FOLEY & LARDNER LLP
Eileen R. Ridley (CA Bar No. 151735)
Tel: (415) 438-6469; eridley@foley.com
Shane J. Moses (CA Bar No. 250533)
Tel: (415) 438-6404; smoses@foley.com
Ann Marie Uetz (admitted *pro hac vice*)
Tel: (313) 234-7114; auetz@foley.com
Matthew D. Lee (admitted *pro hac vice*)
Tel: (608) 258-4203; mdlee@foley.com
Geoffrey S. Goodman (admitted *pro hac vice*)
Tel: (312) 832-4515; ggoodman@foley.com
David B. Goroff (admitted *pro hac vice*)
Tel: (312) 832-5160; dgoroff@foley.com
Mark C. Moore (admitted *pro hac vice*)
Tel: (214) 999-4150; mmoore@foley.com
One Market Plaza
55 Spear Street Tower, Suite 1900
San Francisco, CA 94105

Counsel for the Debtor
and Debtor in Possession

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 REPLY TO THE COMMITTEE'S POST-TRIAL BRIEF IN OPPOSITION TO CONFIRMATION OF THE 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

II. BACKGROUND 4

A. The First Amendment And RFRA: The Constitutional Framework. 5

1. Denying Plan Confirmation Because The Committee Thinks The Debtor Should Pay More–Only Possible Through Closing More Churches–Violates The First Amendment And RFRA. 5

2. The Free Exercise Clause Protects Bishop Barber's Determination. 10

a. The Debtor Has Demonstrated a Substantial Burden on Its Religious Exercise. 12

b. The Committee Cannot Satisfy Any Factors of The Compelling Interest Test. 13

3. The Church Autonomy Doctrine Bars Judicial Second-Guessing. 14

4. The Ministerial Exception Confirms the Constitutional Bar. 16

5. RFRA Independently Prohibits Compelled Church Sales. 17

6. The Unconstitutional Conditions Doctrine Applies. 19

7. The Committee's First Amendment or RFRA Arguments Fail. 20

a. The Debtor Is Not Asking to Be "Exempt" From § 1129(a)(7). 20

b. The First Amendment and RFRA Are Both Examples of So-Called Secular Law That Take Precedence Over § 1129 If Any Conflict Exists. 20

c. Being A Purportedly "Neutral Law" Is Not Enough to Insulate a Statute From the Requirements of The First Amendment And RFRA. 22

d. The Committee Falsely Claims Its Substantial Burden Analysis Is Limited To Hypothetical Chapter 7 Sales. 24

e. Second Guessing Bishop Barber with No Evidence Violates the First Amendment and RFRA. 24

8. *Baltimore* Is Distinguishable 24

B. The Committee's Arguments Rest on Inconsistent Positions and Fail on the Merits. 26

1. The Committee's Inconsistent Positions Undermine Its Objections. 26

a. The Insurance Assignment: The Committee's Greatest Asset Is Now Its Greatest Omission. 26

b. The Babcock Admissions on Feasibility and the Insurance Assignment. 27

c. The Withdrawn Committee Plan. 27

2. The Best Interests Test Is Satisfied Under Either Liquidation Analysis 27

Case: 23-40523 Doc# 3452 Filed: 08/19/26 Entered: 08/19/26 19:50:55 Page 2 of 52

a. The Supplemental Liquidation Analysis Includes All Real Estate—and Still Passes. 28
b. The Committee's "Circularity" Argument Misunderstands The Best Interests Test. 29
c. The RCWC Contribution and Individual-Creditor Analysis. 30
d. RCC Collateral and the Cemetery Issue. 31
e. Litigation Costs Are Not Inflated. 32
f. The Plan Is Feasible. 32
3. The Plan Was Proposed in Good Faith—the Committee's Arguments Are Substantive-Adequacy Arguments in Disguise. 34
4. The Plan Is Fair and Equitable. 35
a. The Absolute Priority Rule Is Satisfied. 35
b. The Honest Effort Standard Supports Fair and Equitable. 36
c. The Baltimore Decision Is Distinguishable. 37
d. Even if Adopted, the Chapter 9 Framework Does Not Impose a "Maximization" Requirement. 38
5. §1129(a)(10) Is Satisfied 39
6. The Plan Complies with Section 1129(a)(1). 40
a. The Plan's Third-Party Releases Are Permissible. 40
b. The CCCEB Settlement Satisfies Rule 9019. 41
C. The Collective-Remedy Imperative and Alternatives to Confirmation. 42
III. CONCLUSION 43

TABLE OF AUTHORITIES

Page(s)

Cases

Apache Stronghold v. United States,
101 F.4th 1036 (9th Cir. 2024) 15, 21

Ashwander v. TVA,
297 U.S. 288 (1936) 12

Bryce v. Episcopal Church in the Diocese of Colorado,
289 F.3d 648 (10th Cir. 2002) 18

Burwell v. Hobby Lobby Stores, Inc.,
573 U.S. 862 (2014) 26, 27

California Trout, Inc., v. F.E.R.C.,
313 F.3d 1131 (9th Cir. 2002) 25

Cantwell v. Connecticut,
310 U.S. 296 (1940) 23

Church of Lukumi Babalu Aye, Inc. v. Hialeah,
508 U.S. 520 (1993) 26

Committee of Tort Litigants v. Catholic Diocese of Spokane,
364 B.R. 81 (E.D. Wash. 2006) 8, 25

Cooper v. Social Sec'y Admin.,
131 F.4th 995 (9th Cir. 2025) 7

Gaddy v. Corporation of the President of the Church of Jesus Christ of Latter Day Saints,
148 F.4th 1202 (10th Cir. 2025) 18

Girouard v. U.S.,
328 U.S. 61 (1946) 23

Grogan v. Garner,
498 U.S. 279 (1991) 7

Harrington v. Purdue Pharma L.P.,
603 U.S. 204 (2024) 43

Hosanna-Tabor Evangelical Lutheran Church v. EEOC,
565 U.S. 171 (2012) 19, 20, 25, 26

Huntsman v. Corporation of the Church of Jesus Christ of Latter Day Saints,
127 F.4th 784 (9th Cir. 2025) 26

In re Eastern Maine Elec. Co-op., Inc.,
125 B.R. 329 (Bankr. D. Me. 1991) 29

In re General Teamsters, Warehousemen and Helpers Union Local 890,
225 B.R. 719 (Bankr. N.D. Cal. 1998) 6, 17, 42

In re Hardeman County Hospital District,
540 B.R. 229 (Bankr. N.D. Tex. 2015) 41

Case: 23-40523 Doc# 3452 Filed: 08/19/26 Entered: 08/19/26 19:50:55 Page 4 of 52

In re Henry Mayo Newhall Mem'l Hosp.,
282 B.R. 444 (B.A.P. 9th Cir. 2002) 39

In re Hodge,
220 B.R. 386 (D. Idaho 1998) 16, 17

In re Ionosphere Clubs, Inc.,
98 B.R. 174 (Bankr. S.D.N.Y. 1989) 8

In re Irigoyen,
659 B.R. 1 (9th Cir. BAP 2024) 8

In re Juarez,
603 B.R. 610 (9th Cir. BAP 2019) 17

In re Pizza of Hawaii, Inc.,
761 F.2d 1374 (9th Cir. 1985) 36

In re Roman Catholic Archbishop of Portland,
335 B.R. 842 (Bankr. D. Ore. 2005) 21

In re Roman Catholic Archdiocese of New Orleans,
2021 WL 454220 (Bankr. E.D. La. Feb. 8, 2021) 9

In re the Catholic Bishop of Spokane,
329 B.R. 304 (Bankr. D. Wash. 2005) 8

In re Wabash Valley Power Ass'n,
72 F.3d 1305 (7th Cir. 1995) 29, 39

In re Young,
141 F.3d 854 (8th Cir. 1998) 21, 22

Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in N. Am.,
344 U.S. 94 (1952) 13, 18, 19

Kohler v. Inter-Tel Techs.,
244 F.3d 1167 (9th Cir. 2001) 3, 30

Kreshik v. St. Nicholas Cathedral,
363 U.S. 190 (1960) 18

Listecki v. Official Comm. of Unsecured Creditors,
780 F.3d 731 (7th Cir. 2015) 23

Marbury v. Madison,
5 U.S. (1 Cranch) 137 (1803) 24

Markel v. Union of Orthodox Jewish Congregations of Am.,
124 F.4th 796 (9th Cir. 2024) 20

Marrama v. Citizens Bank of Mass.,
549 U.S. 365 (2007) 7

Morton v. Mancari,
417 U.S. 535 (1974) 25

NLRB v. Bildisco & Bildisco,
465 U.S. 513 (1984) 8

Our Lady of Guadalupe Sch. v. Morrissey-Berru,
591 U.S. 732 (2020) 13, 18, 20

Pers. Adm'r of Mass. v. Feeney,
442 U.S. 266 (1979) 26

Pietrzak v. Mukasey,
260 F. App'x 337 (2d Cir. 2008) 3

Pritchard on behalf of C.P. v. Blue Cross Blue Shield of Illinois,
159 F.4th 646 (9th Cir. 2025) 22, 26, 27

Reid v. Covert,
354 U.S. 1 (1957) 24

Reyes v. City of Glendale,
2009 WL 2579614 (C.D. Cla. Aug. 19. 2009) 11

Security Farms v. General Teamsters, Warehousemen & Helpers Union, Local 890 (In re General Teamsters),
265 F.3d 869 (9th Cir. 2001) 6, 7, 17, 29, 37, 39, 42

Serbian E. Orthodox Diocese v. Milivojevich,
462 U.S. 696 (1976) 18

Serbian E. Orthodox Diocese for U.S. & Can. v. Milivojevich,
426 U.S. 696 (1976) 18

Spurlin v. Air & Liquid Sys. Corp.,
537 F.Supp.3d 1162 (S.D. Cal. 2021) 11

Trinity Lutheran Church of Columbia, Inc. v. Comer,
582 U.S. 449 (2017) 25

U.S. v. Van Buren,
985 F.2d 577 (9th Cir. 1993) 22

U.S. v. Wilmer,
799 F.2d 495 (9th Cir. 1986) 3

Watson v. Jones,
80 U.S. (13 Wall.) 679 (1872) 18

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

Statutes

11 U.S.C. §1129 ..... 9, 10, 13

11 U.S.C. §1129(a)(10) 42

11 U.S.C. § 101(2)(A) or (B) 43

11 U.S.C. § 101(2)(C) 43

11 U.S.C. § 548(a)(2)(A) 21, 22
11 U.S.C. § 1102(a)(1) 23
11 U.S.C. § 1129(a) 11, 42
11 U.S.C. § 1129(a)(1) 43
11 U.S.C. § 1129(b) 42
28 U.S.C. § 157 35
42 U.S.C. §2000bb 20
42 U.S.C. §2000bb-1(a)(2) 25
42 U.S.C. §§ 2000bb-1(a) 20
CAL. CORP. CODE §10002 14

The Roman Catholic Bishop of Oakland, a California corporation sole, and the debtor and debtor in possession (the "Debtor" or "RCBO") in the above-captioned chapter 11 bankruptcy case (the "Chapter 11 Case"), hereby files this Reply to the Post-Trial Brief [Docket No. 3416] (the "Committee Br.") filed by the Official Committee of Unsecured Creditors (the "Committee"). The post-trial briefs filed by certain of the Debtor's Insurers and/or any joinders thereto [Docket Nos. 3414, 3415, and 3417] are addressed in a separate reply. In support of this Reply, the Debtor respectfully states as follows:

I. PRELIMINARY STATEMENT

The Debtor's Plan is proposed in good faith, is fair and equitable, and is the only way all 345 Survivors of sexual abuse can be fairly compensated. It balances the rights of Survivors with the right of the Debtor to sustain its mission for the approximately 500,000 Catholics in the East Bay, and still provides a *per capita* recovery to Survivors above the 90th percentile when compared with similar diocesan bankruptcies. The Debtor's assignment of insurance rights to the survivors stands to increase Survivor recovery significantly, a fact the Committee admitted for years until it became an obstacle to its Plan objection. While the Committee once proposed a plan with similar consideration for Survivors and insisted it was feasible, fair and equitable, it now proposes no alternative except dismissal.

