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*Attorneys for The Official Committee
of Unsecured Creditors*

**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
)
) **DECLARATION OF BRENT
) WEISENBERG IN SUPPORT OF
) PRELIMINARY OBJECTION OF
) THE OFFICIAL COMMITTEE OF
) UNSECURED CREDITORS TO
) DEBTOR'S MOTION TO AMEND
) ORDER ESTABLISHING
) PROCEDURES FOR INTERIM
) COMPENSATION AND
) REIMBURSEMENT OF EXPENSES
) OF PROFESSIONALS**
)
) Judge: Hon. William J. Lafferty
)
) Re: Dkt. No. 2560
)

1 I, Brent Weisenberg, hereby declare pursuant to 28 U.S.C § 1746 as follows:

2 1. I am a partner at the law firm of Lowenstein Sandler LLP, counsel to the Official
3 Committee of Unsecured Creditors (the “**Committee**”) in connection with the above-referenced
4 chapter 11 case.

5 2. I submit this declaration in support of the *Preliminary Objection of the Official*
6 *Committee of Unsecured Creditors to Debtor’s Motion to Amend Order Establishing Procedures*
7 *for Interim Compensation and Reimbursement of Expenses of Professionals* (the “**Objection**”).¹

8 3. The facts set forth in this declaration are personally known to me, and, if called as
9 a witness, I could and would competently testify thereto.

10 4. Attached as **Exhibit 1** is a true and correct copy of the December 19, 2023 hearing
11 transcript in *In re Roman Catholic Diocese of Rockville Centre, New York*, Case No. 20-12345
12 (Bankr. S.D.N.Y. Dec. 19, 2023) [Dkt. No. 2753].

13 5. Attached as **Exhibit 2** is a true and correct copy of the January 20, 2026 hearing
14 transcript in this Chapter 11 Case [Dkt. No. 2576].

15 6. On January 21, 2026, Gabrielle Albert of Keller Benvenuti Kim LLP, local counsel
16 to the Committee, sent an email to Shane Moses of Foley & Lardner LLP, counsel to the Debtor,
17 serving a notice of deposition and a document request. The January 21, 2026 email and its
18 attachments are attached as **Exhibit 3**.

19 7. On Friday, January 23, 2026, counsel to the Debtor informed counsel to the
20 Committee that the Debtor would not make Mr. Flanagan available for a deposition. The Debtor
21 agreed to provide documents responsive to one of the Committee’s three requests—a schedule of
22 payments made to ordinary course professionals—while refusing to provide (i) “All Documents
23 You intend to introduce or rely upon at any hearing on the Motion” and (ii) “All Documents
24 reviewed, relied upon, and/or which support the statements contained in the Motion and the
25 Flanagan Declaration.” The January 23, 2026 email and its attachments are attached as **Exhibit**
26 **4**.

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¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Objection.

Exhibit 1

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1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 20-12345-mg

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5 In the Matter of:

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7 THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, NEW YORK,

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9 Debtor.

10 - - - - - x

11 United States Bankruptcy Court

12 One Bowling Green

13 New York, NY 10004

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15 December 19, 2023

16 2:01 PM

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21 B E F O R E :

22 HON MARTIN GLENN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: F. FERGUSON

1 HEARING re Jones Day's Ninth Interim Application for
2 Allowance of Compensation for Services Rendered and
3 Reimbursement of Actual and Necessary Expenses Incurred
4 During Retention Period from June 1, 2023 to September 30,
5 2023 for Jones Day, Debtor's Attorney, period: 6/1/2023 to
6 9/30/2023, fee:\$4,613,361.75, expenses: \$53,593.33. (Doc #
7 2647, 2673, 2686, 2731)

8
9 HEARING re Ninth Interim Application of Alvarez & Marsal
10 North America, LLC for Allowance of Compensation for
11 Services Rendered and Reimbursement of Expenses Incurred as
12 Restructuring Advisor to the Debtor During the Period June 1
13 , 2023 Through September 30, 2023 for Alvarez & Marsal North
14 America , LLC , Other Professional , period : 6/1 /2023 to
15 9/30/ 2023, fee:\$706, 1 12.50, expenses: \$13,823.51. filed
16 by Alvarez & Marsal North America, LLC . (Doc # 2648, 2673,
17 2686, 2731)

18
19 HEARING re Ninth Application for Interim Professional
20 Compensation for Reed Smith LLP, Special Counsel, period:
21 6/1/2023 to 9/30/2023, fee:\$1 ,010,870.50, expenses:
22 \$153,662.18. filed by Reed Smith LLP. (Doc # 2649, 2670,
23 2686, 2731)

24
25 HEARING re Ninth Application for Interim Professional

1 Compensation for Professional Services Rendered and
2 Reimbursement of Expenses Incurred as Special Counsel to the
3 Debtor from June 1, 2023 through September 30, 2023 for
4 Nixon Peabody LLP. (Doc # 2650, 2670, 2686, 2731)

5
6 HEARING re Sixth Application for Interim Professional
7 Compensation for Services as Future Claims Representative
8 for Robert E. Gerber, Other Professional, period: 6/1/2023
9 to 9/30/2023, fee:\$86,240.00, expenses: \$448.41. filed by
10 Robert E. Gerber. (Doc # 2651, 2654, 2686, 2731)

11
12 HEARING re Ninth Interim Application For Allowance Of
13 Compensation And Reimbursement Of Expenses By Bums Bair LLP
14 As Special Insurance Counsel For The Period From June 1,
15 2023 Through September 30, 2023 for Bums Bowen Bair LLP,
16 Creditor Comm. Atty, period: 6/1/2023 to 9/30/2023,
17 fee:\$516,604.80, expenses: \$17,357.31. filed by Bums Bowen
18 Bair LLP. (Doc # 2652, 2654, 2686, 2731)

19
20 HEARING re Sixth Application for Interim Professional
21 Compensation for Services as Counsel to Future Claims
22 Representative for Joseph Hage Aaronson LLC, Other
23 Professional, period: 6/1/2023 to 9/30/2023, fee:\$9,810.00,
24 expenses: \$0. (Doc # 2653, 2654, 2686, 2731)

25

1 HEARING re Informal Conference Request of the Committee re
2 Production of Documents

3

4 HEARING re Ninth Interim Application For Allowance Of
5 Compensation And Reimbursement Of Expenses By Berkeley
6 Research Group, LLC As Financial Advisor For The Period From
7 June 1, 2023 Through September 30, 2023 for Berkeley
8 Research Group, LCC, Other Professional, period: 6/1/2023 to
9 9/30/2023, fee:\$318,659.00, expenses: \$4,230.36. filed by
10 Berkeley Research Group, LCC. (Doc No. 2661, 2685, 2686,
11 2731)

12

13 HEARING re Sixth Application for Interim Professional
14 Compensation for services rendered and reimbursement of
15 actual and necessary expenses incurred for Forchelli Deegan
16 Terrana LLP, Special Counsel, period: 6/1/2023 to 9/30/2023,
17 fee:\$9,495.00, expenses: \$26.65. filed by Forchelli Deegan
18 Terrana LLP. (Doc # 2663, 2686, 2731)

19

20 HEARING re Ninth Interim Application For Allowance Of
21 Compensation And Reimbursement Of Expenses By Bums Bair LLP
22 As Special Insurance Counsel For The Period From June 1,
23 2023 Through September 30, 2023 for Bums Bowen Bair LLP,
24 Creditor Comm. Atty, period: 6/1/2023 to 9/30/2023,
25 fee:\$516,604.80, expenses: \$17,357.31. filed by Bums Bowen

1 Bair LLP. (Doc # 2662, 2665, 2686, 2731)
2
3 HEARING re Ninth Interim Application For Allowance Of
4 Compensation And Reimbursement Of Expenses By Pachulski
5 Stang Ziehl & Jones LLP As Counsel To The Official Committee
6 Of Unsecured Creditors For The Period From June 1, 2023
7 Through September 30, 2023 for Pachulski Stang Ziehl & Jones
8 LLP, Creditor Comm. Atty, period: 6/1/2023 to 9/30/2023,
9 fee:\$3,933,595.25, expenses: \$880,996.95. filed by Pachulski
10 Stang Ziehl & Jones LLP. (Doc # 2664, 2665, 2686, 2725,
11 2726, 2731)
12
13 HEARING re Ninth Application for Interim Professional
14 Compensation Quarterly Report For June 2023 through
15 September 2023 for Sitrick And Company Inc., Debtor's
16 Attorney, period: 6/1/2023 to 9/30/2023, fee:\$22,244.00,
17 expenses: \$0.50. (Doc # 2666, 2686, 2731)
18
19 HEARING re Amended Third Application for Interim
20 Professional Compensation for Lerman Senter PLLC, Special
21 Counsel, period: 6/1/2023 to 9/30/2023, fee:\$6,247.50,
22 expenses: \$0. (Doc # 2680, 2686, 2721, 2731)
23
24 HEARING re Corrected Motion Of The Official Committee Of
25 Unsecured Creditors Pursuant To Sections 105, 305 and 362 Of

1 The Bankruptcy Code To Permit Proceeding With Certain State
2 Court Actions And Temporary Suspension Of The Chapter 11
3 Case. (Doc# 2677 to 2679, 2681, 2710, 2711, 2712, 2713,
4 2727, 2729, 2730)

5

6 HEARING re Adversary proceeding: 20-01226-mg The Roman
7 Catholic Diocese of Rockville Centre, Ne v. ARK 320 DOE, et
8 al. Doc# 204 Notice of Hearing /Notice of Status Conference
9 in Connection with Discovery (related document(s)59)

10

11 HEARING re Doc# 2734 Notice of Agenda / Amended Agenda for
12 Matters Scheduled for December 19, 2023 at 2:00 p.m.
13 (Prevailing Eastern Time) (related document(s)2731)

14

15 HEARING re Doc# 2736 Notice of Agenda / Second Amended
16 Agenda for Matters Scheduled for December 19, 2023 at 2:00
17 p.m. (Prevailing Eastern Time) (related document(s)2734)

18

19 HEARING re Doc# 2735 Notice of Hearing /Notice of Status
20 Conference in Connection with Discovery

21

22 HEARING re Informal Conference Request. (Doc ## 320, 794,
23 2732)

24

25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

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4 Attorneys for Nixon Peabody LLP

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8 BY: CHRIS DESIDERIO

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22 BY: ERIC P. STEPHENS

23 TODD GEREMIA

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BY: GREG M. ZIPES

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BY: JASON P. AMALA

1 ALSO PRESENT :
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3 CHARLES MOORE
4 PAUL SHIELDS
5 ROBERT E. GERBER

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P R O C E E D I N G S

THE COURT: Please be seated. All right. Good afternoon. We are obviously here in the Roman Catholic Diocese of Rockville Centre, 20-12345. I have the amended agenda.

MR. BUTLER: Good morning, Your Honor. Andrew Butler with Jones Day for the Debtor.

Your Honor, we filed a second amended agenda --

THE COURT: We have the second-amended agenda.

MR. BUTLER: Docket Number 2736. We apologize for the late addition, Your Honor.

The first items set on that hearing agenda are the interim fee applications. We have two items after that, both discovery items, and one of which will be handled by my colleague, Mr. Stephens, and the other I believe by Ms. Dine from the Pachulski firm. And then the Committee test case motion after that.

On the interim fee applications, Your Honor, two points to begin with. One, a global update, and then one, an update for the Jones Day fee application in particular if we go there next in the order of the agenda.

The global update -- and I'm happy for Mr. Zipes to confirm this as well -- but my understanding is that Mr. Zipes' office, the Office of United States Trustee, has requested a ten percent continuing holdback for this fee

1 application going forward. And my understanding is that all
2 professionals have agreed to that consensually. And if Mr.
3 Zipes has anything to add, I'm happy to have him do so.

4 THE COURT: Well, Mr. Butler, we can talk about
5 this a little bit later. But not including this fee
6 application that I have in front of me, series of fee
7 applications today, I was strongly inclined to have a 50
8 percent holdback going forward. How long this is going
9 forward, I don't know. But this case is in terrible shape.
10 The Debtor has quite openly said it can't afford to continue
11 on. Fees are out of control. And I will come to this
12 after, but I came to the bench having in mind beginning with
13 the next round of fee applications a 50 percent holdback.

14 So if you want to go ahead with the applications,
15 we can.

16 MR. BUTLER: Thank you, Your Honor. That was the
17 global update on the holdback and then a specific update on
18 the Jones Day fee application.

