not satisfy a judgment, meaning the trustee will then execute against the Cathedral. After months or years of litigation, the Cathedral will end up in the estate anyway, but only after the estate expenses significant legal fees. The Plan reaches the same result at no additional cost to the Debtor **on the Effective Date**.

The Plan accomplishes in one transaction what in the alternative would require multiple lawsuits, a judgment, execution proceedings, potentially years of delay, with the same result and far greater cost to the estate. That is a reason to approve the settlement, not to reject it.

C. The Insurance Assignment Should be Approved

As discussed at length in the Pretrial Brief, 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. Notably, the Committee—the representative body for the Survivors for whose benefit the Debtor's insurance rights are being assigned—did not object to the Insurance Assignment.

To avoid unnecessary duplication, if a purely legal argument of the Insurers was fully addressed in the Pretrial Brief, the Debtor incorporates those arguments here. For example, the Pretrial Brief addressed: 1) the Insurers' standing to bring certain objections, (Pretrial Brief at 68-69); 2) the express preservation of Insurers' rights in Plan sections 8.3.1 and 8.3.2, among others, (*id*. at 69-72); 3) arguments related to the assignment of extra-contractual, or "bad faith" claims, to the extent they exist, (*id*. at 72-73); and 4), the Insurers' arguments about claim-objection provisions in the Plan, notably in light of Judge Tchaikovsky's decision in *In re W. Asbestos Co.*, 313 B.R. 832 (Bankr. N.D. Cal. 2003). (*Id*. at 73-71). Here, the Debtor will focus on responding to the Court's questions on July 7 and contextualizing the propriety of the Insurance Assignment, generally.

The Parties and the Court took great pains during the Confirmation Hearings to avoid addressing matters not properly before the Court, including future insurance coverage, allocation, reimbursement, contribution, claim administration, or inter-insurer disputes that the Plan preserves for the appropriate forum. They do not need to be decided at confirmation. All sides seem to agree with this. Thus, the Plan preserves those issues for resolution at an appropriate time in an appropriate forum.

1. The Insurance Assignment Complies with the Bankruptcy Code and is Consistent with Treatment in Other Diocesan and Religious-Order Cases

The Plan's assignment of the Debtor's rights under applicable insurance policies to the Survivors' Trust is valid under applicable law and does not prejudice the insurers' contractual rights. The Bankruptcy Code gives this Court broad latitude to approve "any other applicable provision not inconsistent with the

applicable provisions of this title." 11 U.S.C. §§1123(b)(6), 1129. The Insurance Assignment is necessary to the function of the Plan, consistent with the terms of other approved plans in diocesan and similar cases, and not inconsistent with the applicable provisions of the Bankruptcy Code. The Insurance Assignment transfers only the Debtor's rights and obligations as the insured. It does not expand coverage, waive policy defenses, or alter the insurers' obligations. (*See generally*, Plan, Section 8.3). The insurers retain all coverage defenses, policy limits, and contractual rights they would have if there were no assignment. (*Id.*).

a) The Insurance Assignment is Consistent with Other Plans.

An assignment of insurance rights, in a form similar to that found in the Plan, is a standard feature of Chapter 11 plans in diocese and other similar cases. Similar insurance assignments have been approved by numerous bankruptcy courts in confirmation of other plans. *See, e.g.,* Confirmation Order, *In re The Roman Catholic Church of the Archdiocese of New Orleans,* No. 20-10846 (Bankr. E.D. La. Dec. 8, 2025), Docket No. 4767; Confirmation Order, *In re The Norwich Roman Catholic Diocesan Corp.*, No. 21-20687 (Bankr. D. Conn., June 13, 2025), Docket No. 2053.

In confirming this Plan, this Court will be doing no more than what numerous prior bankruptcy courts have also determined to be appropriate and consistent with the Bankruptcy Code. That the Insurance Assignment broadly is consistent with the language and purpose of the Bankruptcy Code is not meaningfully in dispute. While the Insurers may have arguments regarding coverage issues, whether certain rights exist against them, or the ability of an assignee to assert various rights, those disputes are not before this Court and need not—indeed should not—be decided in connection with Plan confirmation. Section 8.3 of the Plan says all such arguments are preserved for the Insurers' benefit. This leaves the Insurers' arguments that specific provisions of the Insurance Assignment are somehow inconsistent with the Bankruptcy Code. As discussed below, the Insurers have not and cannot articulate **why** the provisions of the Insurance Assignment (in particular those to which they have not already consented) are "inconsistent with the applicable provisions of" the Bankruptcy Code. *See* 11 U.S.C. §1123(b)(6).

b) The Insurance Assignment Is Grounded In The Third Amended Plan Supported By The Insurers.

That the form of the Insurance Assignment is generally consistent with the Insurers' rights is demonstrated by the fact that it is based on the form of assignment from the Third Amended Plan that was negotiated with and supported by the Insurers. To the extent there are changes to the Insurance Assignment language from the Third Amended Plan, those changes were made in order to address specific concerns raised by the Committee. In making those changes, the Debtor gained the Committee's non-opposition to the Insurance Assignment provisions. The narrow scope of the changes made is reflected in the redline filed as Exhibit 2 to Docket No. 2760, which the Debtor incorporates herein by reference. (*See* Docket No. 2760-2, Article VIII, p. 54-70 of 132).

The Substantive changes to the Insurance Assignment embodied in Article VIII of the Plan from the Third Amended Plan to the current Plan are as follows:

First, clarification that rights that may be non-assignable "shall be retained by the Debtor to the fullest extent possible under applicable law." (*See* Docket No. 2760-2, Section 8.1, p. 54-55 of 132). This cannot be objectionable, because the Insurers have no right to eliminate the rights of their insureds.

Second, clarification that the Survivors' Trust's assumption of obligations under the Insurance Policies does not relieve the Debtor or Reorganized Debtor of their obligations. (*See* Docket No. 2760-2, Section 8.1.3, p. 55 of 132). This is of course for the benefit of the Insurers, and should address what they have expressed as a significant concern: being sure there is a party that will fulfill the insured obligations.

Third, deletion of the waiver of insureds' right to independent *Cumis* counsel, (*See* Docket No. 2760-2, Section 8.3.1, 8.3.12, pp. 58, 62-63 of 132). Although the Insurers have made clear this is one of their core objections, there cannot be a meritorious objection to the Plan not waiving a right of the insured under established California law. Nothing in the Plan eliminates the Insurers' right to argue in the future, in coverage litigation or in connection with defense of an Abuse Claim, that the Debtor is not entitled to *Cumis* counsel. This change avoids pre-determining the issue in favor of the Insurers, and thereby avoids letting them defend coverage with a stacked deck at the expense of their insureds.

Fourth, clarification that the Insured's right to assert any and all objections in defense of any abuse claim litigation are preserved. (*See* Docket No. 2760-2, Section 8.3.12, p. 63 of 132). Again, this change is for the benefit of the Insurers.

Fifth, inclusion in Section 8.7 of language already in Section 5.14 regarding preservation of rights under the *Hand* decision. (*See* Docket No. 2760-2, Section 8.7, p. 67 of 132). This language was the result of extensive negotiations between the Debtor, Committee, *and* Insurers in connection with the Third Amended Plan, and was agreed to by the Insurers. The only change is carrying over the same language to Section 8.7 for clarity.

Sixth, preservation of extra-contractual (i.e. bad faith and related) claims asserted in the Coverage Action, and clarification that the Survivors' Trust will substitute as plaintiff in the Coverage Action for purposes of asserting those claims. (*See* Docket No. 2760-2, Section 8.9, pp. 69-70 of 132). As with the *Cumis* counsel issue, the Insurers' objection seeks to stack the deck in their favor. At the time of the Third Amended Plan, no bad faith claims had been asserted against the Insurers. Since that time, because of the Insurers' conduct, the Debtor again amended its complaint in the Coverage Action, this time asserting bad faith claims against certain of the Insurers. (Docket No. 3319). The Insurers are free to argue those claims lack merit in the District Court in the Coverage Action. This Court is not the right venue for that dispute, and Plan confirmation is not the correct forum to litigate coverage issues. The Insurers cannot leverage the confirmation process to eliminate any potential exposure their own conduct has brought about.