The Committee's change of heart on the Insurance Assignment is particularly disappointing. Its own counsel told this Court the Debtor's insurance is "inarguably the debtor's largest asset, potentially"—worth "hundreds of millions of dollars"—and the Committee's own Rule 30(b)(6) representative admitted under oath the combination of the Plan's cash contributions and the Insurance Assignment could make Survivors whole. The Committee did not object to any aspect of the Insurance Assignment. Yet here is the Committee, repeating its baseless, inflammatory accusation that the Plan only pays Survivors "pennies on the dollar." "Pennies on the dollar" cannot be squared with the tremendous upside the Committee acknowledges and itself demanded be included in the Plan. Moreover, it is directly contradictory to the Committee's own Plan, which proposed both a similar insurance assignment and similar—but lesser—per-claim amount for Survivors before it was withdrawn.[1]

[1] The Committee never attempted to justify or explain the origin of its $195.2 million demand from the Debtor. Notwithstanding this, the math makes this very clear:

Case: 23-40523 Doc# 3452 Filed: 08/19/26 Entered: 08/19/26 19:50:55 Page 8 of 52

The Court should overrule all of the Committee's objections and confirm the Plan. This Debtor summarizes its reply immediately below and will fully address each point in turn.

The Constitutional Framework. The Debtor does not claim the First Amendment or RFRA exempts it from the Bankruptcy Code. It never has. But those protections are relevant. They independently confirm the reasonableness of the Plan and the Debtor's honest, good faith decision regarding what worship spaces are necessary – and how many are necessary – for the Debtor to continue its religious mission, both of which are indisputably matters of "church government." The Free Exercise Clause, the Church Autonomy Doctrine, the Ministerial Exception, and RFRA each provide that courts may not second-guess a religious organization's determination of what resources it needs to fulfill its religious mission. Bishop Barber testified—without rebuttal—the churches designated for retention are necessary to serve Catholics in the Diocese of Oakland. The Committee's own expert, Mr. Shields, admitted he was "not second-guessing Bishop Barber's decision" and that "the Bishop gets to make the hard choices." The Court need not reach these constitutional questions to confirm the Plan, but they provide an independent basis for rejecting the Committee's maximalist demands.

The Statutory Requirements. The Plan satisfies every requirement of Section 1129.

Best interests: Mr. Moore's Supplemental Liquidation Analysis—which includes all the Debtor's real estate, even churches—demonstrates that every creditor receives more under the Plan than in a hypothetical Chapter 7. The Committee submitted no competing liquidation analysis.

Feasibility: The Committee's own corporate representative, Mr. Babcock, admitted the Plan is feasible. The $55 million RCC exit loan is committed and the value of the land for which deeds of trust will secure the Survivors' Trust's payment rights exceeds the $110 million in post-Effective Date

---

- The Debtor's Plan: $180 million in contributions divided by 345 claimants = $522,000/claim average.
- The Committee's plan: $195.2 million in Debtor contributions divided by 375 claimants = $520,500/claim average.

Thus, the Committee's plan, which its members supported *at the time*, appears to have been derived from a similar per-claim contribution as the Debtor's own. That it was subsequently withdrawn is irrelevant. The Committee's plan, even while withdrawn, is an evidentiary admission. *See White v. ARCO/Polymers, Inc.*, 720 F.2d 1391 (5th Cir. 1983).

obligations. Indeed, the Committee's competing plan would have required the Debtor to pay $45 million more than the Debtor's cash obligations under the Plan, and in a much shorter time frame.

Good Faith: Under *Teamsters I* and *II*, the test is "honest effort," not "maximum payment." Bishop Barber's structured process—vacant land first, unused buildings second, churches only when necessary—is precisely the deliberate balancing the Ninth Circuit requires.

Fair and Equitable: Dr. Martin's unrebutted analysis places this Plan at the 90th percentile of comparable diocesan or religious-order outcomes—and that analysis does not even account for the Insurance Assignment.

Section 1129(a)(10): Three impaired classes voted to accept. RCC is not an insider. Class 3 is legitimately impaired. Class 5's representative was appointed by this Court and empowered to cast a vote. The Committee lodged no objection when the prior vote was to their liking.

The Committee's Contradictions. The Committee's objections are undermined by its own prior statements, its own expert testimony, and its own withdrawn plan. Committee counsel spent two years telling this Court the insurance was worth "hundreds of millions of dollars," but now the Committee argues the Plan pays "pennies on the dollar."[2] Mr. Babcock admitted the Plan is feasible and the Litigation Option could make Survivors whole, but now the Committee argues otherwise. The Committee proposed its own plan with a similar per-claim structure, but withdrew it within 48 hours of the April 22 state court verdict. These are not the hallmarks of a good faith confirmation objection.

The Stakes. At the July 7, 2026 status conference, this Court asked whether any recent developments impact confirmation. There is no competing plan. Since withdrawing its plan, the Committee has proposed nothing for either this Court or the parties to resolve the Chapter 11 Case.

Meanwhile, since the confirmation trial concluded, the chair of the Committee has taken action seeking to settle his *individual* claim. The Committee Chair's attorney and representatives of CNA,

---

[2] These statements by counsel are binding judicial admissions, which cannot be varied. *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)); *see 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)).

Travelers, and Westport scheduled – without RCBO's knowledge – a mediation before JAMS mediator Andrew Nadolna to discuss potential settlement of that individual claim. RCBO subsequently learned of the planned mediation and requested to be included consistent with its rights as the insured. The mediation went forward on July 9, 2026, with all parties present, but no settlement was reached. RCBO is informed these settlement efforts are ongoing.

Right now, the only alternative to confirmation is dismissal, a disastrous outcome for almost every Survivor (excepting the Committee Chair, who could then seek to execute on his judgment or settle the judgment without Bankruptcy Court approval), because it would eliminate the sole mechanism for collective, equitable Survivor recovery. Absent the Plan, serial state-court litigation will exhaust the Debtor's assets for the benefit of a few, leaving hundreds of Survivors with nothing paid by the Debtor. And the assets held by Adventus, CCCEB, or Furrer Properties, all non-debtors, will not be accessible to Survivors to satisfy their state court judgments. The Plan is the only path that ensures every Survivor receives meaningful compensation while preserving the Debtor's faith-based mission and its ability to satisfy the religious needs of hundreds of thousands of Catholics in the East Bay.

II. BACKGROUND

On March 29, 2026, the Debtor filed its *Modified Fourth Amended Plan of Reorganization Dated March 27, 2026* (the "Plan") [Docket No. 2758][3] and *Disclosure Statement in Support of Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 2759] (as later amended and modified, the "Disclosure Statement").[4]

On June 5, 2026, the Debtor filed its *Memorandum of Law in Support of Confirmation of Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 3100] (the "Pre-trial Brief"). On August 7, 2026, the Debtor filed *Post-Trial Brief in Support of Confirmation of Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 3418] (the "Post-trial Brief").

[3] Capitalized terms not defined below have the meaning ascribed to them in the *Debtor's Modified Fourth Amended Plan of Reorganization* (the "Plan") [Docket No. 2758].

[4] The Debtor filed the solicitation version of the Disclosure Statement at Docket No. 2902.

On August 7, 2026, the following Post-Trial Briefs were filed by parties objecting to confirmation of the Debtor's Plan: (1) *London Market Insurers' Post-Trial Brief* [Docket No. 3414], (2) *Objecting Insurers' Post-Trial Brief in Opposition to Confirmation of Debtor's Modified Fourth Amended Plan of Reorganization* [Docket No. 3415], (3) the *Official Committee of Unsecured Creditors' Post-Trial Brief in Opposition to Confirmation of Debtor's Modified Fourth Amended Plan of Reorganization* Dated March 27, 2026 [Docket No. 3416], and (4) *Pacific Insurers' Joinder to London Market Insurers' Post-Trial Brief* [Docket No. 3417]. Because the issues raised in the Post-Trial Briefs filed by the Committee and certain of the Debtor's Insurers address almost completely separate issues, the Debtor has split its replies to same into two different filings. This Reply addresses the Committee Brief.

A. <u>The First Amendment And RFRA: The Constitutional Framework.</u>

1. <u>Denying Plan Confirmation Because The Committee Thinks The Debtor Should Pay More–Only Possible Through Closing More Churches–Violates The First Amendment And RFRA.</u>

The Debtor repeats that the Court need not decide any of the First Amendment or religious freedom issues to confirm the Plan. Even so, it would violate both the First Amendment's Free Exercise and Establishment of Religion clauses, as well as RFRA and the Doctrine of Unconstitutional Conditions to accept the Committee's argument the Plan should fail because the Debtor is not paying "enough" money, not "maximizing" recoveries for abuse claimants, and can "afford" to pay more, all of which the Committee knows means selling more Churches.[5] This is because it would override Bishop Barber's unrebutted testimony and other evidence presented by the Debtor showing the Plan already provides for the sale of as many Churches as the Debtor believes can be sold without jeopardizing its ability to fulfill its religious mission and serve the religious and spiritual needs of Catholics in its diocese.

Again, these questions concerning can be avoided because, as noted herein, the Committee's demand for "maximum" recoveries has no basis in law. It is also contrary to precedent and testimony from

[5] The Committee twists itself into knots pretending its demand for additional money means anything other than the sale of additional Churches. Under the Plan, the Debtor already intends to sell all non-Church properties that are not essential to the fulfillment of the Debtor's religious mission, along with 13 Churches and houses of worship that Bishop Barber has determined are not essential.

the Committee's representative witness, Mr. Babcock, its expert, Mr. Shields, and its own once-competing plan. Each confirms there is no need for the sale of additional churches for the Plan to satisfy § 1129.

Regarding precedent, as noted in the Debtor's Post-Trial Brief,[6] in *Teamsters I*, Judge Weissbrodt held that a plan by a union local, a nonprofit debtor like the Debtor here, was fundamentally fair to creditors and demonstrated good faith for purposes of § 1129(a)(3) and was in the best interests of creditors under § 1129(a)(7).[7] It rejected the creditors' argument that the plan was not fair and equitable under §1129(b) because the union did not increase the size of the dividend payable to unsecured creditors as the creditors had proposed. 225 B.R. 719, 728-738 (Bankr. N.D. Cal. 1998). The Ninth Circuit affirmed these findings in *Teamsters II*, 265 F.3d 869, 873-77 (9th Cir. 2001), summarizing Judge Weissbrodt's three-part test for good faith as the showing of an "honest effort."

The law draws a difference between the goal of a bankruptcy, which should guide a bankruptcy court, and the principal objective of a creditors committee, which is to act as an advocate. As to the former, the United States Supreme Court has held that "[t]he principal purpose of the Bankruptcy Code is to grant a 'fresh start'" to debtors. *Marrama v. Citizens Bank of Mass*., 549 U.S. 365, 367 (2007) (quoting *Grogan v. Garner*, 498 U.S. 279, 287 (1991). Ninth Circuit courts hold the same. *See, e.g., Cooper v. Social Sec'y Admin.*, 131 F.4th 995 (9th Cir. 2025) ("The principal purpose of the Bankruptcy Code is to grant a 'fresh start' to the 'honest but unfortunate debtor.'") (quoting *Marrama*); *In re Irigoyen*, 659 B.R. 1, 10 (9th Cir. BAP 2024) (Lafferty, J. for panel) (quoting same).

The interest in facilitating a fresh start for a debtor is paramount when, as here, the bankruptcy is a reorganization. *See, e.g., NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 528 (1984) ("[t]he fundamental purpose of reorganization is to prevent the debtor from going into liquidation, with an attendant loss of

---

[6] Docket No. 3418.

[7] Judge Weissbrodt determined that creditors would get nothing under a hypothetical liquidation because the rights under the union's collective bargaining agreements and the right to receive members' dues were not legally transferrable. *See In re General Teamsters, Warehousemen and Helpers Union Local 890*, 225 B.R. 719, 734-735 (Bankr. N.D. Cal. 1998). The Ninth Circuit affirmed this finding. *See Security Farms v. General Teamsters, Warehousemen & Helpers Union, Local 890 (In re General Teamsters*), 265 F.3d 869, 877 (9th Cir. 2001).

jobs and possible misuse of economic resources.")[8]; *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989) ("the paramount policy and goal of Chapter 11, to which all other bankruptcy policies are subordinated, is the rehabilitation of the debtor.").

Indeed, the feasibility requirement of Section 1129(a)(11), requires a debtor to demonstrate it is not likely to refile for bankruptcy after its emergence. 11 U.S.C. §1129(a)(11). At trial, Mr. Moore testified the Plan satisfies that goal and is otherwise feasible.[9] Yet the Committee never addresses the Debtor's need to avoid future failure and cannot dispute the fact that if the Debtor lacks sufficient Churches and worship spaces to adequately fulfill its religious mission and serve Catholics in the Diocese, a refiling almost surely will be necessary. This would have a crushing effect on the Debtor, given that this Bankruptcy already has significantly depleted its financial resources. Such an outcome would also be patently contrary to the interests of Survivors, who likely would face another iteration of this same process with a debtor that can pay them less.