19 Your Honor, often the United States Trustee
20 reviews our applications, discusses those interim
21 applications with us. We did that again on this round. The
22 United States Trustee's Office raised a number of issues
23 with us. We reviewed those issues with them, discussed
24 them, reviewed them internally, and have agreed to an
25 \$18,000 consensual reduction with the Office of the United

1 States Trustee for the Jones Day interim fee application.
2 That's for fees, not costs or expenses. We're thankful that
3 we're able to work that out with the Office of the United
4 States Trustee without a formal objection. I wanted to
5 recognize that and state so on the record.

6 THE COURT: Mr. Zipes, if you could limit it to
7 the discussion of the Jones Day application, but I would
8 like to hear from you about your office's review of this
9 very large group of applications generally. We'll obviously
10 go through them individually. I have some questions on
11 several of them. So go ahead, Mr. Zipes, if you would.

12 MR. ZIPES: Your Honor, as this Court is aware,
13 there's approximately nine interim fee applications that
14 have been filed in this case, and not for every professional
15 because some had not put in fee applications for every
16 interim --

17 THE COURT: Yeah. There were some where the
18 applications were small, it was more cost-effective to hold
19 off and -- with some of them.

20 MR. ZIPES: Yes. And, Your Honor, we did have
21 this discussion about the holdback. And I think that the
22 professionals are reluctantly agreeable to --

23 THE COURT: I'm sure they're not agreeable to the
24 50 percent, but that's my -- well, we can talk about that
25 after.

1 MR. ZIPES: But there are statements on the
2 record, as this Court noted. There's a cash problem and
3 this case has been going on. So I don't think, Your Honor,
4 we specifically discussed going forward, but it is a topic
5 of concern.

6 THE COURT: Very much.

7 MR. ZIPES: Yes. And, Your Honor, we do review
8 interim fees and try to get comments, but we don't
9 necessarily have comments to every fee application for every
10 hearing. So we try to get comments as we can. And this
11 Court doesn't necessarily get the benefit of some of the
12 back and forth, and probably rightfully so. But, Your
13 Honor, we do review fee applications for the standard things
14 like vague entries and time entries that don't comply with
15 the U.S. Trustee guidelines and case precedent in this court
16 and in the circuit.

17 So, Your Honor, we do reserve our rights until the
18 end of the --

19 THE COURT: The end of the case, yes.

20 MR. ZIPES: -- case to review legal fees and
21 professional fees generally. And in some cases, it turns
22 out that the discussion is subsumed by lack of funds in the
23 case as well. So there's a certain balance on how much to
24 review on an interim basis versus --

25 THE COURT: Let me just ask you. Mr. Butler has

1 indicated the consensual agreement of Jones Day for an
2 \$18,000 reduction. Are there other applications that we're
3 going to deal with today as to which there are also
4 consensual adjustments?

5 MR. ZIPES: Your Honor, there aren't any that we
6 brought to any professional's attention, but we are
7 reviewing them. And we sort of send the emails not
8 necessarily connected to specific hearings saying we looked
9 at this fee application and had X, Y, and Z issues. So
10 professionals have been getting that throughout the
11 bankruptcy case.

12 THE COURT: Okay.

13 MR. ZIPES: I don't know if that answers your
14 question.

15 THE COURT: I think it does for now. All right.
16 Mr. Butler, so the Jones Day application sought fees of
17 \$4,613,361.75 and expenses of \$53,593.33.

18 MR. BUTLER: Yes, Your Honor.

19 THE COURT: And you've indicated that your firm
20 has agreed to an \$18,000 reduction in the fees.

21 MR. BUTLER: Yes, Your Honor. As well as a ten
22 percent holdback.

23 MR. BUTLER: And the ten percent holdback. Does
24 anybody wish to be heard with respect to the Jones Day
25 application?

1 All right, it is approved with those changes.

2 MR. BUTLER: Thank you, Your Honor.

3 THE COURT: So the next on my list, may not be the
4 same as yours, is the Alvarez & Marsal application. Is
5 there someone who is going to speak to that? I should have
6 said the Jones Day application is ECF 2647. The Alvarez
7 application is 2678.

8 MR. MOORE: Good afternoon, Your Honor. Charles
9 Moore for Alvarez & Marsal.

10 THE COURT: And so the application was for fees of
11 \$706,112.50 and expenses of \$13,823.51.

12 MR. MOORE: That's correct.

13 THE COURT: Just give me a second. All right.
14 Does anybody else wish to be heard with respect to the
15 Alvarez application?

16 All right. It's approved subject again to the ten
17 percent holdback for this one. Okay?

18 MR. MOORE: Thank you, Your Honor.

19 THE COURT: Thank you very much. Next I have is
20 Reed Smith.

21 MR. JAVIAN: Good afternoon, Your Honor. Aaron
22 Javian for Reed Smith, LLP. Can you hear me?

23 THE COURT: Yes, I can. And the Reed Smith
24 application is ECF 2649. It seeks fees of \$1,010,870.50 and
25 expenses of \$22,910.93. It also seeks fees and expenses for

1 Debtor's consulting expert, KCIC LLC, of \$130,751.25. Go
2 ahead if you want to be heard.

3 MR. JAVIAN: That's correct, Your Honor. I don't
4 have anything else to add to that other than that I am
5 available if Your Honor has any questions about the fee
6 application.

7 THE COURT: Anybody else wish to be heard? All
8 right.

9 So both the Reed Smith application and the KCIC
10 LLC applications are approved.

11 MR. JAVIAN: Thank you, Your Honor.

12 THE COURT: All right. Next on my list is Nixon,
13 ECF 2650. And Nixon Peabody is -- their application is at
14 ECF 2650. It seeks fees of \$273,698.50 and expenses of
15 \$647.59. Is someone to speak to the Nixon Peabody
16 application?

17 MR. DESIDERIO: Good afternoon, Your Honor. Chris
18 Desiderio from Nixon Peabody. And that accurately reflects
19 the fee application for this period.

20 THE COURT: All right. Does anybody else wish to
21 be heard with respect to the Nixon Peabody application?

22 It's approved as well.

23 MR. DESIDERIO: Thank you, Your Honor.

24 THE COURT: Next on my list is the sixth interim
25 application of the future claims representative. It's at

1 ECF 2651 and it seeks fees of \$86,240 and expenses of
2 \$448.41. Mr. Gerber?

3 MR. GERBER: Yes. That's correct, Your Honor.
4 And I rest on the motion unless the Court has questions.

5 THE COURT: Does anybody wish to be heard with
6 respect to the future claims representative application?

7 All right. It's approved.

8 Next is the sixth interim fee application of
9 Michael R. Hogan. It's at ECF 2652. Who is going to
10 present on that?

11 MR. GERBER: I'm not sure if Mr. Hogan was able to
12 get on, Your Honor. But the \$7,990 that the Court mentioned
13 is the correct figure. He received no payments on account
14 of monthly fee statements that weren't large enough to
15 warrant the filing of.

16 THE COURT: Right. So this one is, as I said, at
17 ECF 2652. He is the financial advisor to the future claims
18 representative. And again, it's \$7,990 in fees and no
19 expenses. Anybody wish to be heard?

20 All right. It is approved.

21 Next is the sixth interim fee application of
22 Joseph Hage Aaronson LLC. It's at ECF 2653. It seeks fees
23 of \$9,810 and no expenses.

24 Mr. Gerber?

25 MR. GERBER: Yes. I will speak on the firm's

1 behalf on that. The Court's understanding of the figures is
2 correct. And once again, I will rest on the motion unless
3 the Court has any questions.

4 THE COURT: All right. Does anybody wish to be
5 heard with respect to that application?

6 All right, it is approved as well.

7 Next is the ninth interim fee application of
8 Berkeley Research Group LLC. It's at ECF 2661 and it seeks
9 fees of \$318,659 and expenses of \$4,230.36. Who is going to
10 speak to that?

11 MR. SHIELDS: Good afternoon, Your Honor. This is
12 Paul Shields from Berkeley Research Group. And that does
13 accurately reflect the amount sought.

14 THE COURT: Does anybody else wish to be heard
15 with respect to the Berkeley Research? All right. It's
16 approved as well.

17 MR. SHIELDS: Thank you, Your Honor.

18 THE COURT: Thank you. Next is the sixth interim
19 fee application for Forchelli Deegan. And it's at ECF 2663
20 and it seeks fees of \$9,495 and expenses of \$26.65.

21 MR. LUCKMAN: Good afternoon, Your Honor. Gerard
22 Luckman, Forchelli Deegan Terrana, special counsel to the
23 Debtor. That accurately reflects the application, Your
24 Honor, unless Your Honor has any questions.

25 THE COURT: Anybody else want to be heard with

1 respect to that?

2 All right. It is approved as well.

3 MR. LUCKMAN: Thank you, Your Honor.

4 THE COURT: Next is the ninth interim application
5 of Pachulski Stang Ziehl & Jones LLC as counsel to the
6 Committee. It's at ECF 2664 and it seeks fees of
7 \$3,933,595.25 and expenses of \$880,996.95. Mr. Stang?

8 MR. STANG: Good afternoon, Your Honor. James
9 Stang, Pachulski Stang Ziehl & Jones, appearing for the
10 firm.

11 THE COURT: I have an issue that -- well, first
12 let me see whether anybody else wishes to be heard with
13 respect to the Pachulski application. Mr. Zipes?

14 MR. ZIPES: Your Honor, I don't know if it's
15 appropriate at this time, but I did note that there was a
16 requirement that a letter be sent with expenses related to
17 the litigation, and that was sent to my office. I just
18 wanted to make the Court aware.

19 THE COURT: Thank you, Mr. Zipes.

20 I have -- for the most part, Mr. Stang, I don't
21 have a question except for one issue. And it involves your
22 firm and Burns Bair as well. And I will deal with that
23 issue. So I'm not giving my approval of the application
24 yet. Here's -- let me lay out this issue.

25 The Court was presented with a group of motions

1 seeking to lift the automatic stay filed by certain
2 claimants for an order pursuant to 362(d) and Bankruptcy
3 Rule 4001(a) to allow the claimants to make settlement
4 demands on the diocese. The Committee filed a joinder,
5 which is at ECF 2488.

6 I heard argument on those motions, which were
7 really carried by the committee, on October 23rd, 2023 and
8 entered an order denying the motions on October 24th, 2023.
9 Mr. Burns was the one who argue the motion here.

10 When I reviewed the fee applications from the firm
11 and Burns Bair, I tried as best I could to identify the fees
12 that were charged for the motions that -- I mean the gist of
13 the motions was seeking to compel the Diocese -- allow the
14 Claimants to provide a demand, a settlement demand for the
15 Diocese to give to the insurers. And I would describe the
16 strategy, the motion, as concocted, misguided strategy by
17 the committee. An absolute waste. I denied the motion from
18 the bench. I entered the order the next day.

19 When I asked the question what prevents you from
20 having your clients make -- having the Claimants make a
21 demand? And the answer was nothing. I'm still waiting to
22 see that. I don't know. There have been some updates as to
23 whether or not those demands have ever been made.

24 MR. STANG: I can give you that --

25 THE COURT: Just let me finish. I'm venting.

1 It was an utter, complete waste of time. And
2 while you didn't carry the laboring -- when I say you, your
3 firm didn't carry the laboring oar on it, I tried to
4 identify what if any fees your firm was charging in
5 connection with that motion -- motions. There were separate
6 motions filed by claimants, but the real gist of it was the
7 joinder filed by the Committee, and Mr. Burns argued that.

8 So I don't know how much responsibility you and
9 your firm bear for that, whether we charged anything in
10 connection with it. I don't know whether you can tell me
11 offhand or not.

12 MR. STANG: I would have the breakdown for Your
13 Honor, but we will attempt to do that.

14 THE COURT: So I don't know, is Mr. Burns here or
15 is he on the...

16 MR. STANG: Mr. Bair is here.

17 THE COURT: Mr. Bair is here. So you'll bear my
18 ire when you stand.

19 You know, whatever you may think, I think I've
20 bene pretty reserved throughout this case. There's lots of
21 difficult issues. This was a joke. And in going through
22 your firm's fees, you identified \$84,366.60. That doesn't
23 include the argument, not that the argument was really
24 extensive, because the fee period cut off in September and
25 we didn't -- the argument had gotten adjourned and it got

1 pushed so it was made in October. So I don't think I've
2 seen the last of what you would dare put in a fee
3 application for it.

4 But I am appalled. There are so many difficult
5 issues in this case that you've all worked so hard for. And
6 it costs a lot of money. That's not one of them. It wasn't
7 even close. So you stand there to bear the brunt of my
8 diatribe about it. And Mr. Burns made the argument and, you
9 know, he's special insurance counsel.