In short, the Insurers' objections to the four changed provisions of the Insurance Assignment that are not strictly for their benefit amount to seeking to use Plan confirmation to tilt the playing field in their favor, eliminating rights of the Debtor/Insured. There is no legal basis for this. To the extent the Insurers' argument is that an assignment inherently eliminates certain rights, they are free to make those arguments in the appropriate venue as part of any future coverage litigation. That ability is expressly preserved. This Court need not and should not pre-determine the outcome of any such disputes in the Insurers' favor.

2. <u>The Delayed Discharge Does Not Violate the Bankruptcy Code</u>

Under Section 13.3 of the Plan, discharge for Litigation Option claims does not take effect until the conclusion of the litigation in a court of competent jurisdiction. Importantly, all insurer defenses to a claim are preserved while the claim (merits and coverage) is being litigated. Bad faith claims against insurers are expressly preserved and not discharged. The discharge applies only to claims against the Debtor, not to direct actions against insurers or independent claims arising from insurer conduct. The

Insurers object to these provisions. The Court asked for briefing on "what [the parties] believe would or would not be the distortions to the system" under a delayed discharge. (7/7 Tr. at 28-29).

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, § 13.3. This provision does not violate Section 1141 of the Bankruptcy Code. Plan confirmation discharges claims against a debtor, "[e]xcept as otherwise provided in this subsection, in the plan, or in the order confirming the plan . . . ." 11 U.S.C. §1141(d) (emphasis added). Nothing in Section 1141 requires a discharge be effective on the Effective Date, nor prohibits the Court for ordering discharge to take place on another date. Indeed, the Bankruptcy Code expressly permits the Court to modify the Section 1141 discharge. *See* 11 U.S.C. §1141(d). Section 13.3 has a distinct and proper purpose: to effectuate the Litigation Option and permitting Abuse Claim Litigation to go forward post-confirmation.

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

Confirmed plans in other diocese and tort-claim cases have included this very language. For example, the *Madison Square Boys & Girls Club* plan provides:

> The Class 4 Claims will not be released or enjoined as against the Debtor, the Reorganized Debtor, or any other Covered Party for any Abuse Claim that may be covered under any Non-Settling Insurance Company's Abuse Insurance Policies until such Claims are settled with the Debtor, the Reorganized Debtor, any other Covered Party and such Non-Settling Insurance Company or are fully adjudicated, resolved, and subject to Final Order, but recovery shall be limited as described above.

In re Madison Square Boys & Girls Club, Inc., Case No. 22-10910 (SHL) (Bankr. S.D.N.Y., Jul. 21, 2023) Doc. 574, p. 73 of 229. Similarly, the Diocese of Rochester Plan provides:

> Except as otherwise expressly provided in the Confirmation Order, pursuant to section

> 1141(d) of the Bankruptcy Code, the Diocese and its Estate will be discharged from: (i) all liability for any and all Inbound Contribution Claims on the Confirmation Date; and (ii) all liability for any and all Abuse Claims upon the occurrence of the applicable Abuse Claim Discharge Date.

In re Diocese of Rochester, Case No. 19-20905-PRW (Bankr. W.D.N.Y, March 14, 2025), Doc. 3026, p. 90 of 111. The "Abuse Claim Discharge Date" is in turn defined, as to litigation claimants, as the date "all Litigation Claims asserted by such Litigation Claimant against the Diocese and/or any Participating Party have been fully adjudicated, settled or dismissed on a final and non-appealable basis." *Id.*; *see also In re the Diocese of Buffalo, N.Y.*, Case No. 21-20687 (Bankr. W.D.N.Y, Oct. 1, 2025) Doc. 4221, p. 85 of 106.

If the Insurers argue the discharge provision is "inconsistent with the applicable provisions of [the Bankruptcy Code]," *see* 11 U.S.C. §§1123(b)(6), the Debtor will respond. If the Court holds the discharge provisions offend the Bankruptcy Code, the Debtor will modify them to bring them into compliance.

3. Willingness to Consider Plan and Confirmation Order Language Changes

The Debtor is open to agreed revisions to the Plan or Confirmation Order that do not alter the substance of the Insurance Assignment, provided such changes (i) fully resolve a dispute with all Insurers and (ii) do not bring new objections from the Committee. After objecting to the Insurance Assignment in the Third Amended Plan, the Committee did not object to the modified Insurance Assignment in this Plan. The Debtor sees no benefit to further changes unless the Committee consents; however, it has communicated with the remaining Insurers regarding potential edits to the Plan and will continue to engage in good faith negotiations with them and, as appropriate, the Committee.

Following substantial negotiation, the Debtor resolved the *Limited Objection of the Federal Companies to Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 2942] (the "Federal Companies Objection"). (*See* 6/15 Tr. at 267:19-269:23).

D. The UST Objection Should be Overruled

The Debtor narrowed the Plan injunction to only apply to claims derivative of Abuse Claims. It does not cover independent causes of action. By expressly limiting the injunction's scope to claims that derive from Abuse Claims, the new language addresses the U.S. Trustee's concern that the injunction was overbroad. The narrowed scope also preserves the Plan's protective function by ensuring the Reorganized Debtor will not face collateral litigation relating to Abuse Claims channeled to the Survivors' Trust.

The exculpation clause has been modified to include appropriate temporal limitations, covering only conduct from the Petition Date through the Effective Date. Post-Effective Date conduct is not exculpated. This provision complies with Ninth Circuit standards for exculpation in Chapter 11 plans.

The U.S. Trustee is wrong that both the Reorganized Debtor *and* Survivors' Trust should be subject to post-confirmation reporting obligations, including quarterly operating reports, until the case closes or converts. The Plan and Confirmation Order include provisions ensuring ongoing compliance with 28 U.S.C. §1930 quarterly fee obligations and reporting to the U.S. Trustee only for the Reorganized Debtor. The UST thinks this limitation means the Plan should be amended based primarily on section 1106(a)(7). However, section 1106(a)(7) says nothing about post-confirmation trustees of plan trusts. That section applies only to "the trustee," defined as the debtor in possession or a trustee appointed under section 1104. The Reorganized Debtor and Survivors' Trust are neither. This objection, too, should be overruled.

V.

CONCLUSION

The Plan satisfies all requirements for plan confirmation. The Debtor has demonstrated compliance with each subsection of Section 1129(a) (except Section 1129(a)(8), which is addressed through cramdown), and has established that the Plan is fair and equitable, does not discriminate unfairly against the rejecting Class 4, and is proposed in good faith, satisfying Section 1129(b). The Plan provides the only viable collective remedy for all 345 Survivors. No competing plan exists. The Committee's preferred alternative, dismissal, returns Survivors to serial, decades-long state-court litigation where early filers exhaust the Debtor's available assets, leaving most Survivors with no recovery from the Debtor.

The Plan reflects the Debtor's honest effort to commit its maximum available financial capacity to Survivor compensation while preserving its religious mission. Bishop Barber decided which assets to use to satisfy Abuse Claims as part of a credible, fact-informed religious and operational review. The result is a Plan that is fair, equitable, feasible, and proposed in good faith. The Court should confirm it.

WHEREFORE, 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.

DATED: August 7, 2026.