By contrast, courts have recognized the goal *of a creditors committee* is to try to maximize recoveries of creditors. *See, e.g., In re Roman Catholic Archdiocese of New Orleans*, 2021 WL 454220, at *13 (Bankr. E.D. La. Feb. 8, 2021) ("The primary purpose *of chapter 11 committees* is to maximize recovery for the creditors they represent.") (emphasis added). Thus, the Committee, as an advocate, is not to be faulted for asking for the maximum. But just because an advocate asserts a position

---

[8] The Committee cites the Bankruptcy Court decision in *In re the Catholic Bishop of Spokane*, 329 B.R. 304, 325 (Bankr. D. Wash. 2005), which held that religious organizations which enter bankruptcy must "assess its rights vis-à-vis creditors on the same basis as any other debtor." (Committee Br., at p.42-43/78). The Court raised this principle in rejecting that "ecclesiastical law" should govern property of the estate issues. *First*, the Court there was not considering what was "mission-critical" to a religious debtor's fresh start, a "fundamental purpose" it acknowledges. 329 B.R. at 325. Here, the Debtor's arguments are based on how the First Amendment and RFRA treat governmental interference with property that is mission critical to a religious organization. *Second*, contrary to the Committee's assertion the Bankruptcy Court was reversed "on other grounds," it was only affirmed insofar as it dismissed the cross-motion for summary judgment of the debtor. Its decision in favor of the Tort Committee was reversed because fact issues remained. *Spokane*, 364 B.R. 1. The Bankruptcy Court decision carries no weight. Notably, no other court has cited the cited language. Likewise, the Committee cites the Bankruptcy Court's rejection of the disclosure statements for competing plans in *In re Archbishop of Baltimore*, No.23-16969 (Bankr. D. Md. Aug. 6, 2026) (Dkt. 2813). As noted herein, that decision misapplies governing law and is otherwise distinguishable.

[9] 6/15 Tr. at 142:19-144:21, 146:23-158:2.

does not mean a court should or even can accept it. Here, this Court must consider that advocacy in light of the paramount goal of the Chapter 11 Debtor's reorganization. The Committee's urging of "maximum" payments to abuse claimants, at the expense of Debtor's continued ability to fulfill its religious mission, undermines that paramount goal.

More importantly, the Committee has earlier taken a more reasonable position, not requesting or requiring "maximum" sales, in the statements of its representative witness, its expert and in the terms of its once-competing chapter 11 plan. These are each admissions that bind the Committee and make clear the Debtor need not sell additional churches to provide for a fair distribution to claimants.

First, Mr. Babcock, the Committee's Rule 30(b)(6) representative admitted the Debtor has a legitimate right in this bankruptcy to consider the interests of the 400,000-500,000 Catholics.[10] He also admitted the plan the Committee filed in March 2026 had a dollar amount that he agreed satisfied the requirements of § 1129.[11] The guaranteed payments to abuse claimants anticipated by that plan was only marginally higher than what the Debtor's Plan anticipates paying each abuse claimant.[12] Mr. Babcock also admitted the Litigation Option in the Debtor's Plan might enable each Survivor to recover the full value of their individual claim and thereby make themselves whole.[13]

Mr. Babcock's admissions also show the Committee's open-ended demand for the sale of more Churches and more money do not create a realistic alternative for this Chapter 11 case, as the Committee takes the position there is *no amount of money* it believes would be adequate in this case.[14] This nihilistic position makes it impossible for any plan by the Debtor to garner Committee support to pass muster or

---

[10] *See* Deposition of Matthew Babcock dated Apr.30, 2026 ("Babcock I"), at 123:11-124:24.

[11] Babcock I at 160:3-161:19. This Court took judicial notice of this Plan. (6/29 Tr. at 180:21-181:14).

[12] *Id.*

[13] Babcock I at 110:5-112:21; Deposition of Matthew Babcock dated June 3, 2026 ("Babcock II") at 51:2-53:20. So did Mr. Shields. (Shields Dep Designation, 83:2-10; 85:12-86:12). By contrast, under the Committee Plan, a claimant could apply to the Survivor's Trustee to bring such claims against the Debtor's insurers, but the Survivor's Trustee had to approve each such application and would have acted as a gatekeeper before these could proceed. Babcock II at 65:9-66:9. The Debtor's Plan has no such gatekeeper. *Id*.

[14] Babcock I, 184:3-186:14 ("Q: But the committee's view is that they—there is no number that's going to be adequate. A: The committee doesn't have a number now.")

for the Debtor to be able to reorganize and shows that accepting its position would disserve the purposes of this bankruptcy.

Second, the Committee's plan did not require additional churches to be sold. This shows the Committee's belief that § 1129(a)'s requirements can be satisfied without requiring additional Churches to be sold.[15] The Committee never explains why the contribution level in its plan was acceptable but the contribution level in Debtor's Plan is not.

Third, Mr. Shields admitted he is not advocating the Debtor sell additional Churches[16] or contribute money to the Survivors' Trust without regard for the effect on the Reorganized Debtor's mission.[17] He also admitted he did not consider the impact the sale of Churches would have on Parishioners or the Catholics in the Diocese of Oakland.[18] He did not in his analysis consider the demographics of individual Church Parishioners, including indicia such as age, attendance, languages spoken and the need for outreach to specific communities (like Korean or Eritrean Catholics), but agreed Bishop Barber needs to consider these factors.[19] Mr. Shields admitted that he understands that, under the structure of the Debtor, Bishop Barber gets to make the hard choices of what he can and cannot do.[20] Mr. Shields also admitted he knew of no prior bankruptcy where a religious body had been forced to sell churches.[21]

And while Mr. Shields believed the MAP suggested (at least to him) the Debtor could sell

---

[15] *See* generally Committee Plan.

[16] 6/29 Tr. at 166:7-19-177:9.

[17] 6/29 Tr. at 168:19-170:4.

[18] Shields Dep Designations., 155:3-22. Because he was designated as an expert witness for trial by the Committee, Shields' admissions in depositions must be considered, as they are adoptive admissions by a party opponent. *See, e.g.*, *Reyes v. City of Glendale*, 2009 WL 2579614, at **9-10 (C.D. Cla. Aug. 19. 2009) (deposition testimony of expert was adoptive admission of party opponent even if expert was not designated for trial); *Spurlin v. Air & Liquid Sys. Corp.*, 537 F.Supp.3d 1162 n.3 (S.D. Cal. 2021) (expert deposition testimony was adoptive admission).

[19] 6/29 Tr. at 167:21-168:18.

[20] 6/29 Tr. at 165:15-25.

[21] 6/29 Tr. at 220:17-221:7.

additional Churches,[22] he based that conclusion on his reading of documentation that, when shown to him at trial, did not speak of Churches to be sold but rather of Churches within the diocese that could be clustered, merged or sold.[23] In any case, Mr. Shields was in no position to second guess Bishop Barber's testimony of what he meant in his statements regarding MAP or what he believes is the maximum number of Churches the Debtor can sell without impairing the religious mission.

Under the well-established *Ashwander* Doctrine, a federal court should seek to avoid a constitutional issue if possible. *See Ashwander v. TVA*, 297 U.S. 288, 347 (1936) (Brandeis, J.) (concurring) (explaining that courts should not "decide questions of a constitutional nature unless absolutely necessary"). Here, to accept the Committee's position and reject the Plan because the Debtor is purportedly not selling enough Churches would invite an unnecessary constitutional clash. By contrast, this is completely avoidable were this Court to interpret Section 1129 as Judge Weissbrodt and the Ninth Circuit did in *Teamsters I* and *Teamsters II* (and as other courts have in the cases discussed by the Debtor regarding each relevant Section 1129 subsection in this Reply and in the Debtor's Pre-Trial and Original Post-Trial Briefs).

2. <u>The Free Exercise Clause Protects Bishop Barber's Determination.</u>

The First Amendment protects 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." *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 736 (2020) (quoting *Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952)).

The belief that worship and sacraments and other religious and spiritual events should take place in a church is fundamental to Catholicism (and, indeed, most religions hold worship services in places they deem holy). What spaces are necessary for this purpose and how many are necessary are indisputably matters of "church government."

As the name of the Debtor—the Roman Catholic Bishop of Oakland—makes clear, decision making authority on these issues resides with the holder of that title. The Committee does not contest this.

---

[22] 6/29 Tr. at 142:22-143:10.

[23] 6/29 Tr. at 157:4-160:14, 163:9-165:5; 215:13-216:2 & D-73.

That is also the nature of a Corporation Sole:

> A corporation sole may be formed under this part by the bishop, chief priest, presiding elder, or other presiding officer of any religious denomination, society or church, for the purpose of administering and managing the affairs, property, and temporalities thereof.

Cal. Corp. Code §10002. For the last thirteen years, that "bishop" has been Bishop Barber.

Here, Bishop Barber has determined that apart from the 13 Churches and worship spaces on its "Exhibit B" that are to be sold under its Plan, the Church must retain the additional Churches that it owns in order to fulfill its religious mission.[24]

This Court has acknowledged that Bishop Barber, the decisionmaker for the Debtor, has a sincerely-held belief the Debtor cannot sell additional Churches/Worship Sites beyond the 13 provided for in the Plan without interfering with its religious mission.[25] Indeed, Bishop Barber testified at length regarding his effort to provide sufficient compensation to survivors of abuse while permitting the Debtor to fulfill its religious mission and obligations to its 400,000-500,000 Catholics and how he did his utmost to balance these interests.[26] The Committee does not question his sincerity or offer any evidence to rebut that closing additional Churches would interfere with the Debtor's mission.

Yet the Committee urges this Court to deny confirmation because more Churches are not being shuttered and sold. Were the Court to agree and force more Church closures as a condition precedent for confirmation, this undoubtedly would interfere with the Debtor's religious mission. Such interference imposes a substantial burden on the Debtor's free exercise of its religion. In *Apache Stronghold v. United States*, 101 F.4th 1036 (9th Cir. 2024), the Ninth Circuit looked at pre-RFRA Supreme Court jurisprudence to assess what the First Amendment required separate from that statute, and concluded it required a party

---

[24] 6/16 Tr. at 191:17-192:2.

[25] *See* 6/25 Tr. at 219:10-13 ("But to the extent that it would have a factual predicate other than the Bishop's earnest testimony that he struggled with this, and this is, in his mind, the very best balance he could achieve."); 7/7 Tr. at 21:5-11 ("He testified with great earnestness, which I respect enormously, about the difficulty of the task of trying to balance two competing obligations that he has. One is to ensure the continuing ability of the bishop and the other members of the priesthood and others to deliver services that are of the highest level of importance to the half–a–million Catholics in the diocese. I understand that, I respect it.").

[26] 6/16 Tr. at 148:2-18; 155:15-156:2.

raising a constitutional objection to a governmental act to show, in the first instance, that the act imposed a substantial burden on the free exercise of religion. If so, then the act is subject to strict scrutiny with the law being presumed unconstitutional. To survive this scrutiny, the Government must show the governmental act serves a compelling state interest and is narrowly tailored to address the problem and is the least restrictive means for doing so.

Applying that three-part test here means that if the Debtor can demonstrate a substantial burden, the Committee would then have to show 1) a compelling interest in receiving a "maximum payout" and in having more Churches sold for this purpose, 2) that denial of the Plan or, alternatively, compelling additional sales of Churches by the Debtor is narrowly tailored to serve that compelling interest and 3) that these alternatives of plan denial or sales of more Churches are the least restrictive means for satisfying these goals.

a. The Debtor Has Demonstrated a Substantial Burden on Its Religious Exercise.

Bishop Barber's testimony made clear that after carefully (and prayerfully) examining what assets were available for providing compensation for Survivors, one of his two goals in this Bankruptcy, he concluded the Debtor could sell 13 Churches and worship sites, along with tens of more sites that do not serve a worship purpose.[27] He concluded the Debtor could not sell more Churches without this jeopardizing its religious mission.[28] Forcing Bishop to sell more Churches than he reasonably determined is possible to achieve this balance would plainly impose a substantial burden on the ability to carry out the mission of the Catholic Church in the East Bay.

For example, in *In re Hodge*, 220 B.R. 386 (D. Idaho 1998),[29] the court noted a religious adherent's free exercise of religion was substantially burdened by a statute that: 1) required the adherent to refrain from engaging in a practice important to his or her religion or 2) forced the adherent to choose between

---

[27] 6/16 Tr. at 191:17-192:2.

[28] 6/16 Tr. at 148:2-18; 155:15-156:2.

[29] *Hodge* considered the RFRA, but the need to show a "substantial burden" exists under both the First Amendment and the RFRA.

following particular religious practice or accepting a statute's benefits. *Id*. at 390-93. Yet that is exactly what the Committee advocates here: force the Debtor to sell more churches than the maximum number it has concluded it can sell without unduly undermining its religious mission, as a prerequisite to it being allowed to reorganize. In affirming the Bankruptcy Court, the District Court in *Hodge* agreed "with the Bankruptcy Judge that this undesirable choice has a chilling effect sufficient to constitute a substantial burden on the Hodges' free exercise of their religion." *Id.* at 391. The Court specifically rejected the argument the Committee makes here that its desire to maximize creditors' recoveries should be paramount:

> First, the avoidance statutes certainly enhance a creditor's recovery. However, the Bankruptcy Code subordinates the interests of creditors to the interests of debtors and other public policy interests in numerous circumstances. For this reason, **maximizing the recovery of creditors cannot be considered an interest of the highest order**.