10 Well, I can tell you what I'm going to do now is
11 I'm ordering the two firms to submit declarations by January
12 3rd that specifically identify the time entries and fee
13 amounts sought in connection with the motions. And I
14 couldn't parcel it from your firm, Mr. Stang. As best I
15 could tell from Burns Bair, it was \$84,366. It's being
16 disallowed. I've already prepared a written order I may
17 mark up a little bit explaining what the standards are that
18 the Court is supposed to apply in reviewing fee
19 applications.

20 Mr. Stang, this obviously has been a really
21 expensive case. On the whole I think your firm has done
22 excellent work. And you had the misfortune of standing up
23 first to hear me vent about it.

24 MR. STANG: Your Honor, both of us represent the
25 Committee. So I'm not going to put this all on Mr. Bair.

1 Our time is what it would be for the declaration.

2 But --

3 THE COURT: Well, you're not going to charge for
4 the declaration.

5 MR. STANG: I'm not going to sidestep answering
6 your -- or responding to what you said just because Mr. Bair
7 is special insurance counsel.

8 MR. BAIR: And I'm happy to respond.

9 THE COURT: Yeah, and I'm going to have you.

10 So, look, I'm not going to give final approval of
11 your fee application until I know how much of anything needs
12 to be deducted from it. Or you could talk to Mr. Zipes if
13 there is an amount and agree on a voluntary reduction for
14 this. And let me be clear, anything having to do with that
15 motion is coming out, is not getting approved. And I
16 suspect because they are special insurance counsel that they
17 have -- you know, it -- Mr. Burns thought it was a great
18 motion. Okay, I'm finished venting.

19 MR. STANG: Your Honor, the professionals' concern
20 was that making a demand upon the Debtor -- and by the way,
21 at some point I think the Debtor said the Committee made the
22 demands. The Committee did not make the demands.

23 THE COURT: All right, the claimants.

24 MR. STANG: It was state court counsel made the
25 demands. But in speaking with them, it was part of a larger

1 strategy on how to put pressure on the insurance companies.
2 We felt -- we were concerned that because the insurance
3 policies are property of the estate that putting that demand
4 on the Debtor, who we hope has communicated with its
5 carriers as to whether they're going to pay those demands
6 and if not, why not, could be a violation of the stay.

7 Now, Your Honor, I understand -- I was at the --
8 if I wasn't at the hearing, I was attending it. I heard
9 what you had to say.

10 THE COURT: You were on the screen.

11 MR. STANG: We've been reminded of your
12 characterization of the motion by Debtor's counsel. You are
13 going to see that in a slide presentation they're going to
14 put on today. But we had a legitimate concern. And you
15 didn't.

16 THE COURT: So why didn't you just come and say
17 that, Judge, we think that -- and I said it at the hearing.
18 I asked the question. I said is there anything that stops
19 you from making a demand, a settlement demand? No, of
20 course the automatic stay doesn't stop you from making a
21 settlement -- they can ignore it. They can do what they
22 want.

23 MR. STANG: They could also seek sanctions against
24 us for violating the stay.

25 THE COURT: For making a settlement demand? I

1 don't think so.

2 MR. STANG: Well, a demand that was then going to
3 be conveyed to the carriers that could have affected
4 property of the estate given the nature of these policies.

5 THE COURT: Well, if the Debtor receives a demand,
6 I think they're obligated under the policy to pass it on to
7 the insurance company. I mean, it really isn't rocket
8 science. I've had enough to say about this.

9 MR. STANG: Okay. Your Honor, we will submit the
10 declaration and --

11 THE COURT: Let's put it this way. The sooner you
12 submit the declaration, the faster I will approve your fees.

13 MR. STANG: Given the time difference, accounting
14 will be working on it today. Thank you, Your Honor.

15 THE COURT: Okay. Your turn.

16 So the ninth interim fee application of Burns Bair
17 LLP as special insurance counsel to the Unsecured Creditors'
18 Committee. It's at ECF 2662. It seeks fees of \$516,604.80
19 and expenses of \$17,357.31, which reflects a reduction of
20 \$1,808.80 for two flights that were incorrectly included in
21 the September invoice.

22 MR. BAIR: That's correct, Your Honor.

23 THE COURT: So make your appearance and then
24 we'll...

25 MR. BAIR: Yes, Your Honor. Jesse Bair, special

1 insurance counsel on behalf of the Committee. And Your
2 Honor correctly reported the figures.

3 THE COURT: Well, when I -- when you say I
4 correctly reported the -- I correctly reported what your fee
5 application is. I told you my clerks and I did the best we
6 could in trying to isolate out how much you were charging
7 for the joinder. What it was a joinder. And we saw it as
8 \$84,366.60. I don't know whether we missed something or put
9 something in there that we shouldn't have.

10 MR. BAIR: I don't know offhand, Your Honor. We
11 would have to take a look at that.

12 THE COURT: Okay.

13 MR. BAIR: I don't have a sense of -- that very
14 well could be accurate, Your Honor.

15 THE COURT: Well, again, the order I'm going to
16 enter is going to require that you file a declaration by
17 January 3rd (indiscernible) Debtor, but...

18 MR. BAIR: Your Honor, if I may could I have a
19 moment to lay the background of the motion?

20 THE COURT: Sure. You can.

21 MR. BAIR: And I appreciate Your Honor's ruling.

22 THE COURT: Well, I ruled on the motion right
23 away.

24 MR. BAIR: Yes.

25 THE COURT: It was the next day when I entered the

1 order. I was gentle about it at the time. I've only had
2 steam coming out of my ears since, particularly by the fee
3 applications.

4 MR. BAIR: Thank you, Your Honor. By way of
5 background, we represent certain committees in these cases
6 around the country as special insurance counsel. And so in
7 the Rochester Diocesan bankruptcy, the Committee in that
8 case served a number of demand letters. There's one non-
9 settling insurer in that case. And so as a way to hopefully
10 move that case forward towards potentially one day a global
11 resolution, the Committee there sent a series of demand
12 letters to that insurance company. That insurance company
13 responded in part by asserting that the automatic stay
14 applied and that those letters were in violation of the stay
15 such that those demands were ineffective.

16 That issue was never brought before the Court, but
17 that was the response from the carriers. And so --

18 THE COURT: All you had to do was at one of the
19 many hearings in the case, Judge, we would like to serve a
20 demand -- or the claimants would like to serve a demand and
21 we're uncomfortable -- we had this experience in Rochester,
22 and I would have done exactly what I did when I heard the
23 motion. First, I would have asked the Debtor -- I mean,
24 they said at that hearing make a demand. You know?

25 MR. BAIR: Thank you, Your Honor.

1 THE COURT: And we wouldn't have incurred that
2 \$84,000-plus in fees on a worthless motion.

3 MR. BAIR: I appreciate that, Your Honor. After
4 the -- unfortunately, after the Rochester events took place,
5 a decision was made in the Syracuse case to seek relief.
6 Given CNA's position in Rochester, the Committee in Syracuse
7 wanted to ensure that the demands would be effective.

8 THE COURT: Well, but the demand you made is to
9 the Debtor, not to the insurance company.

10 MR. BAIR: Understood. And we actually agree with
11 Your Honor's ruling that the stay doesn't prohibit these
12 demands. But unfortunately in Syracuse, the judge in that
13 case ruled against the Committee and held that the automatic
14 stay did apply to prohibit the demands. And so --

15 THE COURT: A demand on the Debtor?

16 MR. BAIR: Correct, Your Honor. And so we lost
17 that decision unfortunately to some of the insurance
18 carriers.

19 And so after the Syracuse decision came out -- and
20 we had dialogue with the Debtor on this -- the Debtor had
21 the view, which turned out to be correct in Your Honor's
22 opinion, that the automatic stay didn't apply. However, as
23 the Committee, we felt we were in a position --

24 THE COURT: All you've got to do is ask me. And I
25 would have turned to the Debtor and said do you have an

1 objection to serving a demand on -- some of the demands on
2 here. You said you did that and they told you no. So
3 instead you spent \$85,000 on a motion.

4 MR. BAIR: Obviously we will abide by Your Honor's
5 ruling. I just wanted to inform the Court about the
6 background that informed why this occurred.

7 So after the Syracuse ruling, we felt that if we
8 made demands, the insurance carriers would take the
9 position, which they did in the motions, that those demands
10 would violate the automatic stay and, as Mr. Stang pointed
11 out, potentially seek remedies as a violation of that and/or
12 state that the demands were ineffective.

13 In the insurance company's responses to our
14 motion, which were quite voluminous -- they filed a number
15 of them -- the Syracuse decision was attached, a transcript,
16 to those decisions. And so again, Your Honor, we were
17 pleased with your ultimate decision that allowed the state
18 court counsel to ultimately send the demand letters.

19 THE COURT: How many demand letters have been
20 sent? Because I had asked about this at another hearing.
21 Well, we're still kind of working on it.

22 MR. BAIR: So of the originally 38, a number of
23 them were Arrowood cases. And so there are 14 LMI
24 interstate demands that have been sent to date. We thought
25 there was one more, but we have now learned that the state

1 court lawyers were not able to connect with that client, so
2 that one is still pending. But there are 14 that have been
3 sent. The responses to those are to our knowledge currently
4 due either at the end of this month or early January. We
5 don't have insight into what the Debtor has done, but we
6 assume, acting as a reasonably prudent insured, they would
7 have requested their carriers pay those demands. And
8 obviously --

9 THE COURT: Well, they don't want to blow their
10 coverage, so they're going to make sure that they let the
11 insurers know there's a demand.

12 MR. BAIR: We would hope so, Your Honor. And so
13 obviously we are respectful of Your Honor's decision. We
14 will of course abide by that. But I did want to provide the
15 background of the reason the Committee felt that we were
16 forced to bring the motion was the negative decision in the
17 other New York Diocesan case that we -- at least at the time
18 as the Committee did feel comfortable, you know, not seeking
19 relief given the order where we lost. Obviously Your Honor
20 had a different view of that. And we are grateful we were
21 able to send the demands. We were not able to send them in
22 Syracuse. And so that's why we filed the motion. Your
23 Honor will give that justification whatever weight he deems
24 appropriate.

25 THE COURT: I'm telling you, you're not getting

1 paid for the motion.

2 MR. BAIR: Okay, understood.

3 THE COURT: This case obviously was before Judge
4 Chapman before it moved in front of me. One of the things
5 I've always tried to make clear -- and we've had a number of
6 status Zoom conferences -- if you have an issue and you
7 can't -- first approach the Debtor. And if you agree, well,
8 we'll put it in a letter. And if you can't, you can request
9 a conference. And I'll usually have within a day or two and
10 resolve it. And if I heard both sides, if the Debtor took
11 the position no, they can't do this and your position was
12 you should, (indiscernible) the motion. Okay.

13 MR. BAIR: I don't have anything further unless
14 Your Honor has any questions.

15 THE COURT: This is -- you know, it was a big
16 enough piece of the total fee application that was filed
17 that maybe got me on a bad day. But it just -- it's kind of
18 been chewing at me for awhile.

19 Okay, Mr. Stang?

20 MR. STANG: Your Honor, I just wanted to
21 supplement or emphasize something Mr. Bair said. It would
22 be one thing where the Debtor says it's okay, we're not
23 going to assert a stay violation. But the insurance
24 carriers said this is essentially null and void because it
25 violates the stay.

1 THE COURT: Ask for a conference and we'll have a
2 quick conference and you'll get a quick answer and you won't
3 spend \$85,000 writing a motion.

4 MR. STANG: I just wanted to point out this isn't
5 a two-party issue. It's a multi-party issue with insurance
6 companies who said --

7 THE COURT: I'm the judge.

8 MR. STANG: You are the judge. And we communicate
9 to you through motions. And occasionally --

10 THE COURT: Well, yes, with conferences. And
11 we've had conferences.

12 MR. STANG: I understand. I would be stunned and
13 surprised --

14 THE COURT: I do conferences -- everybody should
15 know, I think other than one session where everyone agreed,
16 the U.S. Trustee was here and we had an off-the-record
17 discussion at some point. But otherwise, everything else is
18 on the record. That's my typical...