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Shane J. Moses
Ann Marie Uetz
Matthew D. Lee
David B. Goroff
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/s/ Shane J. Moses
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EXHIBIT 1

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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 APPENDIX TO ITS POST-TRIAL BRIEF

Judge: Hon. William J. Lafferty

App. Ex.	Description	App Page #
A-1	Uncontested or Inapplicable Provisions of Section 1129(a)	3
A-2	Denise Martin Updated Charts	6
A-3	Representative Sample of Statements Made by Committee Counsel	17

DATED: August 7, 2026

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Exhibit A-1

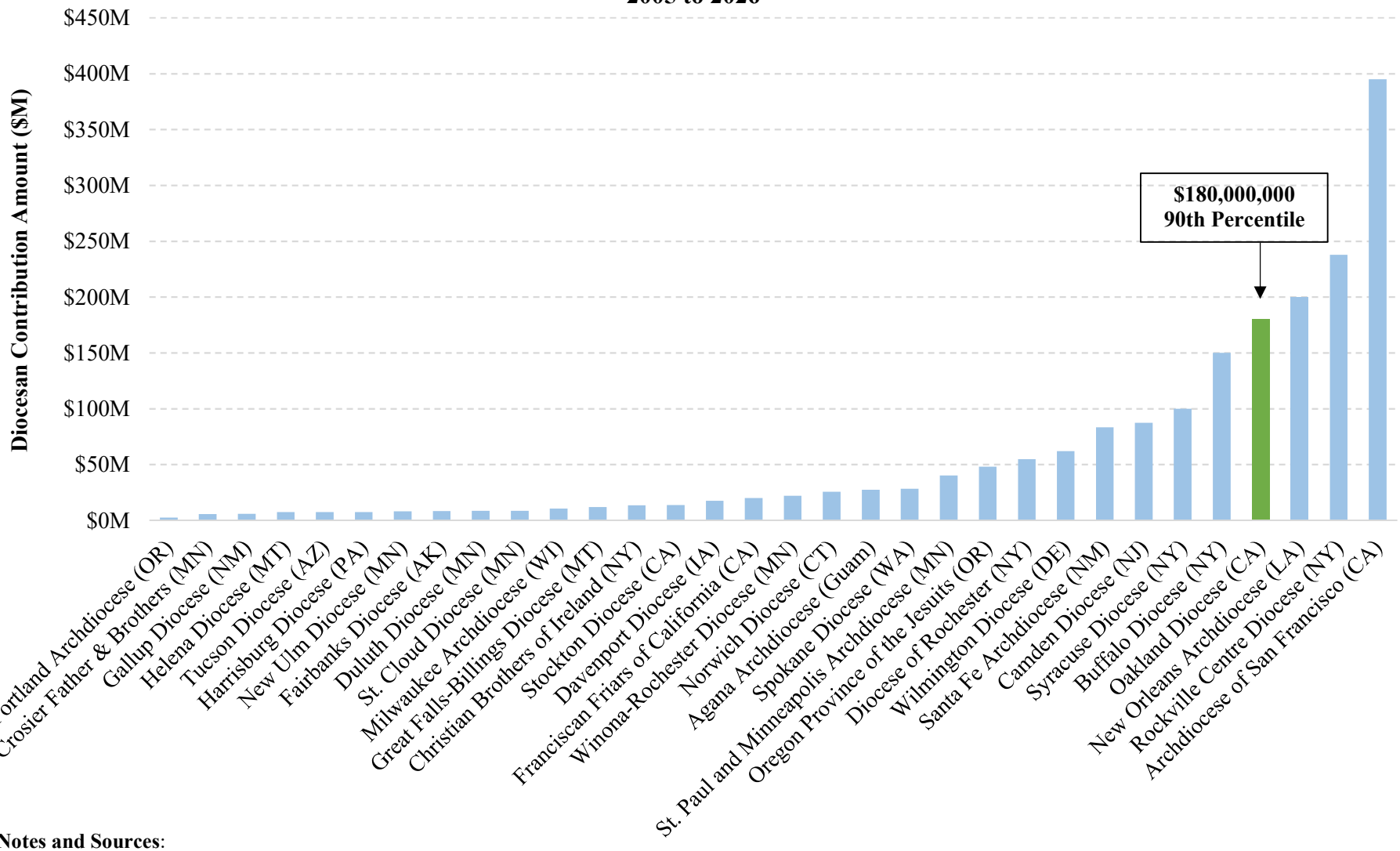
Section / Provision	Issue	Debtor Response	Additional Citations
§ 1129(a)(1)	Plan Compliance with Sections 1122 and 1123.	Classification under Section 1122 is proper: each class contains claims or interests that are substantially similar in legal rights. Specifically, the Debtor has sound justification 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. 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. The Plan contains all mandatory provisions required by Section 1123(a) and only permissible provisions under Section 1123(b).	*See* Plan, Arts. II, IV, IX, XII, XIII, XVI.
§ 1129(a)(2)	Disclosure and Voting Requirements.	The Debtor has complied with Sections 1125 and 1126 regarding disclosure and solicitation. The Disclosure Statement was approved by the Court. Solicitation was conducted in accordance with the approved procedures. Ballots were properly tabulated by Andres Estrada of Verita. All voting requirements have been satisfied.	Docket Nos. 3207 & 3287.
§ 1129(a)(4)	Court Approval of Professional Fees.	All payments made or to be made by the Debtor for services or costs in connection with the case or the Plan have been approved by, or are subject to approval of, the Court as reasonable.	*See* Plan, Arts. III.3, XV
§ 1129(a)(5)	Governance Disclosure.	The Debtor has disclosed the identity and affiliations of all individuals proposed to serve as officers, directors, or voting trustees of the reorganized Debtor. The appointment or continuation of such individuals is consistent with the interests of creditors and with public policy.	*See* Plan, Art. XII
§ 1129(a)(6)	Governmental Regulatory Approval.	This provision is not applicable to the Debtor. The Plan does not provide for any rate change over which a governmental regulatory commission has jurisdiction.	

Section / Provision	Issue	Debtor Response	Additional Citations
§ 1129(a)(9)	Treatment of Administrative and Priority Tax Claims.	The Plan provides for treatment of administrative expense claims and priority tax claims in accordance with Section 1129(a)(9). All allowed administrative claims will be paid in full on the Effective Date or as otherwise agreed. Priority tax claims receive treatment consistent with Section 507(a)(8).	*See* Plan, Art. III
§ 1129(a)(12)	Payment of U.S. Trustee Fees.	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). Correspondingly, 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).	*See* Plan, Art. III
§ 1129(a)(13)-(16)	Additional Statutory Requirements.	The Plan satisfies the remaining requirements of Section 1129(a)(13) through (16) to the extent applicable. a) 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. b) 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. c) 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).	*See* Plan, Art. VII

Section / Provision	Issue	Debtor Response	Additional Citations
§ 1129(c)	The Plan is the Only Plan.	Section 1129(c) provides that the Court may confirm only one plan where multiple plans meet the requirements of Section 1129. Here, there is only one plan before the Court. The Committee withdrew its competing plan within 48 hours of the Woodall verdict. No other party has proposed an alternative plan. The Plan is the sole plan that the Court is asked to confirm, and Section 1129(c) is satisfied as a matter of course.	Docket No. 2854
§ 1129(d)	Avoidance of Taxes / Section 5	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.	*See* Plan, Art. III
§ 1129(e)	Small Business Cases	The provisions of section 1129(e) apply only to a "small business case" as defined therein. The Debtor's case is not a "small business case." Accordingly, section 1129(e) does not apply to the Plan.	