Id. at 392 (emphasis added). This squarely rejects the Committee's argument that by voluntarily entering bankruptcy, the Debtor forfeited constitutional and statutory protections it otherwise had. (So does the doctrine of unconstitutional conditions, discussed below).

The District Court in *Hodge* also rejected the notion that there is *any constitutional duty to balance the interests of a debtor and its creditors*:

> Second, there is no compelling interest in maintaining the current balance between debtors and creditors. While some sort of balance is vital, Congress frequently tinkers with that balance in amending the Bankruptcy Code. RFRA, in that it creates what amounts to a free-exercise exception to bankruptcy laws, is just another example of this tinkering. It cannot be said that such an exception does such violence to the current balance as to undermine the bankruptcy system's ability to further its overriding purposes.

Id. at 392.

b. The Committee Cannot Satisfy Any Factors of The Compelling Interest Test.

Since the Debtor would be substantially burdened by the denial of its Plan or by an order forcing it to sell Churches it needs for its mission, the Committee has the burden of showing the compelling interest test is met. It cannot.

First, and most importantly, as shown above, the law holds the paramount interest of Chapter 11 is to allow a debtor to reorganize, not maximizing recovery for creditors. Moreover, the test is whether a

plan is fair and equitable to creditors or fundamentally fair for purposes of good faith. *Teamsters I and II* hold those principles can be satisfied even where a debtor does not provide all financial consideration sought by creditors.[30]

Second, neither this Court's denial of the Plan nor an order compelling the Debtor to sell Churches it needs for its mission would be either narrowly tailored or the least restrictive alternative. Instead, letting each Survivor both receive one of the several largest guaranteed payments in the tens of diocese or religious order bankruptcies to date--with $522,000 per claimant being anticipated by the Plan--**and** have the Litigation Option under the Plan to pursue the Debtor's insurers for additional, covered amounts provides a more narrowly-tailored, less restrictive and more likely successful process that avoids constitutional harm. Mr. Babcock and Mr. Shields agreed the Litigation Option could make each abuse claimant whole, as noted above.

3. The Church Autonomy Doctrine Bars Judicial Second-Guessing.

Besides contravening general First Amendment precedent, the Committee's position violates the Church Autonomy Doctrine. In arguing in its Post-Trial Brief that no First Amendment issues are presented by its argument the Plan should be rejected because the Debtor will not sell more Churches/worship sites, the Committee entirely ignores the Church Autonomy Doctrine, yet it is dispositive here. The Committee's disregard is especially significant because it knew from the Debtor's Pre-Trial Brief the Debtor was relying on this Doctrine.[31]

In *Our Lady of Guadalupe*, the Supreme Court recognized the "general principle of church autonomy" in matters of "faith and doctrine and in closely linked matters of internal government." *Our*

---

[30] The Committee cites the Ninth Circuit's decision in *Teamsters II* and specifically its holding that a plan represented the union-debtor's "honest effort" to satisfy the demands of its creditor as if it supported a "maximum" payout, when instead the Court there affirmed *Teamsters I*, where Judge Weissbrodt rejected that the union plan had to pay additional amounts sought by creditors. *See generally, Teamsters II*, 265 F.3d 869 (9th Cir. 2001). (And, unlike here, in *Teamsters I*, the creditor actually identified what additional consideration they had wanted. See *Teamsters I*, 225 B.R. 719, 722 (Bankr. N.D. Cal. 1998) (creditor sought increase in union membership dues and/or temporary reduction or cessation of per capita tax payments for a period of time). *See also In re Juarez*, 603 B.R. 610, 626 (9th Cir. BAP 2019) (good faith requires fundamental fairness in dealing with creditors).

[31] Docket No. 3100 at 65-66.

Lady of Guadalupe Sch., 591 U.S. at 747 (citing *Watson v. Jones*, 80 U.S. (13 Wall.) 679 (1872); *Kedroff,* 344 U.S. 94; *Serbian E. Orthodox Diocese for U.S. & Can. v. Milivojevich,* 426 U.S. 696 (1976)). The Supreme Court explained that Government intrusion into matters "of faith and doctrine" would both "obviously violate the free exercise of religion" and "constitute one of the central attributes of an establishment of religion." *Our Lady of Guadalupe*, 591 U.S. at 746. This "general principle of church autonomy" includes "internal management decisions that are essential to the institution's central mission." *Id.* at 746–47.

The Church Autonomy Doctrine dates to 1871 in *Watson v. Jones*, 80 U.S. 679 (1871), where the Supreme Court relied on that principle to avoid taking a position in a property dispute between two church factions. The doctrine is rooted in the First Amendment's Free Exercise and Establishment Clauses. *See Bryce v. Episcopal Church in the Diocese of Colorado*, 289 F.3d 648 (10th Cir. 2002). It has been specifically applied to judicial decisions. *See Kreshik v. St. Nicholas Cathedral*, 363 U.S. 190, 190-91 (1960). The Doctrine applies to disputes over church polity and administration. *Serbian E. Orthodox Diocese v. Milivojevich*, 462 U.S. 696, 710 (1976). It is far broader than the "Ministerial Exception," which is specific to employment-related decisions. *See Bryce*, 289 F.3d at 656; *see, e.g., Gaddy v. Corporation of the President of the Church of Jesus Christ of Latter Day Saints*, 148 F.4th 1202 (10th Cir. 2025) (RICO class action alleging misrepresentations by church barred by Church Autonomy Doctrine).

Kedroff is relevant to whether a court can override a bishop's determination that selling a particular church or number of churches would interfere with a faith's religious mission. In *Kedroff,* the Supreme Court struck down a New York statute that transferred control of a Russian Orthodox cathedral from the Moscow Patriarchate to a North American Church body. *Kedroff*, 344 U.S. 94. As the Supreme Court reasoned:

> We conclude that Article 5—C undertook by its terms to transfer the control of the New York churches of the Russian Orthodox religion from the central governing hierarchy of the Russian Orthodox Church, the Patriarch of Moscow and the Holy Synod, to the governing authorities of the Russian Church in America,…. This transfer takes place by virtue of the statute. Such a law violates the Fourteenth Amendment. It prohibits in this country the free exercise of religion. Legislation that regulates church administration [or] the operation of the churches, …prohibits the free exercise of religion.

Id. at 107. In other words, it negated a government's effort to force the transfer of a church—there a cathedral—critical to the owner's religious faith. The Supreme 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.

The Committee does not and cannot dispute the determination of which houses of worship are "essential to [RCBO's] central mission" and constitutes the very kind of "internal management decision" that must be free from interference.

4. <u>The Ministerial Exception Confirms the Constitutional Bar.</u>

While this is not an employment case, the principles upheld in the widely-recognized "Ministerial Exception" apply equally here. Thus, this caselaw reinforces the directly applicable precedent under the Church Autonomy Doctrine and the Debtor discussed these principles and this authority in its Pre-Trial Brief.[32] This includes *Hosanna-Tabor Evangelical Lutheran Church v. EEOC*, 565 U.S. 171 (2012), where the Supreme Court held the Free Exercise Clause precludes "government interference with an internal decision that affects the faith and mission of the church itself." *Id.* at 190 (2012).[33] Similarly, the Ninth Circuit in *Markel v. Union of Orthodox Jewish Congregations of Am.*, 124 F.4th 796 (9th Cir. 2024), held that this exception precluded judicial interference in a synagogue's decision to terminate a mashgiach, an inspector who attests to a synagogue's compliance with Kosher dietary laws. Citing to *Our Lady of Guadalupe*, the Ninth Circuit noted the Ministerial Exception "protect[s] [a religious institution's] autonomy with respect to internal management decisions." *Id*. at 802 (citing *Our Lady of Guadalupe*, 591 U.S. at 746). It noted that when the Ministerial Exception applies, "the rule permits no exceptions. It is categorical." *Markel*, 124 F.4th at 803.

By analogy, there should be no judicial interference here in Bishop Barber's decisions as to which Churches and how many are "mission critical." This is an "internal management decision" which "affects the mission of the Church itself."

---

[32] Pre-Trial Brief at 64.

[33] This is more authority the Debtor discussed in its Pre-Trial Brief at 64, but the Committee ignores in its brief.

5. RFRA Independently Prohibits Compelled Church Sales.

Where a litigant can show a governmental actor is imposing a substantial burden on the free exercise of its religious rights, RFRA provides additional protection beyond what the First Amendment alone requires. As the Committee acknowledges, RFRA expressly prohibits the imposition of a substantial burden by a governmental actor, even if this is the byproduct of a law of general applicability.[34] RFRA expressly states that among its purposes is to "provide a claim or defense to a person whose religious exercise is substantially burdened by government." 42 U.S.C. §2000bb-b(2).

As noted throughout this Section, the Debtor has demonstrated that to deny the Plan because more Churches are not being sold, when those Churches are critical to the Debtor's religious mission, would punish the Debtor for the exercise of its religious rights, and thus substantially burden those rights. For this same reason and as discussed above regarding the First Amendment, contrary to the Committee's argument,[35] the fact that RFRA establishes a "high burden" to show a "substantial burden" on religious exercise is no barrier to such a claim here were the Court to accept the Committee's position. The indicia of such a burden discussed in *Apache Stronghold*, 101 F.4th at 1055, exist here, as either denying the Plan or compelling the Debtor to sell Churches it deems mission critical would both "coerce individuals to acting contrary to their religious beliefs" and "penalize" religious adherents. *Id*.

The Bankruptcy Court in *In re Roman Catholic Archbishop of Portland*, 335 B.R. 842 (Bankr. D. Ore. 2005) noted it would likely violate RFRA if a court order were to cause the loss of all parish property, thereby leaving no place for religious services or sacraments. That Court stated,

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

Id. at 863. The Committee misreads this ruling, claiming the *Portland* Bankruptcy Court held this was a

---

[34] *See* Committee Br. at 46/78 (quoting RFRA ("42 U.S.C. §§ 2000bb-1(a) ("Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability")) (emphasis omitted)).

[35] Committee Br. at 46/78, n. 13.

question of fact for trial.[36] The Bankruptcy Court did no such thing. Rather, it set forth the legal consequence of such a loss of property, then held that whether such a loss occurred will be a question for trial. It explicitly rejected the possibility that the loss of all parish property would be tolerable under RFRA.

The Committee also argues *Portland* did not consider the best interests test[37], but its holding applies generally to the application of Bankruptcy Law. Notably, *Portland* relied upon *In re Young*, 141 F.3d 854 (8th Cir. 1998), which Debtor also cited in both its Pre-Trial Brief and Post Trial Brief,[38] but which the Committee ignores. There, the Eighth Circuit held that RFRA must be viewed as amending the Bankruptcy laws generally:

> We conclude that RFRA is an appropriate means by Congress to modify the United States bankruptcy laws. In attempting to avoid the Youngs' tithes to the church, the Trustee relied on an affirmative act of Congress defining which transactions of debtors in bankruptcy may be avoided. See 11 U.S.C. § 548(a)(2)(A). RFRA, however, 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.

Id. at 861 (emphasis added). There is no logical reason, and the Committee does not explain, why this "amendment" would not also encompass Section 1129.

The Committee also argues that RFRA does not apply because this is a private dispute (Committee Br., p.10, 46/78), but this is inaccurate both in describing applicable law and this case. What the Ninth Circuit has held is that RFRA does not apply to "suits" between private parties where no governmental entity was a party or had the ability to present evidence. *See Pritchard on behalf of C.P. v. Blue Cross Blue Shield of Illinois*, 159 F.4th 646 (9th Cir. 2025). Here, of course, the United States Trustee is a governmental entity that is a party to this proceeding and appeared at and participated in the Confirmation Hearing and has generally appeared and participated in hearings throughout this long case. Indeed, the U.S. Trustee filed an objection to the Plan, and this Court gave it the opportunity to present evidence at

---

[36] Committee Br. at 47/78.
[37] Committee Br. at 47/78.
[38] Pre-trial Brief at 63; Post-Trial Brief at 56.

the hearing, although U.S. Trustee declined. Thus, RFRA plainly applies.