19 MR. STANG: I would be loath to speculate whether
20 the insurance carriers would ask you for permission to brief
21 the issue of whether that demand was enforceable when the
22 Debtor communicated it to them without stay relief. But
23 Your Honor --

24 THE COURT: Look, as you know, I wasn't a
25 bankruptcy lawyer. But I did practice law for 34 years as a

1 litigator and I actually spent -- it wasn't the majority of
2 my time, but was involved in insurance coverage litigation,
3 and usually on the side of the insurers. So I am not a
4 total neophyte when it comes to insurance coverage issues.
5 Enough said on the subject.

6 MR. STANG: Okay. Thank you, Your Honor.

7 MR. BAIR: Anything further, Your Honor?

8 THE COURT: No.

9 MR. BAIR: Thank you.

10 THE COURT: Next is the sixth interim fee
11 application of Forchelli Deegan Terrana LLP. It's at ECF
12 2663. It's application fees of \$9,495 and expenses of
13 \$26.65. Is there a representative of the firm?

14 MR. BUTLER: Your Honor, Andrew Butler with Jones
15 Day for the Debtor. I believe Mr. Luckman already addressed
16 this with Your Honor.

17 THE COURT: Yeah. It was -- it's approved. It's
18 approved. Let me get back to where I was.

19 Mr. Stang, from my notes just to come back to -- I
20 don't know whether your firm has fees. What raised
21 questions for me is I didn't know whether it is included in
22 this category. You have a summary of hours and fees
23 organized by task. And for insurance litigation it was
24 \$111,980.50. (indiscernible) insurance litigation not
25 involving this. I didn't know whether anything relating to

1 the subject we just finished discussing is sort of embedded
2 in that or not.

3 MR. STANG: Your Honor, we will review the bill in
4 total and not just the category that might have encompassed
5 it.

6 THE COURT: Mr. Zipes, did you have any issues
7 about the Pachulski Stang application?

8 MR. ZIPES: Your Honor, my office is frankly still
9 reviewing this one and the -- we are going to offer comments
10 not necessarily in conjunction with this fee hearing. So as
11 everything is (indiscernible).

12 THE COURT: Okay. All right. So I've asked all
13 my questions on it. I'll wait to see what your response is
14 on this. Okay.

15 Next is Sitrick and Company. The application is
16 at ECF 2666. Fees of \$22,244 and 50 cents in expenses. I
17 don't even need to hear this, but it's approved.

18 Last is the amended third interim application of
19 Lerman Senter PLLC. It's at ECF 2721. It seeks fees of
20 \$4,141, no expenses.

21 Is there someone from the firm in attendance?

22 MR. CORAN: Yes, Your Honor. Steven Coran here
23 for Lerman Senter.

24 THE COURT: Okay. It's a small amount in the
25 scheme of things, but I want to remind you to use project

1 billing categories as required by the Southern District
2 amended guidelines. Okay. I'm approving it.

3 MR. CORAN: Thank you.

4 THE COURT: All right. That concludes the fee
5 applications.

6 All right, Mr. Butler, are you running the show
7 today or one of your colleagues?

8 MR. BUTLER: Thank you, Your Honor. Nothing
9 further for the fee applications. I believe Mr. Stephens
10 will be addressing the discovery items.

11 THE COURT: Okay. Mr. Stephens? Sure.

12 MR. STEPHENS: Good afternoon, Your Honor. Eric
13 Stephens of Jones Day on behalf of the Debtor. Very
14 briefly, Your Honor.

15 You will recall that at the last conference and
16 hearing on this matter on November 28th, the Court directed
17 that there be an examination of the Everlaw database in
18 connection with breaches of protective order.

19 Following that directive, we have met and
20 conferred with the Committee and they have informed us that
21 they do not intend to comply with that directive even to
22 provide the Court with reports of Everlaw activity in-
23 camera. We would simply ask that they comply with the
24 Court's directive at the last hearing.

25 THE COURT: And I read -- Mr. Amala, I see him on

1 the screen. I read his declaration. I guess I saw it
2 today. I don't know if it was filed today. Do you have
3 more issues with Mr. Amala?

4 MR. STEPHENS: I think, Your Honor, the
5 declaration itself doesn't address the conduct that we
6 raised with him. It doesn't mention state court litigation
7 or the subpoena.

8 THE COURT: Sure it does.

9 MR. STEPHENS: I didn't see references to the
10 state court subpoena or state court litigation in the
11 declaration. But we are not seeking any amended
12 declaration.

13 THE COURT: Okay. Mr. Amala, do you want to be
14 heard?

15 MR. AMALA: I don't, Your Honor, other than I
16 would be there in-person, Your Honor, if this was filed on
17 Friday. So apologies I am not there in-person. And I also
18 don't know if I look as weird on your screen as I look on
19 mine. I don't know why that's happening. But anyways, I
20 apologize I'm not there in person, Your Honor, even though I
21 don't have anything to offer. I would have been there in-
22 person. Thank you.

23 THE COURT: Anything you want to add to what's in
24 your declaration?

25 MR. AMALA: I don't, Your Honor.

1 THE COURT: Okay. Does somebody from the
2 committee want to address the issue about providing the logs
3 for in-camera review?

4 MR. STANG: Thank you, Your Honor. James Stang,
5 Pachulski Stang Ziehl & Jones for the Committee.

6 Your Honor, at the hearing, we were caught --
7 caught is not the right word. We didn't expect that
8 discussion regarding Everlaw. And the comments that we
9 made, I hope you'll consider that it was kind of on the fly.
10 But we went back and thought about and studied what rights
11 people had under the confidentiality agreement, which is at
12 Docket Number 320.

13 And reading that carefully, Paragraph 6 and
14 Paragraph 10 of the confidentiality order provide for what
15 the Debtor is allowed to see in the context of the Everlaw
16 reports and what the remedies are if there has been an
17 impermissible use of the information. And specifically
18 Paragraph 6 of the order says that the Diocese -- that any
19 information that is conveyed to the Diocese should not track
20 or record the access of confidential information or
21 otherwise notify the Debtor or any other party that a
22 recipient has accessed confidential information from the
23 Everlaw format. It doesn't say Everlaw format, it says from
24 such format.

25 And then Paragraph 10 spells out what the remedy

1 is, which is that if there's a use that was not permitted or
2 not contemplated, that the Committee will assist the Diocese
3 in remedying such use or disclosure, which we think has been
4 addressed as to Mr. Amala.

5 We don't believe that the reports that the Debtor
6 has asked for are permissible under the order. Because what
7 they're looking for, without any even smoke, is to find out
8 if state court counsel has violated the terms of the
9 confidentiality agreement.

10 THE COURT: I didn't see this in any writing that
11 you filed with the Court to explain why you say they're not
12 supposed to be able to -- did you?

13 MR. STANG: No, Your Honor.

14 THE COURT: That's the usual way one responds, is
15 by -- it could have been a very short pleading that just
16 recited -- I would have gone back and I would have looked --
17 confirmed that the confidentiality order has the language
18 you've read to me.

19 MR. STANG: Your Honor, we -- if you want us to,
20 we will do that.

21 THE COURT: I want this to go away.

22 MR. STANG: I want it to go away too. Because,
23 frankly, I don't know if there's any there there, and the
24 Debtor has not shown us if there's any there there except
25 for Mr. Amala, who has made the offers he has made to you in

1 his declaration.

2 THE COURT: Let me ask this. Did you call Mr.
3 Stephens and say here's the language in the confidentiality
4 order, we don't believe you are entitled to receive it under
5 these circumstances. Did you do that?

6 MR. STANG: Your Honor, I'm going to have to turn
7 to -- I personally did not.

8 THE COURT: Did anybody?

9 MR. STANG: I do not know that Ms. Dine or Ms.
10 Michael did that.

11 MS. DINE: Your Honor, Karen Dine, Pachulski Stang
12 Ziehl & Jones. We did send a note. Mr. Stephens I believe
13 attached it to the letter in which we explained why we did
14 not think that doing the Everlaw searches was a reasonable
15 request. I don't know that we cite it in there, that
16 paragraph. And I know we mentioned it this morning when we
17 had a meet and confer on the next conference issue with Mr.
18 Stephens. But I don't think in our response to them to the
19 Debtor to let them know that we did not think that the
20 searches were appropriate, that we specifically referenced
21 that portion of the confidentiality agreement. But I should
22 say we did raise it with them, and as you heard, they
23 believe that we should go forward. And they were
24 considering making a motion for a protective order, but they
25 asked for this conference.

1 MR. STANG: Your Honor, to be frank, one of our
2 colleagues went back over the last couple of days and really
3 reread the confidentiality order and saw the two provisions
4 that I quoted to you. But we did tell the Debtor that we
5 thought that the disclosures they wanted would violate work
6 product privilege and potentially the attorney-client
7 privilege. That was communicated to them. But this part
8 about the two provisions is something that one of my
9 colleagues -- who was involved with the preliminary
10 injunction hearing just as an aside -- went back and really
11 read it. And she said, look, there are these two provisions
12 in here. And so we had not raised it with them before.

13 THE COURT: Okay.

14 MR. STANG: But I guess, Your Honor, having been
15 through my share of did you violate court order proceedings
16 and especially regarding confidential information, Mr. Amala
17 has taken responsibility for what he did. He has been very
18 clear in his declaration that he has no knowledge of other
19 state court counsel doing this. I have -- we have no
20 knowledge that state court counsel misused the information.

21 THE COURT: We're not going off on a detour
22 (indiscernible).

23 MR. STANG: I understand. And if the Debtor --
24 you know what? I'm going to just leave it at that.

25 THE COURT: Leave it at that. Mr. Stephens?

1 MR. STEPHENS: Just very briefly, Your Honor.

2 The first time that the Committee raised Paragraph
3 6 of the protective order was in a meet and confer with me
4 this morning. I think it's very clear when you read that
5 paragraph, it talks about the mechanism in which the Debtor
6 will produce and provide the documents. And it was that we
7 could not set up a database that allowed us to snoop on them
8 as they reviewed the documents. It does not say that in the
9 event that there are violations of the protective order --

10 THE COURT: All right. That's enough. I'm
11 satisfied with Mr. Amala's declaration and his presentation
12 at the last hearing. This matter is closed.

13 MR. STEPHENS: Thank you, Your Honor.

14 THE COURT: What's the discovery issue that you
15 wanted to raise?

16 MS. DINE: Your Honor, Karen Dine, Pachulski Stang
17 Ziehl & Jones, on behalf of the Committee.

18 As mentioned in the letter requesting the
19 conference to Your Honor, we had learned last Friday that in
20 state court, which we had been understood to say that the
21 debtor had produced new what we'll call CVA claim documents.
22 And naturally given that those were documents to be produced
23 to the Committee in this proceeding, we were concerned about
24 the discovery of new information.

25 Since submitting that letter, we did have a meet

1 and confer with Mr. Stephens and Mr. Butler from Jones Day
2 and they explained what the issue was. It has to do with
3 documents that were provided in response to the original
4 request in the bankruptcy case that were actually provide in
5 a non-redacted form as oppose to the redacted. And what
6 they were referring to in the court proceeding were
7 materials that were now newly had to be redacted and not new
8 what we'll call CVA claim documents.

9 Mr. Stephens also explained to us what situations
10 might occur in terms of whether certain John Does might be
11 identified, which would lead to the discovery of new CVA
12 claim documents. We had a very productive discussion about
13 the Debtor will share with us the information they are
14 producing in the state courts so that we can continue to
15 keep an eye on this issue from our perspective. And they
16 will also be providing us with the Bates numbers for the
17 documents that were produced only in the unredacted form as
18 opposed to a redacted form. So we think that, at least for
19 now, that that resolve the issue. And we appreciate Your
20 Honor setting it for conference, but we appreciate the
21 Debtor making time in advance of this hearing so we could
22 meet and confer on the issue.

23 Your Honor, if I may?

24 THE COURT: Go ahead, Ms. Dine.

25 MS. DINE: I promised Mr. Stephens that I would

1 actually also add that they have made clear to us that they
2 have not at this point found any new CVA documents, and
3 that's their position.

4 THE COURT: Okay. Mr. Stephens, anything you
5 wanted to...

6 MR. STEPHENS: No thank you, Your Honor.

7 THE COURT: Let's move on on the agenda then, on
8 to contested matters. Committee's motion to proceed with
9 certain state court actions and temporarily suspend the
10 Chapter 11 case.

11 MR. STANG: Good afternoon. Pachulski Stang Ziehl
12 & Jones for the Committee.

13 Your Honor, the Committee filed the motion for two
14 purposes. One was that we hoped -- we hoped that the test
15 cases can serve to breach an impasse that is between the
16 committee and state court counsel on the one hand and the
17 Debtors, the Debtor's affiliates, and perhaps as importantly
18 or maybe more importantly, the insurers.