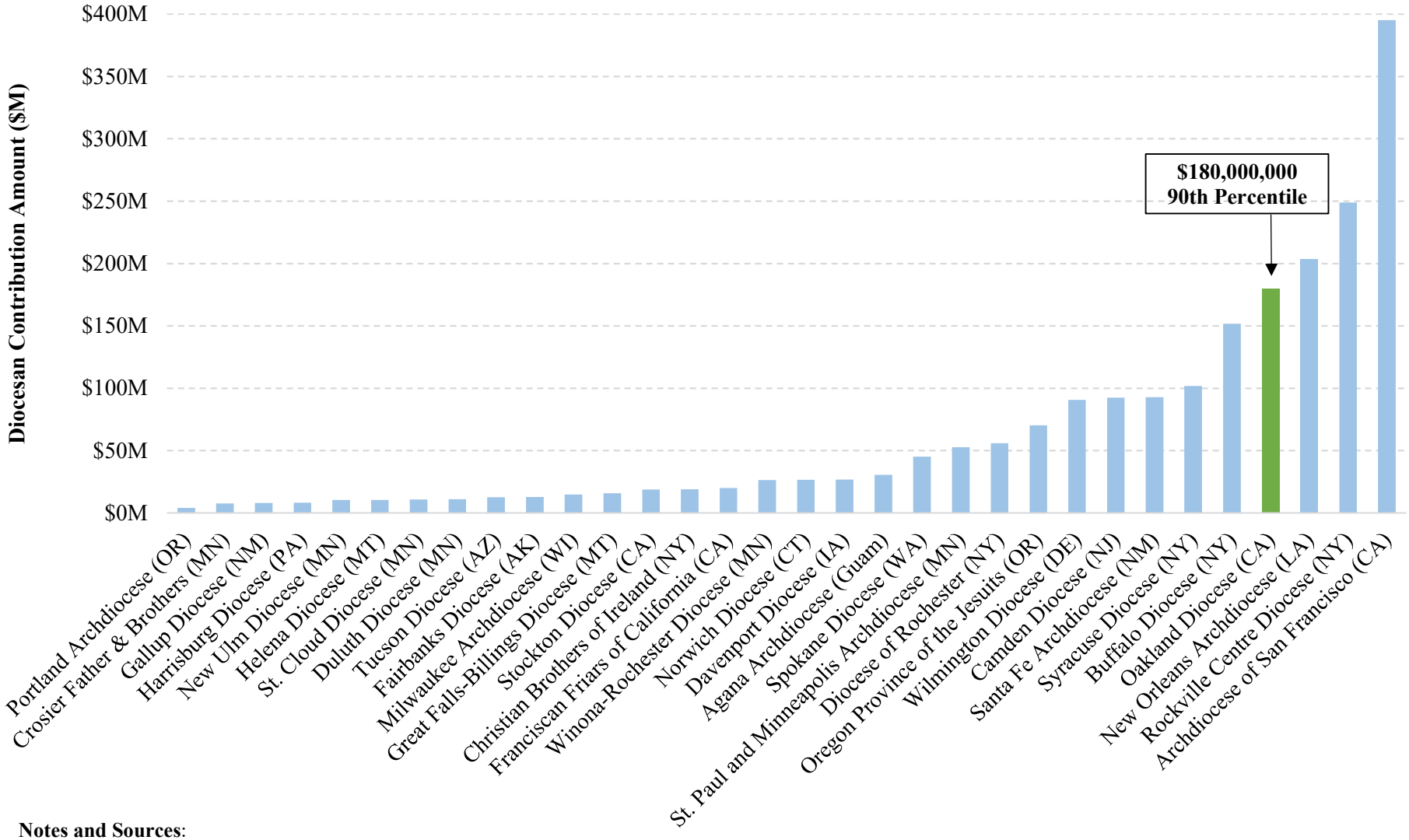
Exhibit A-2

Figure 1
Diocesan Contribution (Nominal)
Confirmed & Pending Joint Plans (N = 31)
2005 to 2026



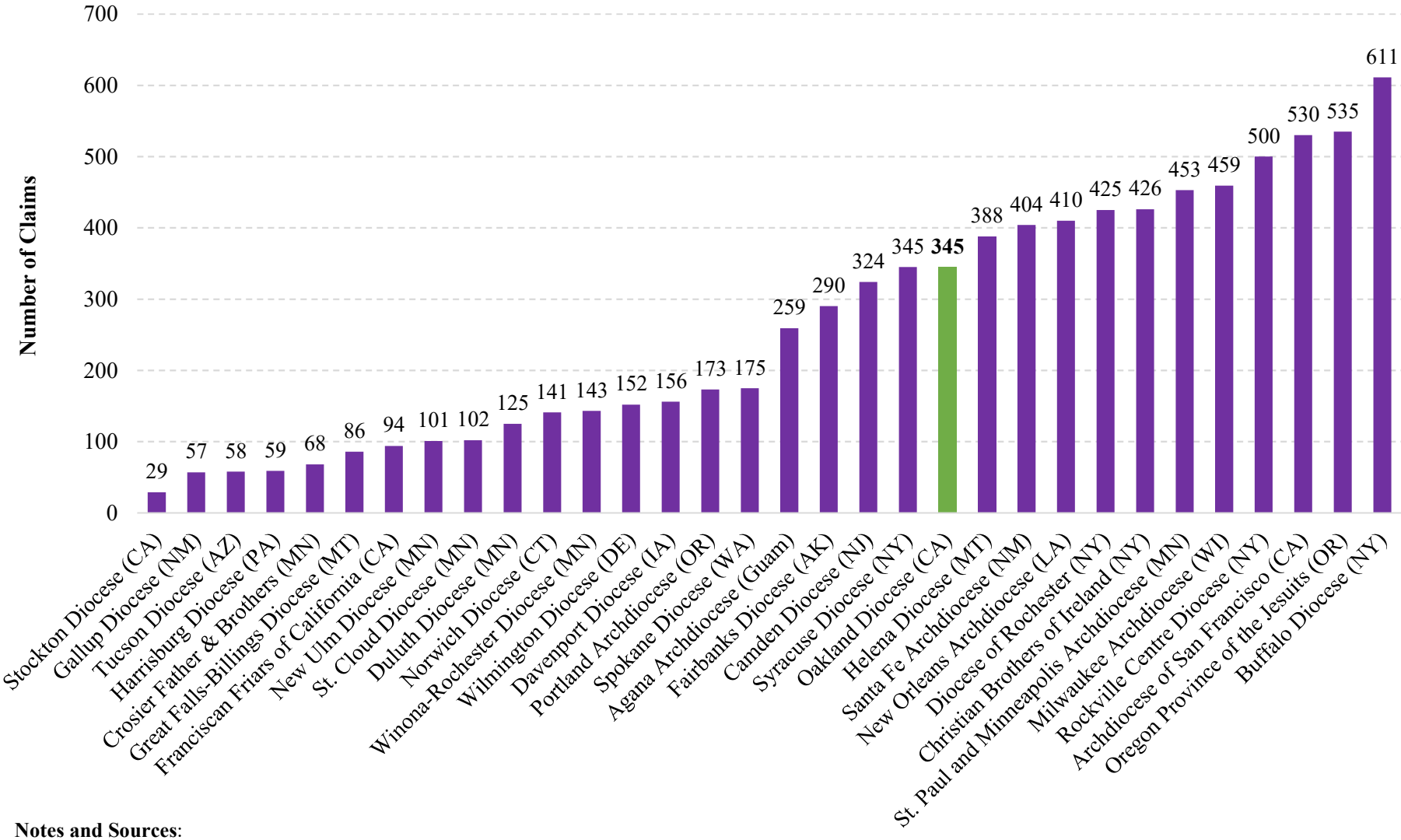
Notes and Sources:
Data are from disclosure statements, plans of reorganization, voluntary petitions, and other legal filings from the bankruptcy docket for each case. News articles were used to supplement missing or unclear information.

Figure 2
Diocesan Contribution (Inflation-Adjusted)
Confirmed & Pending Joint Plans (N = 31)
2005 to 2026