Additionally, *Pritchard* distinguished cases involving "private parties" from those "involving" a bankruptcy trustee, which it concluded was a "governmental party." *See id*. at 666, n.15. Again, at least one governmental party is "involved" in this Bankruptcy—the United States Trustee.[39] Pritchard cited *In re Young*, for this additional principle. There, the Eighth Circuit held that a Chapter 7 bankruptcy trustee could not avoid a debtor's tithes to his church. Like the Committee here, a Chapter 7 Trustee is appointed by the U.S Trustee. 141 F.3d at 861. This shows the Ninth Circuit viewed that court-appointed trustee as a governmental actor.[40] By this same principle, the Committee is equally a sufficient governmental actor for purposes of RFRA. Certainly, the Committee does not try to explain why a court-appointed bankruptcy trustee would be a *"*governmental party,*"* but a court-appointed creditors committee would not.[41]

6. <u>The Unconstitutional Conditions Doctrine Applies.</u>

In its Pre-Trial Brief, the Debtor argued that to penalize it for not selling additional Churches beyond the 13 set for sale under the Plan would violate the Doctrine of Unconstitutional Conditions, because it would deny the Debtor a right to reorganize under Chapter 11 of the Code, a right generally available to Chapter 11 debtors because it will not put in peril the churches needed for worship or jeopardize the religious and spiritual needs of its parishioners. In that brief, the Debtor noted the Doctrine has been applied specifically to instances where a unit of the government denied a party discretionary benefits because of its exercise of its constitutionally protected religious rights. *See, e.g., Girouard v. U.S.*,

---

[39] The Committee argues that RFRA would not be applicable to California law were the Debtor to argue that. (Committee Br., p.46/78, n.14). As Debtor does not argue this, the point is irrelevant.

[40] The Ninth Circuit has elsewhere held that a bankruptcy trustee is "a government agent." *U.S. v. Van Buren*, 985 F.2d 577, *2 (9th Cir. 1993) (unpublished).

[41] The Committee repeatedly cites *Listecki v. Official Comm. of Unsecured Creditors*, 780 F.3d 731 (7th Cir. 2015) (cited 44, 46-47/78), which found that a Committee was not a governmental actor. However, the Seventh Circuit acknowledged the U.S. Trustee, a party here*, is* a governmental actor, which alone makes RFRA applicable here. The Seventh Circuit's reasoning also provides a basis for reaching the opposite conclusion, acknowledging that "[t]he U.S. Trustee, admittedly a governmental actor, appoints the committee in the first instance, as it did here. *See* 11 U.S.C. § 1102(a)(1). Appointing a committee is one of the ways the Trustee is able to perform its duty and 'supervise' the bankruptcy cases." Thus, insofar as the Committee is the means by which the U.S. Trustee fulfills its statutory duties, the Committee is its agent.

328 U.S. 61 (1946); *see also Cantwell v. Connecticut*, 310 U.S. 296 (1940) (law that required Jehovah's Witness organization to obtain State approval to solicit funds permitted State censorship of protected rights and violated the doctrine, also striking down violations found against three members). Thus, this is another argument of which the Committee was fully aware,[42] but ignored in its Post-Trial Brief, showing it cannot refute this. What the Committee implausibly advocates – that by "voluntarily" entering bankruptcy, the Debtor forfeited or waived protections it otherwise would have had under the First Amendment or RFRA – would impose an unconstitutional condition on its statutory right to seek protection under the United States bankruptcy laws. The Bankruptcy Code exists subservient to the Constitution, not the other way around.

7. The Committee's First Amendment or RFRA Arguments Fail.

The Committee makes a series of other arguments attacking both the Debtor's First Amendment and RFRA arguments. Each fails.

a. The Debtor Is Not Asking to Be "Exempt" From § 1129(a)(7).

The Debtor has at all times acknowledged that § 1129(a)(7)—the Best Interests Test—applies here and that the Debtor's Plan must satisfy this. The evidence amply demonstrates the Plan does. The Committee's contention that the Debtor is seeking an "exemption" from Section 1129(a)(7) based on the RFRA (pp.9-10) is entirely false and one of the Committee's many "strawman" arguments. The Debtor submitted expert testimony from Charles Moore explaining how the Debtor satisfied the "best interests" test of § 1129(a)(7), even if its "mission critical" Churches are included in a Liquidation Analysis. The Committee submitted no liquidation analysis of its own and, as detailed below, despite Mr. Shields' testimony nitpicking at the margins of Mr. Moore's analysis, could not overcome this.

b. The First Amendment and RFRA Are Both Examples of So-Called Secular Law That Take Precedence Over § 1129 If Any Conflict Exists.

The Committee tries to sweep aside constitutional protections for religious freedoms with the

---

[42] *See* the Debtor's Pre-Trial Brief at 66-67. The Debtor also discussed this Doctrine in its Post-Trial Brief at pages 60-61, although the Debtor here does not claim the Committee knew of that brief, as both parties filed their Post-Trial Briefs simultaneously. But, as the Committee filed its Post-Trial Brief simultaneously, it did not also have notice of this additional argument when it did so.

slogan that "secular disputes are governed by secular law."[43] Yet this ignores that both the United States Constitution, as the founding document of this Republic, and RFRA, as a statute passed by the United States Congress, **are** "secular law." Indeed, they take primacy. The Constitution is the "Supreme law of the land." U.S. Const., Art. VI. It prevails over any statute, even a federal statute, that conflicts with it. *See*, *e.g., Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 180 (1803) ("[T]he particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void; and that *courts,* as well as other departments, are bound by that instrument.") (emphasis original); *Reid v. Covert*, 354 U.S. 1, 18 (1957) (noting the Supreme Court has repeatedly taken the position that a statute "must comply with the Constitution.").

RFRA, a specific federal statute designed to safeguard religious freedom, controls disputes about such issues created by the potentially-conflicting application of a more general law. "Where there is no clear intention otherwise, a specific statute will not be controlled or nullified by a general one, regardless of the priority of enactment." *Morton v. Mancari,* 417 U.S. 535, 550 (1974) (holding that an employment preference within the Bureau of Indian Affairs for qualified Indians could readily coexist with a general rule prohibiting employment discrimination on the basis of race); *California Trout, Inc., v. F.E.R.C.*, 313 F.3d 1131, 1137 (9th Cir. 2002) (quoting *Morton*). Just as a specific rule to assist Native Americans could coexist with general statutes prohibiting employment discrimination, so RFRA's specific goal of protecting against laws that substantially burden religion can coexist with bankruptcy laws, where their application would do so.[44]

---

[43] Committee Br. at 9/78.

[44] Relatedly, while the Committee suggests that Canon law cannot be considered in determining whether property is included in a bankruptcy estate, (Committee Br., p.43/78), the Debtor is not arguing that Canon law requires the Court to disregard the Committee's "maximum value" position, but rather the First Amendment and RFRA and related doctrines each require this. Irrespective, courts have held that Canon law may be considered in determining parties' intent for purposes of whether property was part of debtor's estate in diocese case. *See Committee of Tort Litigants v. Catholic Diocese of Spokane*, 364 B.R. 81, 94 (E.D. Wash. 2006).

c. Being A Purportedly "Neutral Law" Is Not Enough to Insulate a Statute From the Requirements of The First Amendment And RFRA.

The Committee argues six times that "neither the First Amendment, RFRA, nor any of the doctrines the Debtor references bar the neutral application of secular law…."[45] This misstates the law.

First, it ignores the express language of RFRA at 42 U.S.C. §2000bb-1(a)(2), which states Congress's finding that "laws 'neutral' toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise."

Second, the Supreme Court has held that a neutral law of general applicability may be unconstitutional where it "interferes with the faith and mission of the Church itself." *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449, 461 n.2 (2017). There, the Court summarized the holding of *Hosanna-Tabor*, 565 U.S. at 190, holding that the Religion Clauses required a ministerial exception to the neutral prohibition on employment retaliation contained in the Americans with Disabilities Act because concerns government interference with an internal church decision that affects the faith and mission of the church itself.[46]

Likewise, in *Pritchard*, the Ninth Circuit noted that even ostensibly facially neutral laws may obscure a discriminatory motive. 159 F.4th at 671-72 (citing *Pers. Adm'r of Mass. v. Feeney*, 442 U.S. 266, 272 (1979)*; see also Huntsman v. Corporation of the Church of Jesus Christ of Latter Day Saints,* 127 F.4th 784, 798 (9th Cir. 2025) (en banc) (Bress, J., concurring) ("That a litigant invokes a state-law prohibition on fraud, even though a 'valid and neutral law of general applicability' does not sideline the Church Autonomy Doctrine") (citing *Hosanna-Tabor*, 565 U.S. at 190) & *id.* at 797 (noting the importance of "the interest of religious groups' in deciding how to 'carry out their mission.'") (citing

---

[45] Committee Br. at 9/78; 42-45/78.

[46] Similarly, the Supreme Court also has held the First Amendment also forbids facially neutral laws that "'impose[ ] special disabilities on the basis of ... religious status.'" *Church of Lukumi Babalu Aye, Inc. v. Hialeah,* 508 U.S. 520, 533 (1993) (finding ostensibly facially neutral law prohibiting animal slaughter discriminated against Santeria faith). As the Court stated there, "Facial neutrality is not determinative. The Free Exercise Clause, like the Establishment Clause, extends beyond facial discrimination. *Id.* at 534.

Hosanna-Tabor, 565 U.S. at 196). To override Bishop Barber's decision that no further Churches may be sold without interfering with the Debtor's religious mission would not be a "neutral" application of the law. It would either be ordering the Debtor to do something that interferes with its mission (sell critical Churches) or punishing the Debtor for not doing so by denying confirmation.

Burwell v. Hobby Lobby Stores, Inc., 573 U.S. 862 (2014), which the Committee cites, in fact eloquently makes the Debtor's case here. The Debtor cannot be placed on the horns of dilemma of either forfeiting bankruptcy relief or jeopardizing its religious mission. *Hobby Lobby* held the religious rights of three closely-held corporations were violated by an HHS contraceptive mandate. *First*, it noted the broad sweep of RFRA, beyond that which the Constitution requires, emphasizing that "RFRA was designed to provide very broad protection for religious liberty. By enacting RFRA, Congress went far beyond what this Court has held is constitutionally required." *Id*. at 706. Next, it noted RFRA today would provide an avenue for relief for Orthodox Jews punished for keeping their shops open on Sunday in violation of so-called "Sunday laws." *Hobby Lobby* cast doubt on the very logic the Committee urges:

> According to HHS, however, if these merchants chose to incorporate their businesses—without in any way changing the size or nature of their businesses—they would forfeit all RFRA (and free-exercise) rights. HHS would put these merchants to a difficult choice: either give up the right to seek judicial protection of their religious liberty or forgo the benefits, available to their competitors, of operating as corporations.

Id. The Court also rejected the argument that Hobby Lobby and its peers could avoid the mandate by dropping insurance coverage for their employees:

> We doubt that the Congress that enacted RFRA—or, for that matter, ACA—would have believed it a tolerable result to put family-run businesses to the choice of violating their sincerely held religious beliefs or making all of their employees lose their existing healthcare plans.

Id. at 723. It concluded that just because they were for profit companies, Hobby Lobby and its peers had a sincere religious reason for not observing the contraceptive mandate that HHS could not overcome. *Id.* at 725-736. One could easily re-word this passage from *Hobby Lobby* to fit this case:

> We doubt that the Congress that enacted RFRA—or, for that matter, ACA—would have believed it a tolerable result to put [*Catholic dioceses*] to the choice of violating their sincerely held religious beliefs or [*forfeiting the right every debtor who satisfies Section 1129 to reorganize under the Bankruptcy Code*].

d. The Committee Falsely Claims Its Substantial Burden Analysis Is Limited To Hypothetical Chapter 7 Sales.

The Committee argues that what it advocates cannot create a substantial burden for purposes of RFRA because it is only addressing what should be included in a hypothetical Chapter 7 analysis.[47] Instead, it is arguing the Debtor's Plan should be denied because it does not "maximize" the amounts available to pay abuse claimants because its Plan does not sell a sufficient number of assets. As the Plan already commits to selling all assets not essential to the Debtor's religious mission, what is left is necessarily what is necessary to that mission. Yet the Committee wants the Debtor's necessary assets sold, too, an unconstitutional result.

e. Second Guessing Bishop Barber with No Evidence Violates the First Amendment and RFRA.

The Committee argues the Debtor did not meet its burden because it did not provide "quantitative analysis regarding the Parish closures that it produced to the Committee."[48] This appears to refer to Bishop Barber's discussion of the MAP process, as the Committee cites Mr. Shields' testimony on that. But Mr. Shields misread that document, assuming it described churches to be sold when it instead described parishes that, over an unspecified period of time would be clustered, merged **or** sold.[49] Moreover, the emphasis on "quantitative analysis" is wrong on two counts. Here, too, the First Amendment and RFRA prohibit the Court from second-guessing what it acknowledged was Bishop Barber's sincere conclusion as to what was necessary to fulfill the Debtor's religious and spiritual mission.

8. *Baltimore* Is Distinguishable.