19 You have time and time again urged all of us to
20 consider alternatives to dismissal. You've been very
21 proactive that way. And we appreciated that, to hear your
22 thoughts about how perhaps this could lead to a consensual
23 plan.

24 THE COURT: One thing that I never said was pick
25 your strongest cases, and those are the ones that ought to

1 be tried.

2 MR. STANG: In fact, I think you told us that we
3 weren't going to get to do that. Right?

4 THE COURT: Of course your motion omitted that.
5 It just said we think you ought to pick our strongest cases.
6 They need to get the message.

7 MR. STANG: We did say that. But on two
8 occasions, both before we identified the cases, we invited
9 the diocese to tell us what cases it would like to have as
10 test cases. And the answer was no, because they stand on
11 the position that they will only agree to test cases after
12 confirmation of a plan. Essentially only test cases for the
13 carriers. But not as to them because they'll have their
14 confirmation order. And not as to their affiliates because
15 they will have whatever releases would be in the plan.

16 So, no, you didn't tell us that you would just
17 sign off on what we wanted. But I will tell you in a few
18 moments why we picked those three cases. It might be of
19 interest to you.

20 So at the October 23rd hearing when you suggested
21 test cases, we listened. And we prepared the motion on the
22 basis that, well, maybe Judge Glenn has got an idea that for
23 all of the collective wisdom on this side of the podium, you
24 know, we didn't present yet. And so that's why we filed the
25 motion.

1 So on two occasions we asked the Debtor to
2 collaborate with us and have them pick the cases they want.
3 The first time before we identified the cases they said no.
4 And then after we identified the cases, they said no again.
5 Their no is evidenced by a plan that has to the best of our
6 knowledge absolutely no support at the state court counsel
7 level. And without the support of the state court counsel -
8 - and we heard this maybe ad nauseum in the motion to
9 dismiss -- they are never going to hit the 75 percent that
10 they need. And for all we know, the percentage may be
11 greater. Even under Purdue, it might be greater. Because
12 the 75 percent was the bare minimum. And there may be
13 circumstances where it should even be higher. But even at
14 75 percent, they're not going to make it with their plan.

15 So they have taken the position of no, we are
16 simply not going to discuss test cases with you. Not here
17 are a couple that we think evidence the weaknesses of the
18 cases and we have to then struggle with whether we would
19 tolerate that.

20 THE COURT: Let me ask you a question. I
21 recognize you're not state court counsel. But are there any
22 more developments to report before Judge Steinman, who has
23 indicated his desire to go ahead with -- is it four trials?

24 MR. STANG: Your Honor, I don't attend his status
25 conferences. My understanding is he is still pursuing and

1 pressuring people to move forward quickly with trials. I
2 know Mr. Stephens and me spoke this morning about some of
3 the things that he was doing -- he meaning Justice Steinman
4 -- regarding case management orders or form, discovery
5 objections and that sort of thing.

6 But in terms of identifying additional cases, I
7 don't know if other state court counsel are still on the
8 phone. By the way, Mr. Amala has dropped out of that
9 process because he has an Arrowood --

10 THE COURT: He has Arrowood cases.

11 MR. STANG: But if Mr. Stoneking is on, and I saw
12 Mr. Anderson appear, he might be able to give you a better
13 idea of what's actually going on, wherever over there is, in
14 the other courthouse.

15 THE COURT: I didn't contemplate these trials were
16 going to occur in federal court, they were going to occur in
17 state court. And Justice Steinman -- I reported I have not
18 spoken to him since the last hearing. Whatever
19 conversations I've had with Justice Steinman I have reported
20 on the record. But he's going to be the one to agree, okay,
21 those are the four or the six cases that we'll try. Not me.
22 I've tried to provide some general guidance and thoughts. I
23 mean, I thought that the opposition that Jones Day filed
24 missed the mark in a lot of respects. The notion that
25 personal injury cases don't get tried as bellwether trials

1 is not true. They cite General Motors. Judge Furman tried
2 a series of personal injury cases. Sure, there are
3 different priests who are alleged to have committed the
4 abuse, but the basic issue is pick a group of cases of the
5 victims and try those. Some strong cases, some not-so-
6 strong. (indiscernible) be involved and let Justice
7 Steinman decide, okay, those are the ones we'll try. All
8 right. But they're not going to be tried in my court.

9 I know this is not the disclosure statement
10 hearing. I've already spoken -- I've now read the
11 disclosure statement front to back. This is not a
12 disclosure statement hearing. I don't know whether the
13 Debtor plans to file an amended disclosure statement before
14 January -- what is it, 14th or 16th?

15 MR. STANG: 19th. 16th or 19th.

16 THE COURT: It's one of those dates. Yeah.

17 Doesn't disclose anything about the finances of
18 the parishes. What it says is we have given the Committee
19 information under a protective order. If they want to stand
20 on the disclosure statement, we'll go forward on -- they'd
21 better not file something three days before the hearing and
22 expect that the hearing is going forward.

23 They put a toggle in their plan, but they haven't
24 said what happens if Judge Glenn denies the motion to
25 approve the disclosure statement. Okay.

1 Look, I tried to think -- and you all are better
2 at doing this than I am I'm sure -- are there ways to sort
3 of break the ice to move this case forward that has any hope
4 of moving forward. I came up with the test case, bellwether
5 case approach. Get some data points for what these cases
6 are -- you know, what juries are going to value these cases.

7 I could certainly -- nothing in the -- the
8 disclosure statement gives the aggregate number of abuse
9 claims that have been filed. It gives the number when the
10 Court has sustained objections without leave to amend. It's
11 giving some projections. And again, you know, I looked at
12 it this morning. I'm just pulling it out of my head. You
13 know, whether it's going to be 500 or 450 claims that they
14 think are viable and they think they're going to confirm a
15 plan that only gives survivors \$100,000 and rights to
16 insurance. Without saying how many claims -- 135 parishes
17 and other related parties.

18 You've all told me in the past there are some
19 parishes with a lot of claims and some with none or a few.
20 If I were a state court plaintiff with no issues about
21 notice or anything and it was against a parish that only had
22 two or three claims and assets worth \$10 million, \$20
23 million, I could understand they would be leery about voting
24 in favor of a plan.

25 The disclosure statement suggests \$400,000 average

1 per claimant plus insurance.

2 Is it enough information for a survivor to decide
3 whether to vote in favor of the plan when they have no idea
4 how many claims against the priest or the parish, where
5 their claim lies, and what are the assets in that parish.
6 I'm sure I will hear this when I get to the disclosure
7 statement hearing. I'm not deciding it now. I have
8 questions about it. Okay?

9 They have a nice little picture chart and colors
10 with -- this was greater recovery than most of the diocese
11 cases that have been resolved before. You know, but Justice
12 Steinman tried six cases and three of them resulted in \$10
13 million verdicts and three of them -- you know, two of them
14 washed out completely and one miniscule damages. You know,
15 I mean, sure, creditors would have to think about am I
16 better off with something in hand. And they'll -- you know,
17 if the disclosure statement gets approved, if it goes out
18 for a vote, the creditors will decide. But the disclosure
19 statement is going to have to have adequate information.
20 And I'm sure the Jones Day lawyers will do their best to
21 persuade me that the four corners of that disclosure
22 statement have adequate information. I have my doubts,
23 let's put it that way. I expressed that before. I thought
24 before I got on the bench today, I would make sure I had
25 read it cover to cover.

1 MR. STANG: Your Honor, we also, since I know you
2 read everything, attached to Ms. Dine's declaration our
3 initial laundry list of issues. But I will add that when
4 that state court lawyer is advising a client other than a
5 committee member and one who is not on Judge Steinman's
6 released claim list -- because especially with Arrowood now
7 so many of them have gone away -- they have no idea what's
8 in the CVA files. There are state court counsel that
9 haven't signed the agreement that gives them access to the
10 Everlaw. But they have no idea. There is a universe of
11 claimants who will have no idea what the CVA files that have
12 been produced says about their claim, including notice
13 issues. Not a word.

14 And so as you know from -- our papers contain Ms.
15 Michaels' letter to the Debtor asking them to eliminate the
16 confidentiality designation for all the CVA documents, and
17 we have been told no.

18 We have to then move to -- I'll ask you -- I'll
19 ask the Debtor again, will you remove the confidentiality
20 designation from the CVA documents so that all survivors can
21 see the files that pertain to their case. Because we're
22 going to file a motion that -- I think we're going to file a
23 motion that does that. Because they said no to our request
24 as provided for in the various agreements and orders they
25 have regarding CVA access.

1 So it's one thing to know about the parishes'
2 assets. That's important. And you said very clearly last
3 time without that by a parish-by-parish basis, you're not
4 approving the disclosure statement.

5 But I would add that people are also in the blind
6 about what the diocese has. And even --

7 THE COURT: Maybe I can be persuaded that I don't
8 need to know how many CVA claims against each parish or
9 diocese-related party. It seems important to me, but maybe
10 I'll be persuaded I don't need that. And not saying there
11 has to be appraisals, but something that shows what are the
12 assets of the parish or diocese-related party. So creditors
13 could make an informed assessment whether to vote in favor
14 of the plan. It doesn't get to a vote unless I am satisfied
15 that the disclosure statement provides adequate information.
16 The purpose of adequate information is to inform the
17 creditors and allow them to make an intelligent choice as to
18 whether to vote in favor of a plan. And I'm missing, you
19 know, half of the standards that the cases have set. You
20 know, that's the gist of it.

21 MR. STANG: We'll have our formal objections. But
22 in addition to what was said in the attachment to Ms. Dine's
23 declaration, which we forwarded to the Debtor very promptly.
24 There is this issue that's going to come up before you
25 regarding whether the survivors should be allowed access to

1 information regarding what the Diocese knows about their
2 cases. And what's going on in Judge Steinman's court room
3 in part is that subpoenas are being served on the Debtor as
4 a non-party. It's possible that if you grant these three
5 test cases -- and welcome to -- we've invited them twice.
6 I'll invite them a third time. Please tell us what cases
7 you want to have as test cases. But maybe those will
8 overlap. Maybe bringing -- the Debtor is named in one of
9 the lawsuits. High schools which -- and you saw some
10 correspondence back and forth about whether the actions
11 against the high schools are stayed or not. Maybe we will
12 get into that today.

13 There's one involving ecclesia that we've agreed
14 vis-à-vis the preliminary injunction should not have been on
15 the flight list. It should be back on the no-fly list. But
16 now we're asking you to give relief from the stay as to it.

17 But those survivors should be able to find out how
18 strong their cases are or weak their cases are by seeing the
19 CVA documents. Like I said, there are hundreds and hundreds
20 of people who have no access to those documents today. And
21 whether or not their counsel is signed in Everlaw approval
22 document, access document, or even if they have, if it's
23 limited --

24 THE COURT: And let me ask you this. I'm
25 obviously not deciding it today. You've met and conferred

1 with the Debtor about the relief you suggest that you be
2 granted?

3 MR. STANG: We sent them a latter asking them.
4 They told us no.

5 THE COURT: Make a motion. File your opposition.

6 MR. STANG: So, Your Honor, I'll try to cut to the
7 chase here.

8 THE COURT: The motion that you made is denied.
9 Because making a motion is not an opportunity to negotiate
10 with me about who should pick the cases, weak cases, strong
11 cases. You filed a motion and you said let us pick the
12 strongest cases. That's not how it works. Okay? That's
13 not what the purpose of bellwether trials are, test cases.
14 It's to set the data points so that potentially all -- the
15 plaintiffs and defendants can all get a sense of this is
16 kind of the -- here's a selection of cases, this is the
17 range of outcomes in those, and it should guide the
18 discussions and negotiations.

19 And, you know, in GM, it served exactly that
20 purpose. Judge Furman tried a bunch of bellwether trials.
21 Some of them settled before they actually were tried. And
22 basically all of them settled.

23 MR. STANG: Your Honor, I appreciate that
24 bellwether is in the context of sheep, so I am mixing my
25 analogies. But the horse won't eve approach the water.

1 We've asked them twice. They have -- Ms. Ball could not
2 have been clearer with me --

3 THE COURT: So let the state court counsel tell
4 Justice Steinman these are the cases that already tried. If
5 they say, you know, we don't think there should be any more
6 or -- fine.

7 MR. STANG: But, Your Honor, those cases -- and
8 we made the decision on preliminary injunction opposition as
9 to which cases we would ask to -- which cases the opposition
10 would address and which ones it didn't.