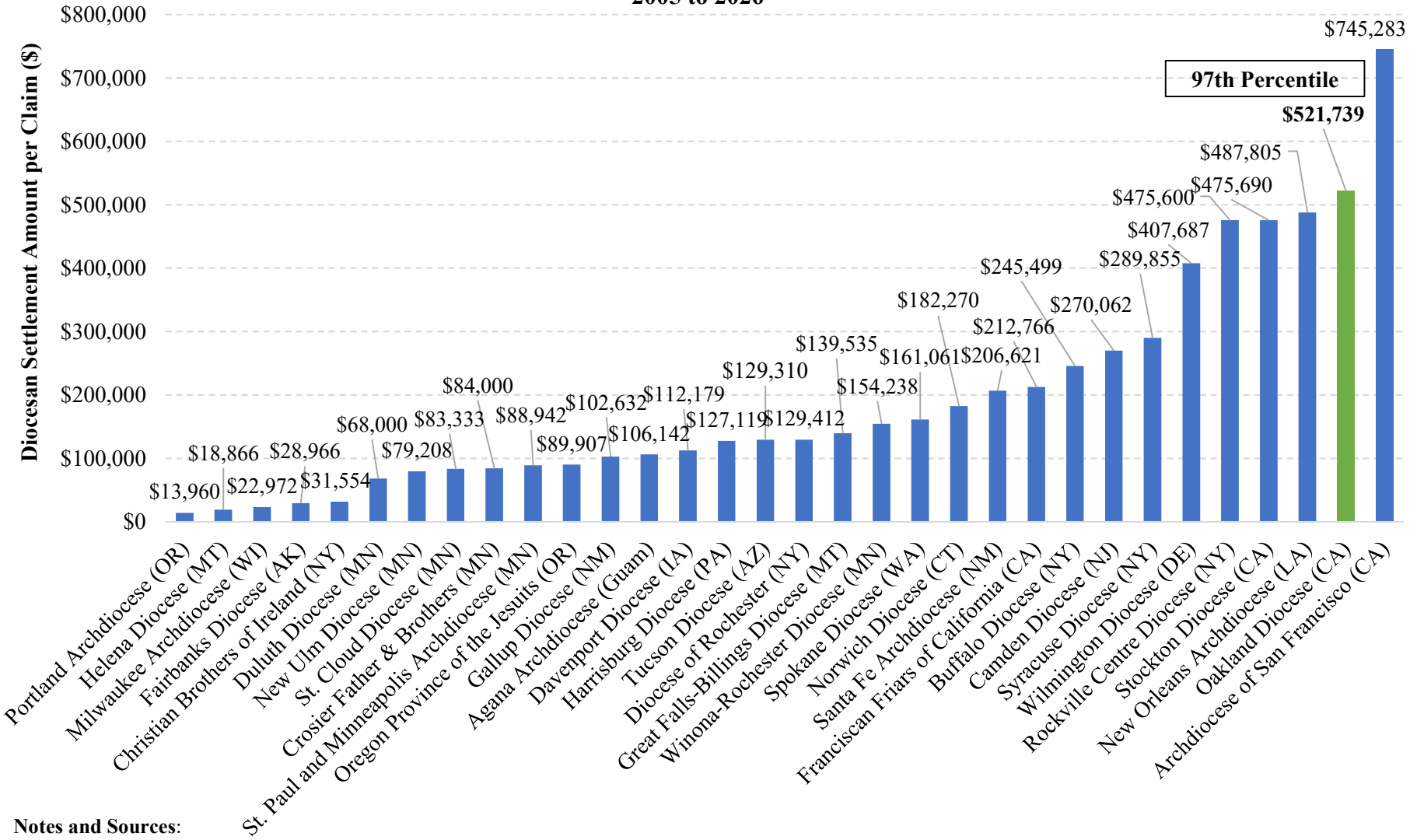
Notes and Sources:
Data are from disclosure statements, plans of reorganization, voluntary petitions, and other legal filings from the bankruptcy docket for each case. News articles were used to supplement missing or unclear information.

Figure 3
Number of Claims
Confirmed & Pending Joint Plans (N = 31)
2005 to 2026



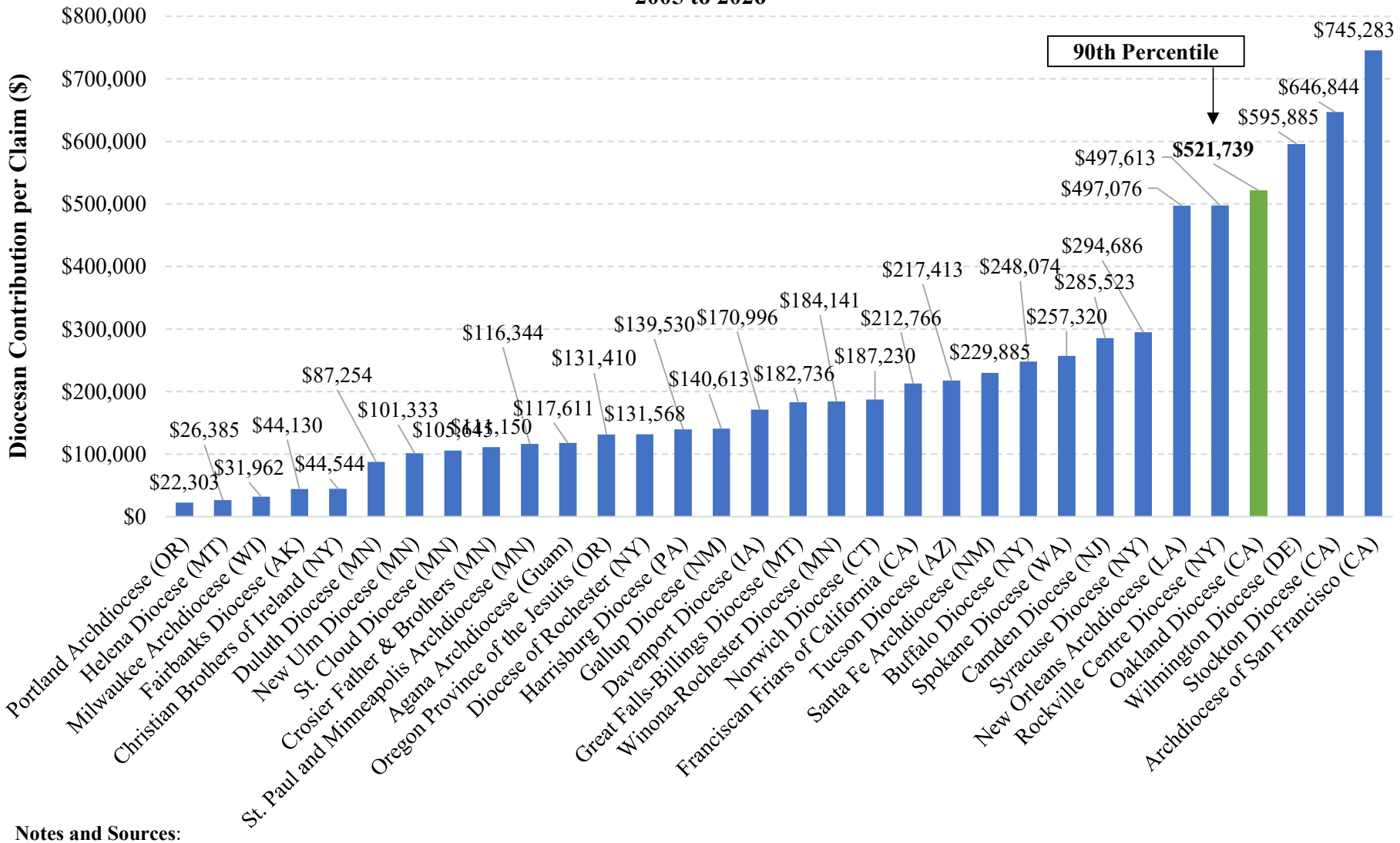
Notes and Sources:
Data are from disclosure statements, plans of reorganization, voluntary petitions, and other legal filings from the bankruptcy docket for each case. News articles were used to supplement missing or unclear information.

Figure 4
Diocesan Contribution per Claim (Nominal)
Confirmed & Pending Joint Plans (N = 31)
2005 to 2026