The Committee cites *In re Roman Catholic Archbishop of Baltimore*, No. 23-16969 (Bankr. D. Md. Aug. 4, 2026), for the proposition that a religious debtor cannot exclude "mission critical" assets from its liquidation analysis.[50] In *Baltimore*, the court denied approval of a disclosure statement—not a post-

---

[47] Committee Br. at 46/78.

[48] *Id.*

[49] 6/29 Tr. at 157:4-160:14; *see also* D-73.

[50] Committee Br. at 37, 38.

trial confirmation—because "[c]ertain significant assets of the Debtor's bankruptcy estate [were] excluded from the section 1129(a)(7) liquidation value, as well as the asset value available for distribution to creditors." The Committee argues this supports its position the Debtor's Primary Liquidation Analysis—which excluded churches—is per se deficient.

The argument fails for three reasons. *First*, this case is procedurally different. *Baltimore* involved denial of a disclosure statement—a preliminary determination the plan contained enough information to permit creditors to vote. This case is well past that point. The disclosure statement was approved months ago and the Court held a seven-day evidentiary hearing on confirmation of the Plan. The evidentiary record here is complete and the issues have been fully litigated.

Second, this case is factually different. In *Baltimore*, the debtor's disclosure statement did not even disclose the excluded assets, let alone value them. Here, the Debtor disclosed everything. It valued everything: the Supplemental Liquidation Analysis includes all the Debtor's real estate—including all Churches. The evidence shows the Plan exceeds liquidation value under every scenario. The *Baltimore* court's concern—that creditors could not evaluate the plan without knowing what assets were excluded—simply does not apply here.

Third, to the extent *Baltimore* suggests a religious debtor must liquidate churches whenever creditors demand more money, it misapplies RFRA and the First Amendment. As explained above, those constitutional and statutory protections constrain how the Bankruptcy Code operates when applied to religious organizations. *Baltimore* did not grapple with this framework. It cited *Spokane* for the proposition that religious organizations must "assess [their] rights vis-à-vis creditors on the same basis as any other debtor," but *Spokane* addressed whether canon law governs property-of-the-estate questions, not whether the First Amendment limits judicial power to compel church sales. That issue is not present here. This Court should decline to follow *Baltimore*'s reasoning on this point. The distinction is academic in any case. The Plan satisfies the best interests test under the Supplemental Liquidation Analysis, which includes all assets. The Court can confirm the Plan without deciding if any part of *Baltimore* is correct.

Fourth, *Baltimore* misapplied the Absolute Priority Rule. Even though the Archdiocese is a nonprofit entity with no equity holders, the Court found the proposed plan might make unfair distributions

in violation of that Rule, relying on *In re Eastern Maine Elec. Co-op., Inc.*, 125 B.R. 329, 333 (Bankr. D. Me. 1991) (plan violating absolute priority rule was patently unconfirmable) (Dec.10-11 & n.27). *Eastern Maine* is sui generis, as it involved a nonprofit rural electrical cooperative which had "Patronage Capital Accounts" which the bankruptcy court held gave holders an ownership interest. *Id*. at 339. The Seventh Circuit in *In re Wabash Valley Power Ass'n*, 72 F.3d 1305, 1316-17 (7th Cir. 1995), which the Ninth Circuit cited approvingly in *Teamsters II*, 265 F.3d 869, 873-77 (9th Cir. 2001), disagreed with *Eastern Maine*'s finding of an ownership interest and distinguished it as based on Maine law. As detailed herein, no other case has found a nonprofit debtor without an equity-like interest to have violated the Absolute Priority Rule.[51]

B. The Committee's Arguments Rest on Inconsistent Positions and Fail on the Merits.

1. The Committee's Inconsistent Positions Undermine Its Objections.

a. The Insurance Assignment: The Committee's Greatest Asset Is Now Its Greatest Omission.

Committee counsel's statements over two years established a clear pattern: the Committee wants the Insurance Assignment, places enormous value on the Insurance Assignment, and would never support a Plan that did not give Survivors the vast benefits of the Insurance Assignment. Here is the proof, from the mouths of its counsel:

- Michael Kaplan (Apr. 2024): Insurance is "inarguably the debtor's largest asset, potentially."
- Jesse Bair (Apr. 2024): Insurance policies are "assets of the debtor's estate" and Committee had fiduciary obligation to investigate.
- Timothy Burns (Dec. 2024): Survivors were being "compelled to release" claims against insurers to recover "debtor's insurance assets."
- Brent Weisenberg (Jan. 2025): Insurance assignment issue was a "showstopper."
- Timothy Burns (Jan. 2025): Bad-faith rights give insurance "meat" and the assignment was "so central to the plan" it went to the "heart of creditors' ability to realize what was being assigned." The Debtor was failing to pursue litigation worth "hundreds of millions of dollars."

[51] Docket No. 3418 at 43-45.

- Jeffrey Prol (Oct. 2025): Insurers negotiated "the most favorable assignment" he had ever seen.[52]
- Jesse Bair (Mar. 2026): $44.35 million in insurer settlements "substantially undervalue[s] the insurance asset."
- Brent Weisenberg (Apr. 2026): A majority of claims were covered by insurance, there were no aggregate limits, and one survivor's recovery would not be to another survivor's detriment.

These are binding judicial admissions under *Kohler v. Inter-Tel Techs.*, 244 F.3d 1167, n.3 (9th Cir. 2001), about the value (or potential value) of the Insurance Assignment to Survivors. The Committee does not object to the Insurance Assignment. Its own plan (later withdrawn) included an insurance assignment patterned after that of the Debtor. It cannot now implicitly deny or minimize the value of the very asset it spent two years telling the Court was worth "hundreds of millions of dollars" in support of a hyperbolic argument the Plan provides Survivors "pennies on the dollar."

b. The Babcock Admissions on Feasibility and the Insurance Assignment.

As the Committee's designated corporate representative, Mr. Babcock admitted the Plan is feasible.[53] He conceded the combination of cash contributions and the Litigation Option could make Survivors whole.[54] The Committee's own plan requiring the Debtor to contribute more money on an even faster timeline makes any feasibility attack on the Debtor's Plan self-defeating.

c. The Withdrawn Committee Plan.

The Committee represented to the Court that its plan was in the best interests of creditors. Then, within 48 hours of the April 22 state court verdict awarding the Committee chair $16 million, the Committee withdrew that plan. The timing speaks for itself. Until one Committee member obtained a verdict that made individual litigation more attractive than collective resolution, the Committee believed a plan structure similar to the Debtor's was worth pursuing. The Court took judicial notice of the existence (and withdrawal) of that plan.

2. The Best Interests Test Is Satisfied Under Either Liquidation Analysis.

---

[52] Given that certain Insurers have objected to the terms of the Insurance Assignment under the current Plan, they seem to disagree with this characterization.

[53] Docket No. 3222 at 52 (202:16–203:2).

[54] *Id.* at 52 (100:16–25).

a. The Supplemental Liquidation Analysis Includes All Real Estate—and Still Passes.

The Committee argues the Debtor's liquidation analysis understates the value of the Debtor's real property, relying primarily on the appraisal testimony of Ms. Randi Rosen.[55] Ms. Rosen's testimony does not support the Committee's position for several reasons.

First, Ms. Rosen provided market value appraisals, not liquidation value estimates. She could not have been clearer about this. The distinction is critical. Market value assumes an orderly sale process with adequate marketing time (Ms. Rosen assumed 6–18 months).[56] Liquidation value, by contrast, reflects the reality of a Chapter 7 fire sale, where a trustee must quickly dispose of assets to wind up the estate. Ms. Rosen admitted she did not perform a liquidation analysis.[57] She did not read the Plan. She did not consider RFRA or First Amendment constraints on the sale of church properties. Her appraisals simply do not answer the question § 1129(a)(7) asks: what would creditors receive in a hypothetical Chapter 7 liquidation?

Second, Mr. Zimmerman was the only expert who testified to liquidation value. His testimony was unrebutted. The Committee's counsel cross-examined Mr. Zimmerman but offered no competing liquidation analysis and no expert to contradict his methodology or conclusions. The Court should credit the only liquidation-value evidence in the record.

Third, nearly half of Ms. Rosen's headline $807 million figure consists of properties the Debtor does not own. The Cathedral of Christ the Light, the Livermore property, Cooper's Mortuary, and All Saints House are not property of the Debtor's estate.[58] Ms. Rosen appraised them anyway, inflating her total by approximately $368 million.[59] What remains—roughly $430 million—is a market-value number that still overstates what a Chapter 7 trustee could realistically recover in a liquidation scenario for the

---

[55] Committee Br. at 42-43.

[56] 6/29 Tr. at 26:3-15.

[57] 6/29 Tr. at 58:10-15.

[58] 6/29 Tr. at 47:5-48:12.

[59] *See* Post-Trial Br. at 39.

reasons stated above and in the Debtor's opening brief.[60] Ms. Rosen herself conceded on cross-examination that her values for Debtor-owned properties were "pretty similar for the most part" to Mr. Satter's values.[61]

Fourth, as Mr. Moore's Supplemental Liquidation Analysis demonstrates, even including all real estate—*i.e.* all Churches—the Plan still satisfies the best interests test. The Debtor prepared the Supplemental Liquidation Analysis precisely to show the Court need not resolve the constitutional questions in this case. The Plan satisfies § 1129(a)(7) on any set of assumptions. The Committee submitted no competing liquidation analysis. It simply asserts, without evidentiary support, that Mr. Moore's analysis must be wrong because his numbers are lower than Mr. Rosen's market-value appraisals. That is not how the best interests test works, and erroneously conflates market value with liquidation value anyway.

b. The Committee's "Circularity" Argument Misunderstands The Best Interests Test.

The best interests test compares what each creditor would receive under the Plan to what that creditor would receive in a hypothetical Chapter 7 liquidation. It does not independently value the claims or require a debtor to pay the "true value" of each claim. The test asks a simple question: does the Plan pay more than liquidation? If yes, the test is satisfied.

Mr. Moore's use of Plan contributions as the numerator is not circular, as the Commtitee argues. It is precisely what § 1129(a)(7) mandates: a comparison between (a) what each holder of an impaired claim will receive under the Plan and (b) what that holder would receive if the debtor were liquidated under Chapter 7. The Committee conflates this comparison with a different question the statute does not ask: whether the Plan pays the "full value" of each claim. Nothing in § 1129(a)(7) requires a debtor to pay claims at their face value, tort value, 100% value, or any other measure of "true" worth. The test is satisfied when Plan distributions exceed liquidation distributions. Here, they do, under both the Original and Supplemental Liquidation Analyses.

---

[60] Docket No. 3418 at 24-27.

[61] 6/29 Tr. at 49:25-50:7.

The Committee's reliance on Ms. McNally's figures to construct an "Adjusted Best Interests Test" (Committee Br. at 44, Figure 3) is legally baseless. Ms. McNally's $420 million figure was never offered as an opinion on what the Debtor should pay, what is "fair and equitable," or what would satisfy § 1129(a)(7).[62] Her testimony expressly disclaimed such opinions, stating she was calculating a "face value" of claims "irrespective of payer, irrespective of source."[63] As Dr. Martin explained, Ms. McNally's tort-based approach "is just not informative in this context" because diocesan debtors file 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."[64] And in real world tests, Ms. McNally's predictions were just plain wrong. In the *Boy Scouts* case, Ms. McNally's projected values were approximately 11 times the actual bankruptcy outcomes; in *Camden*, more than 3 times.[65] The Committee cannot bootstrap a disclaimed and discredited figure into a legal standard that does not exist.

c. The RCWC Contribution and Individual-Creditor Analysis.

The Committee argues the best interests analysis must be performed on an individual-creditor basis and the Roman Catholic Welfare Corporation ("RCWC") contribution "is illusory" because it depends on future releases from Class 4 claimants.[66] This misunderstands both the Plan structure and the applicable legal standard. Under the Plan, RCWC contributes $30 million to the Survivors' Trust in exchange for post-confirmation releases from Class 4 claimants with claims against RCWC.[67] That $30 million is leaving RCWC's possession and going into an escrow maintained and managed by a third party. This is a consensual exchange: RCWC provides additional value, and in return, Survivors with claims against RCWC release those claims. There is nothing illusory about it. RCWC cannot revoke its payment unilaterally. The Committee cannot have it both ways—it cannot simultaneously argue the Debtor should

---

[62] 6/29 Tr. at 72:19-73:15, 85:17-86:12.

[63] 6/29 Tr. at 92:8-11.

[64] 6/22 Tr. at 155:9-13, 167:4-6.

[65] Martin Dec. ¶ 23.

[66] Committee Br. at 9-11, 16-18.

[67] Plan § 9.3.2.2; 6/22 Tr. (Currier) at 200:5-14.

maximize creditor recoveries while objecting to a structure that adds tens of millions of dollars to the pool available for distribution to *all* Survivors. This is a rising tide that lifts all boats.