11 But having the empty chair of the diocese in Judge
12 Steinman's courtroom is not as helpful -- it would be much
13 more helpful to have them there.

14 THE COURT: You could have moved to lift the stay.

15 MR. STANG: And how do I have a conversation about
16 data points with someone who just keeps on saying no to me.
17 And so you know what? I would have liked to have done it
18 the way you suggested. But when were told no the first --
19 when Ms. Ball stands up here and says only if there's a
20 confirmed plan, which means only as to the carriers and we
21 get told no twice, what are we supposed to do?

22 So if they want to come up and tell you the three
23 cases that they think are going have state court counsel
24 strike out, so be it. But they won't talk to us about this.

25 So I'm not -- I don't know -- we didn't know what

1 to do except say these are our three.

2 THE COURT: So I've lost count of the number of
3 cases that the district court and Eastern District -- it's
4 like eight or nine judges now have remanded to state court.

5 MR. STANG: Well over half. And some are just
6 sitting waiting -- they're waiting for a decision.

7 THE COURT: Are they all Arrowood cases or are
8 they...

9 MR. STANG: No, no. We also have the 157 -- the
10 something motion in front of the Southern District of New
11 York where they're trying to get him back that way. And so
12 it's kind of a two-pronged attack to make sure that
13 (indiscernible) removal and then the 157 motion --

14 THE COURT: And anything happen in that?

15 MR. STANG: She withdrew the reference without
16 giving us an opportunity to be heard. We briefed that
17 issue, and she's sitting on a ruling regarding whether the
18 matter should return. But Ms. Dine is standing, so...

19 MS. DINE: Your Honor, Karen Dine, Pachulski Stang
20 Ziehl & Jones on behalf of the Committee.

21 My understanding is there are about 40 cases
22 currently pending before Judge Steinman.

23 THE COURT: Non-Arrowood cases?

24 MS. DINE: Yes. That are active and ongoing is
25 what I meant to say.

1 THE COURT: And none of those include the Debtor
2 as a defendant. Because when you move -- when you --

3 MR. STANG: Your Honor, there are two high school
4 cases that --

5 MS. DINE: Actually, there's -- sorry.

6 MR. STANG: I'm sorry. I will yield to Ms. Dine.

7 MS. DINE: Your Honor, there are a number of
8 cases. We know of at least two where the Debtor has taken
9 the position that those were -- that those are not
10 separately incorporated and basically doing business as.
11 And so the diocese is a defendant in those cases. And I
12 believe that they have identified several others. And as
13 you may have seen from the correspondence, they actually
14 recently requested that we reaffirm the stay with respect to
15 those cases. And what we pointed out to Your Honor is at
16 least with respect to those two, the request to stay the
17 cases have actually been made by the plaintiffs in those
18 cases about six months ago. And the debtor said, well, the
19 order says they are not stayed, that Your Honor's order on
20 the preliminary injunction says they are not stayed. So
21 those have gone forward. So our position is that all of
22 those allegedly DBA cases should continue to go forward,
23 although we did agree that the -- and Your Honor, I believe
24 a notice of presentment was filed today -- that there were
25 places that implicate the ecclesia insurance where we did

1 agree that those could be restated effectively. But that is
2 where we are. And as Mr. Stang is saying, while those 40
3 cases are going forward, while there is some number that do
4 include the diocese -- and naturally that's the purpose of
5 the test case motion was for relief from the stay for others
6 to go forward against the Diocese.

7 MR. STANG: Your Honor, one of our test cases
8 involves this DBA. It was a high school that I think
9 eventually ended up with the Department of Education. But
10 before that happened, it was an unincorporated entity. It
11 was Proof of Claim 960. And it has LMI, interstate
12 insurance. And when you add up all the available insurance,
13 we believe it's \$149 million per occurrence, including
14 primary and aggregate. There is an SIR on that one of
15 \$200,000.

16 If you counted each act of abuse separately --
17 there's precedent for that -- the allegations are 8 to 13
18 instances of abuse. So you can see these insurance numbers
19 really start to mount up.

20 And initially Mr. Lee James wrote to the Debtor --
21 I forget which counsel -- and said hey, you know, these seem
22 to be -- you're taking the position that -- are you taking
23 the position these are stayed. I think Mr. James got the
24 notice of deposition.

25 And they wrote back and said no, no, no, they're

1 not stayed because the preliminary injunction order said
2 these aren't stayed. And there was a schedule and this
3 case, Mr. James' case was on the schedule. Then --

4 THE COURT: You all gave me a list of the cases.
5 I mean, I didn't --

6 MR. STANG: Absolutely. They then come back and
7 say no, they are not stayed. And now they're saying they
8 are stayed, they should have been stayed. Inadvertent? I
9 don't know. They should be stayed.

10 So after six months of Mr. James and other people
11 who have cases against those DBAs are working in Justice
12 Steinman's courthouse and moving the cases along. Now all
13 of the sudden we think they're stayed when in correspondence
14 what you have, Mr. James was told they were not stayed.

15 So we did agree to the ecclesia. They got moved
16 over to the no-fly list. But that's one of the test cases
17 to bring the Debtor in -- I mean, the high schools were
18 named. So the Debtor is there on that one.

19 The second proof of claim -- the second test case
20 has coverage -- occurrence coverage limits of \$359 million.
21 The SIR on that is \$600,000. This is against Father Soave,
22 who was one of the most notorious of the abusers. Numerous
23 times are alleged in the abuse documents.

24 So there are two LMI interstate cases. One names
25 the debtor by name. The other names the two high schools or

1 a high school, which they'll tell you whether it's
2 (indiscernible) or not, because I can't keep track of what
3 their position is as of today. And then the third one is an
4 ecclesia case, which we agreed should be off Justice
5 Steinman's list and now we're asking you to relieve it.
6 There the coverages are much less. But it really highlights
7 why the Debtor and the affiliates need to step up and really
8 cinch their belts and do more. There the coverage is
9 \$750,000 with an SIR of 250. And there were 30 instances of
10 abuse during the course of -- according to the proof of
11 claim. So now the defense costs in that case do reduce the
12 750. So those are the three cases. We had Arrowood cases,
13 but they had to go away.

14 So like I said, Your Honor, I can't make the horse
15 drink the water. I know you don't like what we did. But
16 what was I supposed to do?

17 THE COURT: So the record is clear, I haven't
18 heard the other side. I don't need to. Your motion was
19 filed as ECF 2767. You asked for too much. Your motion is
20 denied. I'm not going to get into negotiating what the
21 scope of the relief should be. I still think...

22 For the -- I'm just going to use this -- I'm going
23 to use 500 claimants just a number. You know, they went
24 through the math, subtracted out the number where I had
25 expunged the claims without leave. I still think if the

1 case gets dismissed, it's going to be a really interesting
2 issue -- maybe even not so interesting -- in state court
3 whether my rulings applying federal pleading standards has
4 any preclusive effect when each of those rulings acknowledge
5 the state court uses a different pleading standard.

6 I can just say if I was a state court judge, I'd
7 say, oh, that's nice. But that's not state law. We're back
8 in state court. You can all argue about it if it gets back
9 there. Okay.

10 MR. STANG: And certainly not as to the parishes
11 or anybody who is not a debtor.

12 THE COURT: Mr. Stang, if I were one of the many
13 claimants, I would have very mixed feelings if three of them
14 were tried and they resulted in multimillion dollar verdicts
15 and they raced to collect. It's great if you were a
16 claimant who wasn't going to get their case tried for a
17 couple of years whether there's anything left to collect.

18 So I've thought all along and I've said it, I
19 think the claimants are much better off with a confirmed
20 plan. It may be they don't like the one that they've
21 proposed, but after the first few claimants hit home runs at
22 trial, the rest of the claimants are going to think is there
23 going to be anything left by the time I get to try a case?

24 MR. STANG: Your Honor, we filed the motion to
25 dismiss out of frustration. We had hoped that the Debtor

1 and the affiliates and the carriers would see the wisdom of
2 try to engage with us. On October -- November 1st -- I
3 think it was the 1st -- I'm sorry. In connection with the
4 dismissal motion, you talked about a consensual plan.

5 Now, there have been three cases where plans have
6 been filed by committees. Harrisburg and Guam where the
7 disclosure statements weren't even approved, and consensual
8 plans were reached in each.

9 In the Archdiocese of St. Paul Minneapolis, plans
10 went out for vote. More than 90 percent of the survivors
11 voted against the Archdiocese plan and voted for the
12 survivor plan and vice versa. And Judge -- I think it's
13 Kressel -- did not approve either. And it went back and
14 they finally reached an agreement.

15 THE COURT: So will you finally reach an
16 agreement, please?

17 MR. STANG: Your Honor, if I could even know -- if
18 I could even know whether the \$200 million, which is their
19 headline number -- and I do mean headline in the pejorative
20 sense -- after all the deducts actually is a number that I
21 could even compute. But they have said -- and we wrote to
22 them and asked them in our objections to the disclosure
23 statement. We have yet to receive a response. When you say
24 it's 200 less all allowed administrative expenses, is there
25 anything left at all? I mean, the fees in this case -- you

1 hear reports they are \$80 million, \$100 million. They're a
2 lot. Is that coming out of the 200? Because that's what
3 your plan says. And what about all the other deducts. So
4 if I knew a number that I could actually put a pin on --

5 THE COURT: Stop with the -- it doesn't do any
6 good making this argument to me.

7 MR. STANG: Your Honor, I've made it to them. We
8 have not received a word in response to our disclosure --
9 our first stab at a disclosure statement list of objections.
10 Not a word.

11 THE COURT: Can I ask you a question? What do you
12 do -- because I know you're involved in cases in the Fifth
13 and Ninth Circuits.

14 MR. STANG: Yes. And we had some in the Tenth.

15 THE COURT: Where third-party releases are not
16 available.

17 MR. STANG: Right.

18 THE COURT: What do you do in those cases?

19 MR. STANG: We get everyone to sign off. You
20 don't get your money unless you sign a release. We have
21 never had an objection. I've had two cases in the Tenth
22 Circuit. The Fifth Circuit, Judge Grabel has still got that
23 pending. We had Spokane --

24 THE COURT: You know she is one of my former law
25 clerks.

1 MR. STANG: I know. Spokane. We cite to you all
2 the time. We had Spokane, Fairbanks, Jesuit. San Diego
3 dismissed voluntarily. Stockton. Not a single person held
4 back giving a release. Not one.

5 THE COURT: And what was the recovery per claimant
6 average in those cases? Yeah, well, you don't even talk
7 about that.

8 MR. STANG: It varied. And some of them overlap
9 because, for example, Spokane -- it was like a triangle.
10 Spokane, Fairbanks, and Jesuits were all Jesuit-type cases.
11 And some people collected from all three. So it's a little
12 hard to add up. But it was well north of the headline
13 number when you consider that some of these people had
14 claims against different entities because of the Jesuit
15 connection.

16 And I don't remember Gallup and -- before Judge
17 David Thuma, Gallup and Santa Fe. I don't remember the
18 numbers.

19 But, Your Honor, I've said it in pleadings, I've
20 said it to you. What got paid in another case is
21 irrelevant. It really is. The assets differ. The judge in
22 San Diego. We have a view of the Pacific when she was told
23 we were going to (indiscernible). The insurance programs
24 are different. And so I frankly think --

25 THE COURT: They're tossing in all the insurance.

1 MR. STANG: I'm sorry?

2 THE COURT: They want to toss in all the
3 insurance.

4 MR. STANG: Yeah. Thank you for Arrowood. Thank
5 you very much. That's a big headline number.

6 THE COURT: Well, that's -- you know, you take the
7 case as you find it.

8 MR. STANG: You're right. And don't tell
9 everybody you're going to make all this money when they know
10 full well that Arrowood is a very tough nut to crack. I've
11 got insurance counsel who can't wait to tell us why there
12 are coverage defenses and why they don't have to pay --

13 THE COURT: I'm sure you read the new case
14 yesterday.

15 MR. STANG: Yes, I did.

16 THE COURT: I have it sitting on my desk inside.

17 MR. STANG: Look at the LMI opposition that they
18 filed to the test case motion. We're not paying any defense
19 costs. We don't have to pay anything until it's all done.
20 This is what we are facing and why we think the test cases
21 are -- and I heard you. I know I'm not going to change your
22 mind as I'm arguing, at least I don't think I'm going to.