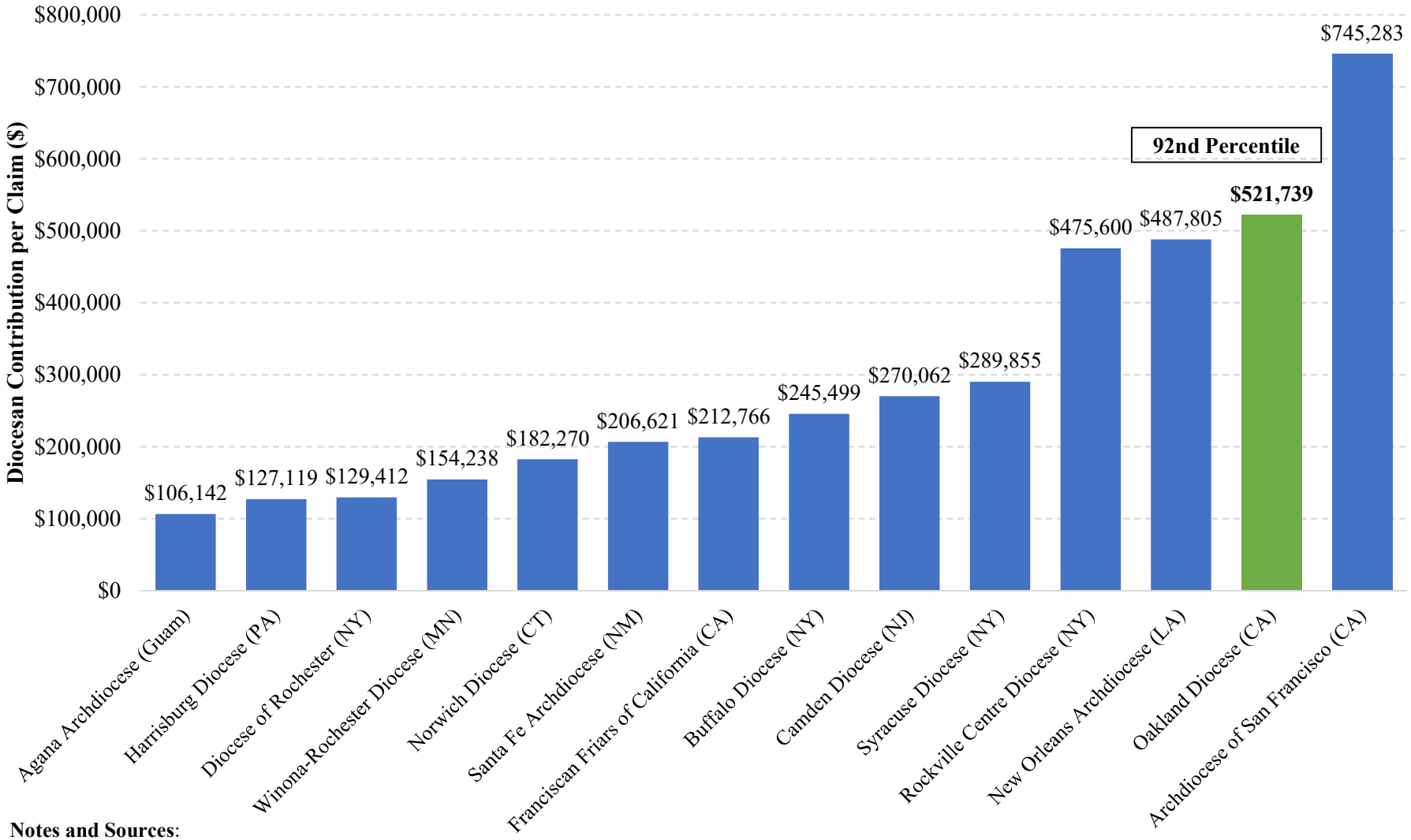
Notes and Sources:
Data are from disclosure statements, plans of reorganization, voluntary petitions, and other legal filings from the bankruptcy docket for each case. News articles were used to supplement missing or unclear information.

Figure 5
Diocesan Contribution per Claim (Inflation-Adjusted)
Confirmed & Pending Joint Plans (N = 31)
2005 to 2026



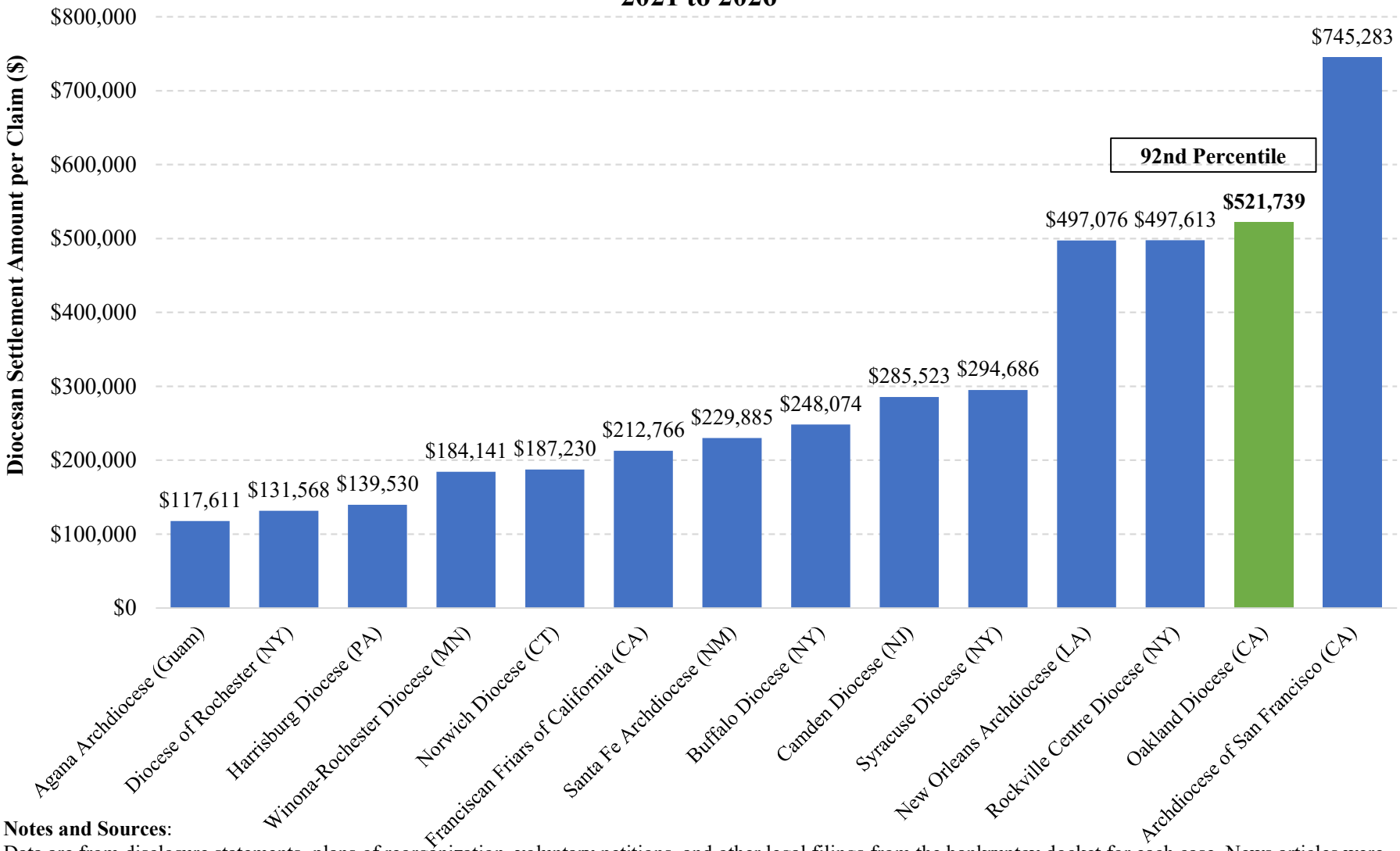
Notes and Sources:
Data are from disclosure statements, plans of reorganization, voluntary petitions, and other legal filings from the bankruptcy docket for each case. News articles were used to supplement missing or unclear information.

Figure 6
Diocesan Contribution per Claim (Nominal)
Recent Confirmed & Pending Joint Plans (N = 13)
2021 to 2026