More fundamentally, the Committee's individual-creditor argument fails on its own terms. Every Class 4 claimant receives at least a *pro rata* share of the Debtor's $150 million contribution—which exceeds what that claimant would receive in a hypothetical Chapter 7 liquidation under any scenario. That is all § 1129(a)(7) requires. The RCWC contribution is additive. It increases the total recovery available to Class 4 claimants. The Committee points to no authority—and none exists—for the proposition that a third-party contribution conditioned on releases somehow violates the best interests test or should not be factored into it.

As to Class 5, the Debtor has made clear—both in the Plan documents and in the testimony of Joshua Hogan—that Class 5 claimants are not intended to receive more favorable treatment than Class 4 claimants on a per-claim basis. The evidence clearly demonstrates the parties' intent to ensure comparable treatment across classes. To the extent any clarifying language is necessary in the Confirmation Order to effectuate this intent, the Debtor will consider such language, as noted in its Post-Trial Brief.

d. RCC Collateral and the Cemetery Issue.

The Committee contends the Debtor's liquidation analysis understates the value of the cemetery properties held by Roman Catholic Cemeteries ("RCC").[68] But this argument ignores the undisputed economic reality: RCC holds liens against those same properties, and RCC's representative testified that RCC would "absolutely" credit bid its liens in any sale.[69] Because RCC's claims exceed the value of the collateral under any scenario, there would be no distributable value for unsecured creditors. Moreover, no other Catholic cemetery operator exists in Alameda or Contra Costa County, limiting the potential market for the cemeteries and thus depressing any hypothetical sale proceeds. Even the Committee's own expert, Mr. Shields, admitted he could not assign a dollar amount to the cemeteries that would change the outcome of Mr. Moore's analysis.[70]

---

[68] Committee Br. at 11-12, 48-49.

[69] 6/23 Tr. (Gies) at 182:6-20.

[70] 6/29 Tr. (Shields) at 156:5-20.

e. Litigation Costs Are Not Inflated.

The Committee argues Mr. Moore's liquidation analysis overstates litigation costs, thereby inflating the estimated administrative expenses of a hypothetical Chapter 7 and making the Plan appear more favorable by comparison.[71] But this argument ignores both the legal framework and the Committee's own conduct. Under 28 U.S.C. § 157, unliquidated personal injury tort claims cannot be finally adjudicated in bankruptcy court. They must be resolved in state court. In a nonconsensual Chapter 7 environment, that means approximately 345 individual tort claims would require state court adjudication—a process that necessarily entails substantial litigation costs. As this Court is aware, the Committee has demonstrated throughout this case an unwillingness to consent to streamlined processes.

Mr. Moore's assumption of 12 trials before the start of an ADR resolution is, if anything, conservative. The Committee has demonstrated throughout this case its constituency will not consent to streamlined processes. If the Committee's nonconsensual posture continues in a hypothetical liquidation—and there is no reason to believe it would not—litigation costs could be significantly higher than Mr. Moore projected. The Committee cannot simultaneously obstruct consensual resolution and then complain the cost assumptions reflecting that obstruction are too high.

Moreover, Mr. Moore's assumptions about liquidation costs in his best-interests analysis were unrebutted. No Committee witness offered a different approach, a different all-in number (aside from zero), or a different explanation for how claims will be liquidated in Chapter 7. That leaves Mr. Moore's analysis as the only evidence before the Court.

f. The Plan Is Feasible.

The Committee's challenge to the Plan's feasibility under Section 1129(a)(11) is contradicted by the Committee's own corporate representative. Mr. Babcock admitted under oath the Plan is feasible.[72] The Committee cannot disavow the sworn testimony of its designated Rule 30(b)(6) witness.

---

[71] Committee Br. at 42-43.

[72] Docket No. 3222 at 52 (202:16–203:2).

Disdaining the Plan as a "visionary scheme" that "promises creditors more than the Debtor can possibly attain after confirmation,"[73] the Committee wholly invents a gap between the Debtor's current liquidity and Plan funding requirements. Specifically, the Committee claims the "sale of the designated portions of … the parcels the Debtor intends to sell [] will generate only $54,325,000."[74] The Debtor addressed this argument in its Post-Trial Brief but will do so again here.

The Committee relies on an artificial distinction of its own making. Its feasibility argument is based on what *it* says the Debtor intends to sell, not what the Plan and the Debtor say the Debtor intends to sell. In the record, within which the Court must remain, the unrebutted evidence demonstrated the Plan's enforcement mechanism (deeds of trust for the Survivors' Trust) provides sufficient value to secure all $110 million in subsequent Debtor contributions, not just $54 million.[75] If the Debtor does not pay what it owes, the Survivor's Trust can foreclose on its collateral. The Committee's argument also ignores the $55 million RCC exit loan is committed and fully documented.[76]

The Committee also raises concerns about Vatican approval for certain property dispositions. But the Plan provides a 3.5-year post-Effective Date timeline for completing these transactions—more than adequate time to obtain necessary approvals. The Debtor has explained the approval process and its current status. The Committee offers no evidence that approval will be withheld or unduly delayed.

Finally, the Committee notes Catholic Mutual Society's ("CMS") contributions have ceased. The Debtor acknowledges this. Even so, as Mr. Flanagan testified, the Debtor's financial projections remain "directionally correct" even without CMS contributions. The cessation of one income stream does not render the Plan infeasible when the projections account for that change and demonstrate the Debtor's ability to meet its obligations.

---

[73] Committee Br. at 46-47, citing *In re Pizza of Hawaii, Inc.*, 761 F.2d 1374, 1382 (9th Cir. 1985).

[74] Committee Br. at 45.

[75] Post-Trial Br. at 12-14; 6/25 Tr. (Bardos) at 77:1-80:4.

[76] 6/23 Tr. (Gies) at 191:3-192:15.

3. The Plan Was Proposed in Good Faith—the Committee's Arguments Are Substantive-Adequacy Arguments in Disguise.

The Committee's lodestar argument for approximately two years has been, and continues to be, the Plan was not proposed in good faith because it does not "maximize" recoveries for abuse claimants.[77] Again, maximization of recoveries is not the standard for measuring a debtor's good faith under Section 1129(a)(3). Following *Teamsters II*, as the Court must, the good faith inquiry asks if the plan represents an "honest effort" to satisfy creditors, not if creditors want or could conceivably get more. 265 F.3d 869, 873-77 (9th Cir. 2001). As the Ninth Circuit held, affirming Judge Weissbrodt's decision in *Teamsters I*, a nonprofit debtor satisfies good faith by demonstrating a genuine process to balance creditor recoveries with the debtor's ability to reorganize. The Committee's demand for "maximum" recoveries is not a good faith objection. It is a substantive-adequacy argument dressed up as one.

The record demonstrates the Debtor's honest effort. Bishop Barber testified at length about his process for identifying assets available to fund the Plan: vacant land first, then unused buildings, then Churches not critical to the continuance of the Debtor's mission.[78] Bishop Barber "did his utmost to balance" the interests of Survivors with the Debtor's religious mission and obligations to its 400,000-500,000 Catholics.[79] This is precisely the kind of deliberate, good-faith balancing *Teamsters* (and the Ninth Circuit) contemplates. This balance informed everything the Debtor did, from filing the bankruptcy in the first place to proposing six iterations of a Plan that will allow *every* Survivor to recover from the Debtor's limited assets.

Even the Committee's own expert would not second-guess Bishop Barber's judgment. Mr. Shields testified he was "not making a recommendation that any particular parish should be closed" and was "not second-guessing Bishop Barber's decision."[80] He admitted that "under the structure of the Diocese, the

---

[77] Committee Br. at 63-65.

[78] 6/22 Tr. at 36:5-48:25.

[79] 6/22 Tr. at 161:1-24.

[80] 6/29 Tr. at 161:4-17, 166:7-18.

Bishop gets to make the hard choices of what he can and cannot do."[81] If the Committee's own expert will not challenge Bishop Barber's process, the Committee cannot credibly argue his process reflects bad faith.

This Court itself observed that Mr. Shields's testimony was "not normative" about what the Debtor should contribute—it was merely "a financial calculation." The Committee presented no witness willing to say the Debtor *should* sell more churches or *should* contribute more money. That silence speaks volumes about the strength of the Committee's good faith objection.

The Debtor's $150 million contribution is not an arbitrary "cap" plucked from thin air, as the Committee suggests. It is the product of the MAP process, detailed financial projections, analysis of borrowing capacity, and identification of real property available to be sold.[82] And it has *increased* over time—from $103 million to $115 million to $150 million—as the Debtor identified additional assets and sought in good faith to try to resolve this bankruptcy case.[83] The Debtor has consistently worked to maximize its payments to Survivors while preserving its religious mission. The Committee's refusal to acknowledge this progress—or to identify any amount it would *currently* accept—confirms its objection is not about good faith at all.

4. The Plan Is Fair and Equitable.

a. The Absolute Priority Rule Is Satisfied.

Section 1129(b)(2)(B)(ii) provides that a plan is "fair and equitable" with respect to unsecured claims if "the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property." The Debtor has no equity holders. It has no shareholders. No one extracts profits from its operations. There is no junior class receiving or retaining property "on account of" a junior interest. The negative condition of § 1129(b)(2)(B)(ii) is satisfied by its own terms. There should be no need to dive further into this argument, but because the Committee will not concede, the Debtor will again explain its position.

---

[81] 6/29 Tr. at 165:15-25.

[82] Post-Trial Br. at 17-20.

[83] 6/22 Tr. at 36:5-48:25.

Controlling precedent compels this conclusion. In *Teamsters II*, the Ninth Circuit held that a nonprofit debtor's retention of operating assets did not violate the absolute priority rule because there were no equity holders to receive value at the expense of creditors. 265 F.3d at 873-77. As the court explained, "[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." *Id.* at 873-74. The same analysis applies here. *See In re Wabash Valley Power Ass'n*, 72 F.3d 1305, 1320 (7th Cir. 1995) (nonprofit cooperative's retention of assets did not violate absolute priority rule); *In re Henry Mayo Newhall Mem'l Hosp.*, 282 B.R. 444, 453 (B.A.P. 9th Cir. 2002) ("[t]he unsecured creditors in the case of a nonprofit entity with no equity owners hold the economic interests at the margin of the debtor").

The Committee's attempt to reframe the Debtor's continued possession of operating assets as improper "equity retention" proves too much. The Committee suggests the Plan violates the absolute priority rule because the Debtor will retain its churches and other operating assets while unsecured creditors are not paid in full.[84] Every Chapter 11 debtor that successfully reorganizes retains operating assets—that is the entire point of reorganization rather than liquidation. If retention of operating assets by a nonprofit debtor automatically violated the absolute priority rule, no nonprofit could ever confirm a plan over creditor objection. That is not the law.

b. <u>The Honest Effort Standard Supports Fair and Equitable.</u>

Section 1129(b)'s "fair and equitable" standard, as applied to nonprofit debtors, incorporates the "honest effort" analysis from *Teamsters I* and *Teamsters II*. Under this framework, the Court evaluates: (1) the debtor's subjective intent in proposing the plan; (2) the process the debtor undertook to develop the plan; and (3) the totality of the circumstances, including whether the plan falls within the range of outcomes that reasonable parties might negotiate. The record supports the Debtor on all three factors.

[84] Committee Br. at 51-55.

Subjective intent: Bishop Barber testified credibly and at length about his genuine desire to provide meaningful compensation to abuse survivors while preserving the Debtor's ability to continue its religious mission. The Committee does not dispute his sincerity.

Process: The Debtor engaged in the MAP process, which identified assets not critical to the continuation of the Debtor's mission and therefore available to facilitate creditor recoveries. The Debtor increased its cash contribution to the Survivors' Trust multiple times—from $103 million to $115 million to $150 million—as it identified additional resources. It prepared both an Original and a Supplemental Liquidation Analysis. It negotiated with the Committee for years. The Committee may be unsatisfied with the outcome, but it cannot credibly argue the process was inadequate.

Totality of circumstances: Dr. Martin's expert analysis establishes the Plan's guaranteed payments to abuse claimants rank in the 90th percentile among comparable diocesan bankruptcy outcomes—and that analysis does not even account for the Insurance Assignment, which provides additional recovery potential through the Litigation Option.[85] The $180 million total contribution (including RCWC's $30 million) places this case at the 93rd percentile on both a nominal and inflation-adjusted basis, more than four times the $44.2 million average.[86] The Plan is not merely within the range of fair outcomes; it is near the *top* of that range. The Committee's demand for more does not make the Plan unfair.

c. The Baltimore Decision Is Distinguishable.