23 We keep on trying and we keep on getting told our
24 way or the highway. And I know what they're going to say to
25 you; let the creditors vote. And the answer is, you know

1 what? If you could even show me that you're making any
2 progress -- on two occasions this Debtor has tried to go
3 around the Committee to talk directly to the state court
4 counsel. And one time -- we cite it to you in our papers --
5 you said, really? You know, without the Committee? No case
6 has ever been confirmed without Committee support in the
7 cases that I've had or any of the ones that my competitors
8 have had. Not one.

9 And so they have -- they reached out a second time
10 recently to state court counsel again. This time at least
11 they copied me with their letter. I'm not aware of a single
12 law firm that has said we like your proposal. Not one. And
13 so -- and maybe they've got one, but they ain't getting the
14 75 percent. Because I know the state court counsel who are
15 on the committee, and you heard them testify. And this plan
16 is not all that much different except they put the toggle
17 on. It's really not that much different.

18 So I can't make heads or tails of their disclosure
19 statement, either. I can't tell who is going to get paid
20 the promised \$100,000 or who is not. Because if you're
21 litigating, you're a litigant-claimant, you don't get it.
22 Of course they get to decide who that is.

23 There's just -- when I reviewed the list of
24 objections today in preparation for the hearing, I go like,
25 wow, another page? Another page? There's quite a bit.

1 THE COURT: Let me hear from Ms. Ball.

2 MS. BALL: Thank you, Your Honor. And thank you
3 for denying the motion.

4 THE COURT: It may not stay that way. If it was a
5 real motion...

6 MS. BALL: We hear you, Your Honor. Just as we
7 heard you on all the points you raised again today. But now
8 that we know you are not suspending the case, is that a...

9 THE COURT: I am denying their motion.

10 MS. BALL: All right. Now that we know that --

11 THE COURT: But imposing a 50 percent holdback.

12 MS. BALL: I understand that. I think we'll work
13 that out on how the \$200 million is affected. But let me
14 start with three facts that we would like to share with you.

15 And they're not known, but every single issue you
16 raised today will be known on a public basis by this time
17 tomorrow.

18 THE COURT: You're waiting until tomorrow? Why
19 don't you --

20 MS. BALL: Well, if you're going to suspend the
21 case, Judge, why would we have filed it?

22 THE COURT: Because you had confidence in your
23 position.

24 MS. BALL: I do. Thank you. Thank you, Mr.
25 Geremia and Judge. But all those facts that you talked

1 about will be there.

2 But the second thing that I want to remind --

3 THE COURT: By the way, if I said test cases, it
4 wouldn't necessarily mean suspend the case while that goes
5 on. But that's a different issue.

6 MS. BALL: Okay. The second thing that I want to
7 draw your attention, we keep getting pillared for reaching
8 out to state court counsel. Your Honor, in this case, as
9 will be obvious from the exhibits we file tomorrow --

10 THE COURT: Are you filing an amended disclosure
11 statement tomorrow?

12 MS. BALL: That will follow with the trust
13 distribution procedures as well. We took -- and we thank --
14 actually, we thank Ms. Dine for her comments on the
15 disclosure statement and we are busily working on that.

16 But we met with at least 16 of the roughly 20
17 state court counsel in all of these cases. And we shared
18 with each one in detail the number of cases that they had
19 against each parish and what the competition of other cases
20 were in that parish.

21 THE COURT: Are you putting that in a disclosure
22 statement?

23 MS. BALL: Yes, we are. It's all going to be
24 there. Because we've already shared it. They all know it.

25 THE COURT: I wish you had shared it to me before

1 I spent the time going through every page.

2 MS. BALL: Well, now you deny the motion, that
3 will be there.

4 In addition to that, Your Honor, we met with
5 counsel. We asked them exactly the question you just asked,
6 which is what are you going to do. Your Honor saw from the
7 disclosure statement that we filed that there are 312 cases
8 against parishes that have three or more cases.

9 And so when we met with each of these counsel, we
10 asked them, what are you going to do? How can dismissal
11 help you at all? They said, well, we'll have insurance.
12 Given all the complications on foreclosing on churches and
13 schools, we'll still have the insurance. Which is what led
14 -- frankly, and I think it's a concession that the committee
15 made -- that they're looking for more money. It's all going
16 to come from three places, Judge. Co-defendants, which Mr.
17 Stang just spoke eloquently about with the Jesuits, they are
18 free to go after co-defendants here. Of course, including
19 the Jesuits, the Franciscans, the Marists. No one is
20 stopping that. That's free. Our claim doesn't even touch
21 that.

22 But beyond all that information and disclosure
23 that we have made already, the three places you get more
24 money are working with us to increase the borrowing against
25 Arrowood and line up against New York state with the benefit

1 of the decision Your Honor just recognized that we got out
2 of New York Supreme on Friday night against Chubb. Co-
3 defendants, if you want our help in trying to get them to
4 come in and put in more money, we're happy to do that. We
5 offered that. So insurance co-defendants and whatever we
6 can get on an Arrowood borrowing. They don't talk to us
7 about that. So this failure to communicate seems to
8 continue.

9 But in any event, our failure to communicate with
10 you, Your Honor, is clearly being remedied. By this time
11 tomorrow, they will have those exhibits. Shortly after that
12 --

13 THE COURT: As I said, I would have appreciated
14 reading it before I spent hours and hours...

15 MS. BALL: Well, it's not going to change that
16 much. But it will give you the facts behind what you
17 wanted.

18 I am sorry that Your Honor went through that. But
19 if we were -- as you know, we had homework to do, which we
20 did. And in the face of the motion to suspend, part of our
21 homework was, well, if that happens, you shouldn't do it.
22 But if you deny the motion, it will now be there. And my
23 apologies, Judge, that our homework, we got connected to
24 that consequence which you have now undone and that
25 information would clearly be there.

1 So, Your Honor, the other fact is it is also
2 unknown to Mr. Stang, through no fault of his own, but I can
3 tell you we are getting responses from state court counsel
4 who are waking up to the reality of what dismissal will mean
5 to them and their clients. And I think in some respects I
6 don't know how two-thirds of the claimants in this case --
7 well, a little bit less -- almost 65 percent affected by
8 Arrowood, which means that they can't even try their cases,
9 at least for six months. A lot of people think a lot
10 longer. It may have caused people to seriously rethink.

11 But we are standing, there is no more from the
12 parishioners and there is no more from the diocese. That's
13 where we are. The other three sources remain; co-
14 defendants, insurance, and getting in the boat and rowing
15 with this.

16 THE COURT: You say no more from the parishes. It
17 will be interesting to see what happens if some of the
18 plaintiffs' lawyers hit it big against the parishes. Are
19 they really going to be saying no more?

20 MS. BALL: Well, Your Honor, aren't you assuming
21 that a parish would withstand the verdict?

22 THE COURT: I'm sorry?

23 MS. BALL: Aren't you assuming that a parish would
24 withstand the verdict?

25 THE COURT: They'll get every penny they can out

1 of a parish.

2 MS. BALL: How?

3 THE COURT: Well, we'll see I guess.

4 MS. BALL: We'll see.

5 THE COURT: Let me ask you a couple of questions.

6 You may know the answers to these. So there are how many

7 cases in state court that have been filed? Two-hundred-

8 and...

9 MS. BALL: You mean overall? No, Your Honor.

10 Including cases against the Diocese -- Mr. Stephens, correct

11 me -- but it's over 400.

12 MR. STEPHENS: Yes. It's approximately 450 in

13 total, Your Honor. Roughly half of those name the Diocese

14 and are subject to the automatic stay. And the other

15 roughly 225 were the subject of the PI hearing.

16 THE COURT: Here's my question. I don't know,

17 maybe there isn't anybody in this category. Are there

18 people who filed claims in this case who did not file state

19 court actions?

20 MS. BALL: Yes.

21 THE COURT: And what happens if the case is

22 dismissed because the window closed on CVA? What happens to

23 them?

24 MS. BALL: Well, that's a very good question, Your

25 Honor. We have asked the Committee if they've considered

1 that. I don't know. But maybe they have an answer.

2 THE COURT: So you don't have an answer.

3 MS. BALL: I don't have an answer, Your Honor.

4 THE COURT: Your position is what?

5 MS. BALL: But we have pointed out to them the
6 number of pro se claimants, mostly pro se. Some with
7 lawyers as well. And we've met with individual state court
8 counsel --

9 THE COURT: How many --

10 MS. BALL: This -- we asked that.

11 THE COURT: How many people does that involve?
12 How many people filed claims in this case who do not have a
13 pending state court action?

14 MS. BALL: I am hearing directionally, Your Honor,
15 the number is somewhere in the area of 50.

16 THE COURT: In what?

17 MS. BALL: I think it's in the area of 50.

18 THE COURT: Okay.

19 MS. BALL: Fifty. But we can't -- we obviously
20 can confirm that again with the Committee.

21 THE COURT: I spent a little bit of time thinking
22 about what happens if the case gets dismissed. What are the
23 consequences of it? How many people are there who filed
24 claims in this case but don't have pending state court
25 actions? The CVA window closed. I don't know whether there

1 is a state court doctrine that would allow them to file
2 lawsuits in state court. That was one area I thought about.

3 I also thought about what happens to the adversary
4 proceedings that have been filed here.

5 MS. BALL: Your Honor, only one remains unsettled.

6 THE COURT: That's the cemetery?

7 MS. BALL: Cemetery. And I think it will become
8 clear that we are working very hard on bringing a settlement
9 for that and have counted on it as we move forward towards a
10 plan.

11 THE COURT: What happens --

12 MS. BALL: It is dismissed --

13 THE COURT: What happens to the four district
14 court insurance coverage adversaries?

15 MS. BALL: I think if Your Honor looks at our
16 proposed order of dismissal that we attached to the motion
17 to approve our solicitation procedures, we provide that
18 those continue. Post-coverage will still be an issue.

19 THE COURT: Because I looked -- a complaint today,
20 and it alleged 1334 jurisdiction. I think there may be
21 diversity as to all of the insurers who are named, and it
22 doesn't assert diversity jurisdiction. But I did have a
23 question. What happens to those cases? Do they have to
24 start all over again? Maybe they start in New York Supreme
25 Court.

1 MS. BALL: I think, Your Honor, that would depend
2 on whether the insurers move to dismiss for a lack of
3 jurisdiction. And we don't think they will succeed. But
4 our order at least preserve those actions.

5 THE COURT: Well, your order can say whatever it
6 wants. It doesn't mean it's necessarily the order that gets
7 entered.

8 MS. BALL: I understand, Your Honor. But that's
9 our proposal.

10 THE COURT: I just don't know whether -- I tried
11 to think through what are the consequences. I thought about
12 insurance coverage claims, I've thought about proofs of
13 claim where there's no state court action that was filed.

14 MS. BALL: Proofs of claim in Delaware on
15 Arrowood. Pursuing the New York State Security Fund as the
16 only insured that has a massive claim worth fighting them
17 on.

18 THE COURT: All right. I don't know. This is not
19 the time for it.

20 MS. BALL: Your Honor, this is -- all I wanted to
21 do was clarify that all that information -- we heard you
22 will be available. We're aiming for this time tomorrow.
23 State court counsel are talking -- oh, by the way, Your
24 Honor, the reason why we were talking to them was so they
25 would be aware of this information. They weren't.

1 THE COURT: The only other point I would make on
2 it is as I understand it, the two mediators are willing to
3 resume.

4 MS. BALL: Well, let us think about that, Your
5 Honor. But I apologize for the length of what I said given
6 your action in denying the -- I just wanted to point out
7 those three sources, the ones that Mr. Stang identified in
8 California were made available here to the Claimants, co-
9 defendants. Have at it.

10 THE COURT: In denying Mr. Stang's motion, it is
11 in no way intended to preclude if Justice Steinman has a
12 proposal that he is going to make to counsel in the case and
13 they make another motion to lift the stay as to particular
14 actions to the extent there is a stay. What I ruled in
15 denying there motion is not at all intended to suggest that
16 such a motion wouldn't be appropriately considered and ruled
17 on.

18 MS. BALL: I understand that, Your Honor. And
19 since we've heard -- we understand Judge Steinman has
20 control over his -- I thought it's roughly 50 cases.
21 Correct? And perhaps you can address the discovery issue.

22 MR. GEREMIA: There are roughly 44 --

23 THE COURT: Identify yourself.

24 MR. GEREMIA: May it please the Court. Todd
25 Geremia from Jones day for the Debtor.

1 Your Honor, there are 44 cases being actively
2 litigated before Judge Steinman that involve parishes.
3 There are a separate group of six of those that are high
4 school cases.

5 As to the 44 cases -- and you heard Mr. Stang
6 talking about the fact that they want to proceed as against
7 parishes and proceed with respect to insurers -- there is
8 that whole universe of cases that is proceeding before Judge
9 Steinman.