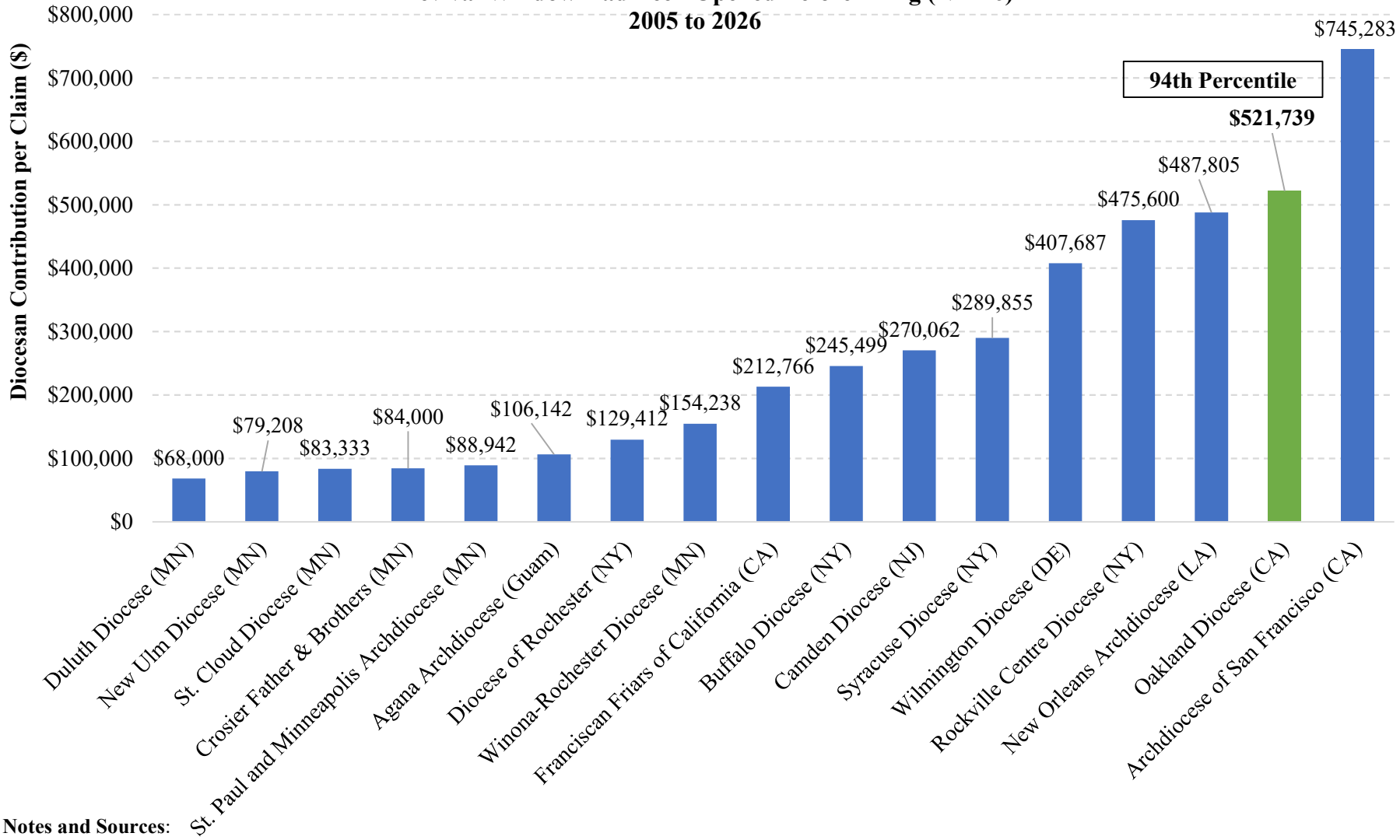
Notes and Sources:
Data are from disclosure statements, plans of reorganization, voluntary petitions, and other legal filings from the bankruptcy docket for each case. News articles were used to supplement missing or unclear information.

Figure 7
Diocesan Contribution per Claim (Inflation-Adjusted)
Recent Confirmed & Pending Joint Plans (N = 13)
2021 to 2026



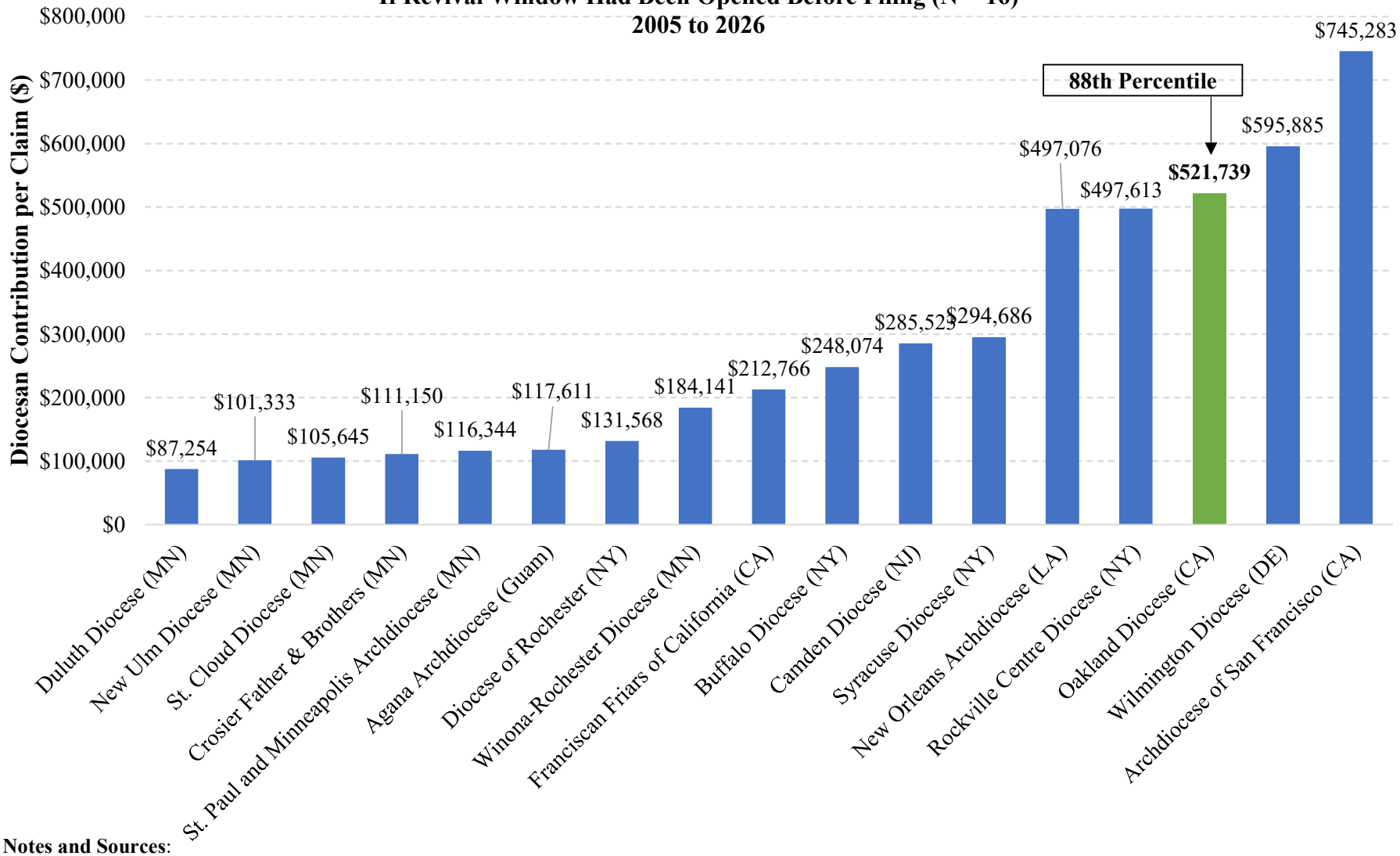
Notes and Sources:
Data are from disclosure statements, plans of reorganization, voluntary petitions, and other legal filings from the bankruptcy docket for each case. News articles were used to supplement missing or unclear information.

Figure 1
Diocesan Contribution per Claim (Nominal)
Confirmed & Pending Joint Plans
If Revival Window Had Been Opened Before Filing (N = 16)
2005 to 2026