As discussed above in Section A.8, *Baltimore* is distinguishable on procedural posture (disclosure statement vs. post-trial confirmation), facts (the *Baltimore* debtor did not disclose the excluded assets; here, the Debtor disclosed and valued everything), and constitutional framework (*Baltimore* did not address RFRA or the First Amendment). Most importantly, the distinction is academic: the Debtor's Supplemental Liquidation Analysis includes all assets, and the Plan satisfies the best interests test under that analysis.

---

[85] Martin Dec. ¶¶ 9-14; 6/22 Tr. at 126:11-133:23.

[86] Martin Dec. ¶ 13.

d. Even if Adopted, the Chapter 9 Framework Does Not Impose a "Maximization" Requirement.

The Committee argues that Chapter 9's "fair and equitable" framework should apply here, citing *In re Hardeman County Hospital District*, 540 B.R. 229, 239 (Bankr. N.D. Tex. 2015), for the proposition that creditors "must receive all they can reasonably expect under the circumstances" and the debtor must pay the "maximum" it can while maintaining operations.[87] The Committee contends the Debtor failed to prove its $150 million contribution reflects this "maximum." This argument fails for three independent reasons.

First, the Chapter 9 framework does not support a "maximization" requirement. The Committee misreads *Hardeman*. That case held a Chapter 9 debtor must provide creditors what they can "reasonably expect under the circumstances"—not the theoretical maximum. *Hardeman*, 540 B.R. at 239. More importantly, the court emphasized the debtor "must be allowed to retain adequate revenues to continue operations" and that "the fair and equitable rule does not prevent a municipal debtor from continuing to operate, even if creditors are not paid in full." *Id.* That is precisely what the Debtor has done here.

Second, even if Chapter 9 principles applied, they would not require the "maximization" the Committee seeks. The Chapter 9 framework recognizes that municipalities cannot be compelled to raise taxes, lay off essential workers, or sell assets needed for governmental functions—even when creditors would prefer more. The same logic applies with even greater force to a religious organization protected by RFRA and the First Amendment. The Debtor cannot be compelled to sell churches essential to its religious mission simply because the Committee believes more could theoretically be extracted.

Third, and most importantly, *Teamsters I* rejected the "maximization" theory the Committee now advances. In that case, the creditor argued the union debtor should have increased membership dues to pay more to creditors. Judge Weissbrodt held the union's decision not to raise dues "appears to have been a rational one that was not based upon bad faith." 225 B.R. at 731. He went further: a nonprofit debtor need not "explore and consider all possible alternative forms of plans, or all feasible alternative forms, or

---

[87] Committee Br. at 55-57.

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. *Teamsters II*, 265 F.3d at 877.

The Committee's argument reduces to the assertion the Debtor should sell more Churches and contribute more money – though it refuses to say how much "more" it believes would satisfy § 1129(b). That is precisely the argument Judge Weissbrodt rejected in *Teamsters I*: a nonprofit debtor satisfies § 1129(b) by proposing a plan that meets the statutory requirements, not by exhausting every possible source of funds. The Debtor has done so here. The Chapter 9 analogy, properly understood, supports confirmation, not denial.

5. §1129(a)(10) Is Satisfied.

Three impaired classes voted in favor of the Plan: Class 1, Class 3, and Class 5. The Committee argues the Debtor does not satisfy § 1129(a)(10) because Class 1 consists of an "insider" (RCC), Class 3 is "artificially impaired," and Class 5's vote was cast by a representative rather than actual creditors.[88] Each argument fails.

Class 1: RCC is not an "insider" for purposes of § 1129(a)(10). The Bankruptcy Code's definition of "insider" does not include RCC. While the Committee contends that RCC is an "affiliate" because it leases property from the Debtor, the Code's affiliate definition requires that "substantially all" of the property be operated under an agreement with the debtor. 11 U.S.C. § 101(2)(C). RCC operates independent cemeteries and funeral homes—its business is not "substantially all" operated under any agreement with the Debtor. Moreover, RCC and the Debtor are both nonprofit entities. No person or entity holds "equity" in either of them. There can be no common ownership creating affiliate status under § 101(2)(A) or (B) because there is no ownership interest to hold. The Committee's insider argument fails as a matter of nonprofit corporate structure. *Class 3*: The Committee's "artificial impairment" argument also fails.

Class 3: The Committee's "artificial impairment" argument also fails. Class 3 is impaired because holders will receive payment over time rather than immediately on the Effective Date.[89] This is a

---

[88] Committee Br. at 47-51.

[89] Plan § 4.3.2.

legitimate Plan design choice that allows the Debtor to fund the $40 million Initial Debtor Contribution to the Survivors' Trust on the Effective Date. The Committee cites no authority—and none exists—holding that a debtor must pay general unsecured claims on Day One rather than over a reasonable period.

Class 5: The Unknown Abuse Claims Representative was appointed by this Court to represent the interests of Class 5, the Unknown Abuse Claimants. His vote was authorized by the order granting his appointment. The Committee's suggestion that he should not have voted ignores that his entire purpose is to represent a class that, by definition, cannot vote for itself.

6. The Plan Complies with Section 1129(a)(1).

The Committee argues the Plan does not satisfy § 1129(a)(1) because (1) it allegedly contains "improper non-consensual third-party releases" under *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204 (2024); and (2) the Debtor allegedly "did not present any evidence" to support the CCCEB Settlement under Bankruptcy Rule 9019.[90] Both arguments fail.

a. The Plan's Third-Party Releases Are Permissible.

The Committee's *Purdue* argument misreads that holding. *Purdue* held Section 1123(b)(6) does not authorize a bankruptcy court to discharge claims against a non-debtor without the claimants' consent. 603 U.S. at 227. The Plan does not do that. The only third-party releases in the Plan that affect Survivors are the RCWC releases, which are consensual by design. Under Section 9.3.2.2 of the Plan, RCWC contributes up to $30 million to the Survivors' Trust in exchange for post-confirmation releases from Class 4 claimants who have asserted claims against RCWC. If a Survivor releases RCWC, the Survivors' Trust receives RCWC funds. If a Survivor declines to release RCWC, they keep their claim against RCWC. This is a voluntary exchange—consideration for release—not a non-consensual discharge of third-party claims.

The remaining third-party releases in the Plan (Sections 13.11-13.13) apply to claims that are derivative of the Debtor's liability, not independent claims against non-debtors. The Plan narrowed the injunction to apply only to claims derivative of Abuse Claims.[91] The released parties will have contributed

---

[90] Committee Br. at 66-68.

[91] *See* Debtor's Post-Trial Br. at 70.

to the estate, and the releases apply only to derivative claims. This is consistent with *Purdue*. The Committee's argument that "none of the Debtor's witnesses discussed the Plan's releases" (Committee Br. at 66) ignores that the Plan's release structure was addressed in the Debtor's Pre-trial Brief and is self-evident from the Plan documents themselves.

b. The CCCEB Settlement Satisfies Rule 9019.

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 CCCEB owes 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.[92] The Committee presents no alternative evidence and no cost-efficient alternative to CCCEB Settlement.

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 the Debtor'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 Committee's characterization of the 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

[92] 6/15 Tr. at 103:9-11.

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.

If the Court rejects the settlement, the practical outcome would be the same, just slower and more expensive. The Debtor or hypothetical Chapter 7 trustee will sue CCCEB to collect the unpaid receivable. CCCEB cannot satisfy a judgment, meaning the trustee would 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 incurs significant legal fees. The Plan accomplishes in one transaction what in the alternative would require multiple lawsuits, a judgment, execution proceedings, and potentially years of delay, all 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 Collective-Remedy Imperative and Alternatives to Confirmation.

There is no competing plan. The Committee withdrew its own plan within 48 hours of the April 22 state court verdict—a $16 million judgment for a single plaintiff who happened to be the Committee's Chair. The timing was not coincidental. Right up until the Committee Chair obtained a verdict that made individual litigation more attractive than collective resolution, the Committee believed a plan structure similar to the Debtor's was worth pursuing. Now it opposes confirmation of any plan, the only mechanism that ensures every Survivor receives meaningful compensation while also providing a path to possible full payment of Survivor's claims through the Insurance Assignment and Litigation Option.

The April 22 state court verdict shows why collective resolution matters. One plaintiff received a verdict for $16 million. If this bankruptcy case is dismissed, he will be first in line to execute on his judgment. Survivors whose claims have yet to be heard – meaning every other Survivor – will not be heard for months or years (and at the rate they are proceeding to trial, trying all 345 cases will take decades). These back-of-the-line Survivors will necessarily recover less from the Debtor than the front-of-the-line Survivors. Serial state-court litigation does not expand the pie. It reallocates slices to those who can afford to litigate longest, leaving most Survivors with nothing (and, as many Survivors are older and/or not in good health, it creates the real possibility that some Survivors will die before they see anything, something

Committee counsel has asserted multiple times). The Committee, which is supposed to represent *all* unsecured creditors, now advocates for the very outcome that benefits the few at the expense of the many.

The only alternative to confirmation is dismissal. Dismissal would eliminate the automatic stay, expose the Debtor to a race to the courthouse, and leave Survivors to compete against each other and against trade creditors for limited assets. The Debtor's insurance policies—which the Committee itself called the "largest asset, potentially"—would be consumed by defense obligations and early settlements with the most aggressive litigants. There would be no collective process, no equitable distribution, and no mechanism to ensure that every Survivor receives a fair share.

The Plan, by contrast, provides certainty. Every Survivor receives a guaranteed cash distribution—an average of $522,000 per claimant—plus the opportunity to pursue insurers through the Litigation Option. Dr. Martin's analysis places this outcome at the 90th percentile of comparable diocesan bankruptcies, and that analysis does not even account for the Insurance Assignment's additional upside. No alternative—not dismissal, not serial litigation, not a second Chapter 11 filing—can match what the Plan offers.

III. CONCLUSION

The Plan satisfies every requirement of § 1129. The Supplemental Liquidation Analysis—which includes all real estate, even churches—demonstrates that every creditor receives more under the Plan than in a hypothetical Chapter 7 liquidation, satisfying the best-interest test. The Committee submitted no competing analysis. The Committee's own Rule 30(b)(6) representative admitted the Plan is feasible, and the Debtor's witnesses and evidence confirmed it, satisfying feasibility. The $55 million RCC exit loan is committed; the deeds of trust securing the Survivors' Trust exceed the $110 million in post-Effective Date obligations. Under *Teamsters I* and *II*, the test is "honest effort," not "maximum payment." Bishop Barber's structured process—vacant land first, unused buildings second, and finally churches not critical to continue the Debtor's mission—is precisely the deliberate balancing the Ninth Circuit requires, satisfying good faith. Dr. Martin's unrebutted analysis places this Plan at the 90th percentile of comparable diocesan outcomes, and that analysis does not even account for the Insurance Assignment, bolstering that the Plan is fair and equitable, particularly when viewed through the lens of the "honest effort" standard.

Three impaired classes voted to accept, satisfying § 1129(a)(10).

The Committee's objections are undermined by its own conduct. Committee counsel spent two years telling this Court the insurance was worth "hundreds of millions of dollars"; they now argue the Plan pays "pennies on the dollar." The Committee's corporate representative admitted the Plan is feasible and the Litigation Option could make Survivors whole. The Committee proposed its own plan with a similar per-claim structure—then withdrew it within 48 hours of a $16 million verdict for its chair. These contradictions are fatal to any claim the Committee's objection is grounded in the best interests of creditors.

The First Amendment, the Church Autonomy Doctrine, the Ministerial Exception, and RFRA each independently support confirmation of the Plan, because they confirm the Debtor's earnest decision regarding what spaces are necessary for the Debtor to continue its religious mission – and how many are necessary – are indisputably matters of "church government." The Debtor is absolutely not claiming an exemption from the Bankruptcy Code—it satisfies Section 1129 on its own terms. But the constitutional and statutory protections for religious organizations confirm that Bishop Barber's credible, unrebutted determination of which churches are necessary to serve 400,000-500,000 Catholics is not subject to judicial second-guessing. The Committee's own expert, Mr. Shields, admitted he was "not second-guessing Bishop Barber's decision" and that "the Bishop gets to make the hard choices." The Court should hold him to that concession.

The only alternative to confirmation is dismissal. Dismissal would be grossly unfair to this Debtor, who has demonstrated with evidence its Plan satisfies Section 1129 in its entirety. More tragically, dismissal would be a disaster for the very Survivors the Committee purports to represent. Serial state-court litigation will exhaust the Debtor's assets for the benefit of a few, leaving most Survivors with no recovery from the Debtor. This Plan is the only path that ensures every Survivor receives meaningful compensation. For this reason alone, the Committee should welcome its confirmation. As should the Court.

//

//

DATED: August 19, 2026.

FOLEY & LARDNER LLP
Eileen R. Ridley
Shane J. Moses
Ann Marie Uetz
Matthew D. Lee
David B. Goroff
Mark C. Moore

/s/ Shane J. Moses
Shane J. Moses

Counsel for the Debtor
and Debtor in Possession