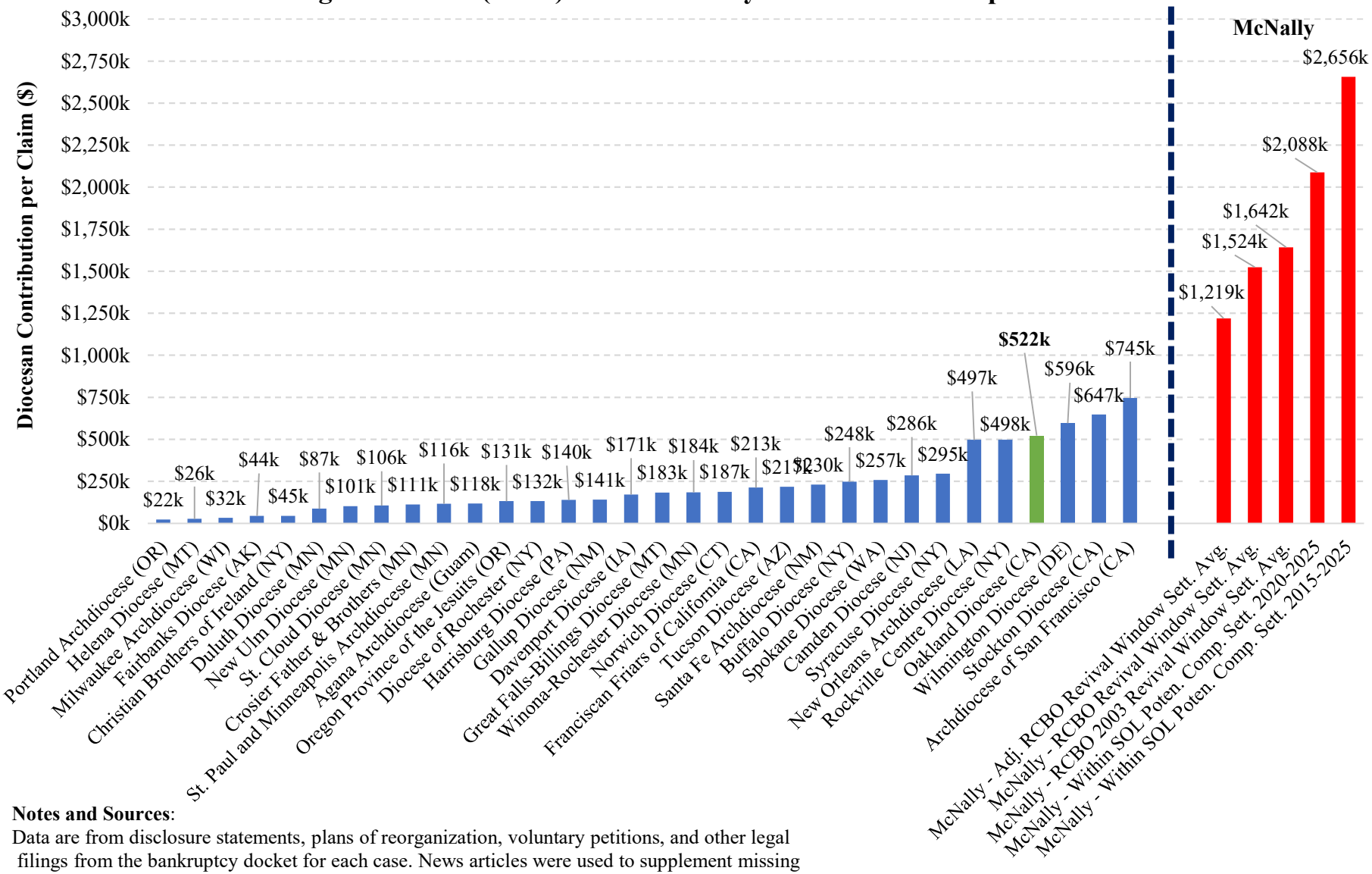
Notes and Sources:
Data are from disclosure statements, plans of reorganization, voluntary petitions, and other legal filings from the bankruptcy docket for each case. News articles were used to supplement missing or unclear information.

Figure 2
Diocesan Contribution per Claim (Inflation-Adjusted)
Confirmed & Pending Joint Plans
If Revival Window Had Been Opened Before Filing (N = 16)
2005 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.

Figure 3
Comparison of Inflation-Adjusted Diocesan Contribution per Claim for Confirmed and Pending Joint Plans (N=31) to Ms. McNally's Estimated Value per Claim



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.

Exhibit A-3

Date	Proceeding	Counsel	Statement
Jan. 9, 2024	Motion to Allow Late Claims & Mediation	Brent Weisenberg	The Committee "should have a say" in any insurance resolution because it was the "ultimate beneficiary" of any resolution reached. Tr. at 49:19-21. The Committee had intervened in the insurance adversary proceeding and was "the ultimate beneficiaries of any proceeds realized from that." Tr. at 51:17-21.
Apr. 18, 2024	District Court Cases	Timothy Burns	There was "a tremendous amount" of "insured exposure" for sexual-abuse claims. Tr. at 16:1-8.
Apr. 26, 2024	Motion to Stay Pending Appeal; Motions for Protective Orders; Motions to Quash	Michael Kaplan	"The insurance is inarguably the debtor's largest asset, potentially." The policies "are assets of the debtor's estate," and the Committee had a fiduciary obligation to investigate and understand the value of those assets. Tr. at 93:1-13.
Apr. 26, 2024	Motion to Stay Pending Appeal; Motions for Protective Orders; Motions to Quash	Jesse Bair	One of the Committee's statutory obligations was to investigate the debtor's assets and financial condition, "including the debtor's insurance policies." Tr. at 99:10-15. Low or absent reserves could be evidence of potential bad-faith or statutory unfair-claims-handling claims that "may have value to the estate." Tr. at 106:21-107:3. Reserve information "speaks back to the value of the insurance asset." Tr. at 108:4-9.
Dec. 18, 2024	Disclosure Statement; Motion to Appoint Legal Representative for Unknown Abuse Claimants	Timothy Burns	In order to recover "debtor's insurance assets," survivors were being compelled to release direct statutory bad-faith and other claims against insurers. Tr. at 121:3-8.

Date	Proceeding	Counsel	Statement
Jan. 8, 2025	Relief from Stay; Standing; Status Conference	Brent Weisenberg	The insurers were "salivating" over the litigation option because the assignment was not insurance-neutral and stripped survivor rights, including rights related to bad faith. Tr. at 57:13-18.
Jan. 8, 2025	Relief from Stay; Standing; Status Conference	Timothy Burns	The debtor could not let an "asset sit there in waste." Tr. at 126:11-14. The debtor was failing to pursue litigation that even the debtor considered worth "hundreds of millions of dollars." Tr. at 126:25-127:7.
Jan. 16, 2025	Main Case Hearing: Disclosure Statement; Relief from Stay; Standing; Status Conference	Brent Weisenberg	Called the insurance assignment issue a "showstopper." Tr. at 161:22-25.
Jan. 30, 2025	Amended Disclosure Statement	Timothy Burns	Bad-faith rights are what make insurance companies pay claims and those rights give insurance rights "meat." Tr. at 51:23-52:3. Bad faith is "intrinsic to any insurance basket of rights" and without it the parties would litigate claim by claim for generations. Tr. at 35:7-14. The assignment was "so central to the plan" that uncertainty over bad-faith rights could not be cured by disclosure and went to the "heart of creditors' ability to realize what was being assigned." Tr. at 36:8-37:4.
Jan. 30, 2025	Amended Disclosure Statement	Brent Weisenberg	The issue went to value because the debtor advertised "meaningful value" in the insurance assignment and creditors could not understand that value if a key enforcement right might be lost. Tr. at 45:20-46:15.
Oct. 29, 2025	Motion to Dismiss Case	Jeffrey Prol	The insurers negotiated what he characterized as "the most favorable assignment" he had ever seen in a diocese bankruptcy-related case. Tr. at 64:11-17.

Date	Proceeding	Counsel	Statement
Dec. 18, 2025	Sale Motion & Status Conference re Motion to Dismiss	Jeffrey Prol	The Committee did not support the insurance settlements and believed that the dollar number, while appearing large in the aggregate, "substantially undervalues the insurance asset." Tr. at 32:20-26.
Mar. 10, 2026	Status Conference; Macias Stay Motion; Motion to Appoint Unknown Claimant Representative	Jesse Bair	The plan's tentative settlements with five of eight insurers for $44.35 million "undervalue[s] th[at] insurance asset" and created "a significant issue for the Committee." Tr. at 76:9-23.
Apr. 29, 2026	Claim Objection Procedures; Interim Fee Applications; Status Conference	Brent Weisenberg	A majority of the claims were covered by insurance, there were no aggregate limits, and one survivor's policy recovery would not be to another survivor's detriment. Tr. at 24:1-8.
Apr. 29, 2026	Claim Objection Procedures; Interim Fee Applications; Status Conference	Michael Kaplan	The debtor's "race to the courthouse" theory was not evidence, and he cited testimony that the debtor's belief was that "all but $250,000" was covered. Tr. at 102:17-24.