10 THE COURT: None of those are Arrowood cases.

11 MR. GEREMIA: None of those are Arrowood cases.
12 Judge Steinman has directed that any case subjected to the
13 Arrowood stay will remain stayed unless and until a
14 plaintiff brings the issue before Judge Steinman to try to
15 get that case to resume.

16 THE COURT: Okay.

17 MR. GEREMIA: So those cases are proceeding. The
18 Diocese is providing non-party discovery with respect to the
19 parish cases. We are just now in the process of working out
20 a coordinated procedure at Judge Steinman's direction to
21 arrange for a uniform set of disclosures, a uniform
22 response, and a procedure to arrange for coordinated
23 depositions of diocesan personnel.

24 One of the many reasons -- there's no point in
25 piling on test cases on top of that. They've already got

1 all these cases being actively litigated.

2 THE COURT: Well, the test cases may be among
3 those. I don't know.

4 MR. GEREMIA: Yeah. In fact, state counsel
5 proposed four test cases to Judge Steinman from among that
6 universe.

7 THE COURT: And you're not -- I don't know, who is
8 representing the parishes in those cases?

9 MR. GEREMIA: Parish have separate counsel, Mr.
10 Davie and Charles Adams.

11 THE COURT: Did the parishes suggest that test
12 cases ought to include -- you know, if it's going to be
13 meaningful, it's going to be an array of cases, strong and
14 weak. Because otherwise it's a meaningless exercise.
15 Meaningless exercise for those who it payday. And I take it
16 you remain unwilling to confer with the Committee about
17 selection of any test cases.

18 MR. GEREMIA: We do, Your Honor. I mean, for some
19 of the reasons addressed in our papers, we don't think it's
20 appropriate in this context.

21 THE COURT: Well, I think your opposition, which I
22 read carefully and read some of the cases cited, is not
23 well-taken.

24 MR. GEREMIA: It's also going about it improperly.
25 You don't just leapfrog the whole process by plucking out

1 cases and saying we're going to --

2 THE COURT: No. You would meet and confer and you
3 would agree that we're each going to pick two, we're each
4 going to pick three. We think they should more or less be -
5 - you know, what the characteristics should be. That's what
6 happened in GM. Okay. There was an initial flurry of
7 activity as to what happened. But that's essentially what
8 happened. That's what -- that's what happens when
9 bellwether or test cases are suggested. There's a dialogue.
10 There is a selection. They're intended to be representative
11 in some fashion or another. But people engage in good faith
12 in discussions. They don't just say just say no. And
13 that's what your position is. So we'll deal with it
14 accordingly.

15 MR. GEREMIA: Yeah. And we don't think there's
16 ever been a case, abuse context, where this has been an
17 appropriate mechanism.

18 THE COURT: You know, if the case gets dismissed,
19 you're going to be in that context. You're going to be in
20 that context. And you're hanging on by a bare thread. If a
21 disclosure statement gets denied and the Committee -- I'm
22 not going to sua sponte rule. If the disclosure statement
23 gets denied and the Committee makes a motion to dismiss,
24 what I said in the last order I entered, I meant. Okay? It
25 seems obvious to me the committee didn't really mean it. I

1 questioned whether they really meant it then. But
2 subsequent history shows they didn't really mean it. But
3 there comes a point where they say we really mean it, Judge.
4 This has gone on too long. You know, we put off from the
5 docket for today the motions to remand to state court in New
6 York County. Those will come on for hearing.

7 MS. BALL: We are aware of that, Your Honor. I
8 rise only for two reasons. One, I am corrected by my
9 colleagues that the number of POCs without a CVA action is
10 150 of our remaining 500. So the issue is much larger than
11 I had initially thought. And of course we will share that
12 list with the committee if they don't already have it.

13 Your Honor, just food for thought. And this is
14 certainly not my area and certainly not Mr. Stang's area.
15 But to the extent that you draw a ring around cases you
16 think will make it to trial, haven't you already preselected
17 cases that aren't representative?

18 THE COURT: No, we haven't.

19 MS. BALL: If you just erase --

20 THE COURT: No, I'm sorry.

21 MS. BALL: If you just erase the notice issue,
22 Judge, if you erase it, what kind of test cases do you have?
23 You need pretrial procedure.

24 THE COURT: So tell Justice Steinman that you want
25 noticed cases.

1 MS. BALL: Guess what we are doing, Judge Glenn?

2 That is exactly what we are doing. Thank you.

3 THE COURT: And produce all of your files so that
4 everybody -- all other claimants can --

5 MS. BALL: Well, that is -- indeed, I didn't know
6 you wanted to hear about discovery. But that is indeed
7 pending in front of Judge Steinman.

8 THE COURT: I know. If you can't work it out and
9 it comes here, I will decide it.

10 MS. BALL: Well, Judge Steinman may decide it
11 when? This coming week?

12 THE COURT: I'll be very happy if he decides it.

13 MS. BALL: It's before him.

14 MR. GEREMIA: There is a process in place to
15 determine if the Diocese is going to be producing abuser-
16 specific files in each case and there will be a process
17 further to that for --

18 THE COURT: I would be much happier if he decides
19 it than I.

20 MR. GEREMIA: Yeah. It's underway in state court.

21 THE COURT: All right, Mr. Stang?

22 MR. STANG: Your Honor, my comment wasn't just
23 about those cases about Justice Steinman, it was
24 (indiscernible).

25 Just two comments.

1 THE COURT: Do you have a position on what about
2 those people that filed proofs of claim that haven't filed?

3 MR. STANG: Section 108. They have 30 days.

4 Your Honor, we are asking you to continue the
5 disclosure statement if in fact they file it tomorrow. I
6 wasn't quite sure I heard a commitment to that. It sounded
7 like we were close. But we need our full --

8 THE COURT: It sounds like they're filing exhibits
9 to the disclosure statement. I don't know whether they're
10 filing the disclosure -- a new disclosure statement.

11 MR. STANG: Given the holidays and our entitlement
12 to 28 days' notice, we would ask that the disclosure
13 statement hearing be vacated because we will not have the
14 full period of time. And you made a comment at the last
15 hearing about deadlines -- the effect of holidays. And we
16 should be given full time and not have to deal with the
17 Christmas --

18 THE COURT: You were the unreasonable one.

19 MR. STANG: Sorry?

20 THE COURT: You were the unreasonable one.

21 MR. STANG: No, they were.

22 THE COURT: Oh, were they?

23 MR. STANG: I think you blamed them. I think it
24 was shame on you. Right, right.

25 THE COURT: You're right. It was shame on them.

1 It was shame on the Debtor. I apologize, Mr. Stang.

2 MR. STANG: It's okay. There will be occasions,
3 I'm sure. We've already had them earlier today.

4 So we are asking to have that vacated.

5 THE COURT: I'll have to see what they file. Put
6 in a letter -- after you see it, you can -- don't file a
7 formal motion. File a letter request.

8 MR. STANG: Okay. Thank you.

9 THE COURT: First ask them and then --

10 MS. BALL: The 28 days to the 16th is from today.
11 So we may be behind, but not by much. And we would
12 anticipate --

13 THE COURT: You want Mr. Stang to work on New
14 Year's Eve on your papers.

15 MS. BALL: No. I will notice it tomorrow. And to
16 the extent --

17 THE COURT: You want me to work on New Year's Eve?

18 MS. BALL: No, I don't. I hope all of this will
19 be filed this week, Your Honor. That is our objective.

20 THE COURT: I'm leaving on Friday and coming back
21 on January 2nd.

22 MS. BALL: Well, do you want it or not?

23 THE COURT: And I wasn't planning on reading
24 several hundred pages disclosure statement --

25 MS. BALL: Well, you already read it. So

1 blackline should be very helpful.

2 THE COURT: Thank you very much.

3 MS. BALL: And the exhibits answer your questions.

4 THE COURT: Thank you very much.

5 MS. BALL: Well, Your Honor, time is money.

6 THE COURT: Please -- well...

7 MS. BALL: And you've just made that clear. And
8 we painfully understand it.

9 THE COURT: Maybe it should be a higher holdback.
10 I don't know. In deciding when I'm going to hear it, I will
11 primarily take account of my schedule and my law clerks'
12 schedules. Because I am not going to have us knock
13 ourselves out because you decided to file just before the
14 Christmas and New Year holiday. So we'll see. So talk to -
15 - let him see what you file. Talk to Mr. Stang as to
16 whether you can agree on an adjustment schedule. If not,
17 I'll see what happens when I see it.

18 MS. BALL: As you said, it will be up to Your
19 Honor in the end. And we can only recommend to you. Thank
20 you, Your Honor.

21 THE COURT: Mr. Stang is correct. It was one of
22 your colleagues that I got very upset about not respecting
23 professional courtesy with respect to scheduling. Take my -
24 -

25 MS. BALL: Your Honor --

1 THE COURT: Use some professional courtesy to me
2 as well. Okay?

3 MS. BALL: He was well-intentioned and motivated
4 by what he had read in Mr. Moore's declaration about the
5 longer it takes, the less money we have. Not to burden
6 anyone. But it's now the 16th. That's 28 days from today
7 or tomorrow depending on how you count. So we are doing
8 what we can.

9 And thank you, Your Honor. We did our homework,
10 we'll be ready.

11 THE COURT: I want to be clear; I don't want to
12 spend my holiday break reading your papers. Okay? That's -
13 - I won't say any more about it now. Okay. We are
14 adjourned.

15 (Whereupon these proceedings were concluded at
16 3:54 PM)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

Veritext Legal Solutions
330 Old Country Road
Suite 300
Mineola, NY 11501

Date: December 21, 2023

Exhibit 2

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

-oOo-

In Re:) Case No. 23-40523
) Chapter 11
THE ROMAN CATHOLIC BISHOP OF)
OAKLAND) Oakland, California
) Tuesday, January 20, 2026
) 1:00 PM
) Debtor.)
_____)

- 1. STATUS CONFERENCE
- 2. MOTION FOR SALE OF
PROPERTY DEBTORS MOTION FOR
ENTRY OF AN ORDER APPROVING
SALE OF REAL PROPERTY (1834
SAN ANTONIO AVENUE) FILED BY
DEBTOR THE ROMAN CATHOLIC
BISHOP OF OAKLAND (DOC 2490)
- ORDER SHORTENING TIME FOR
NOTICE OF HEARING ON DEBTOR'S
MOTION FOR ENTRY OF AN ORDER
APPROVING SALE OF REAL
PROPERTY SIGNED ON 12/8/25
(DOC 2499).

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE WILLIAM J. LAFFERTY
UNITED STATES BANKRUPTCY JUDGE

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Also Present: Bp. Michael C. Barber, SJ,
Debtor's representative

Hon. Christopher S. Sontchi, Esq.
(Via Zoom),
Court Appointed Mediator

1 Also Present (Cont'd): Timothy Gallagher, Esq. (Via
2 Zoom),
3 Court Appointed Mediator
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18 Court Recorder: DAWANA CHAMBERS
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24 Proceedings recorded by electronic sound recording;
25 transcript provided by transcription service.

The Roman Catholic Bishop of Oakland

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1 OAKLAND, CALIFORNIA, TUESDAY, JANUARY 20, 2026, 1:01 PM

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3 (Call to order of the Court.)

4 THE CLERK: Case number 23-40523.

5 THE COURT: Okay. Why don't we start with appearances
6 in the courtroom?

7 Yeah. Thanks.

8 MS. UETZ: Good afternoon. Ann Marie Uetz of Foley &
9 Lardner on behalf of the debtor. Bishop Barber is with me
10 today as well.

11 THE COURT: Okay. Thank you.

12 MR. MOSES: Good afternoon, Your Honor. Shane Moses
13 with Foley & Lardner for the debtor.

14 THE COURT: Okay.

15 MR. KEMNER: Good afternoon, Your Honor. Matthew
16 Kemner, special counsel to the bishop.

17 THE COURT: Okay. Thank you.

18 MR. KEMNER: Okay.

19 MR. PROL: Afternoon, Your Honor. Jeff Prol,
20 Lowenstein Sandler, for the committee with my partner Brent
21 Weisenberg.

22 THE COURT: Okay. Nice to see you again. Okay.

23 Anybody else on that side or otherwise? Yeah.

24 MR. SIMONS: Rick Simons, plaintiffs liaison counsel
25 in the state court coordination proceedings --

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1 THE COURT: Okay.

2 MR. SIMONS: -- and counsel for the case that relief
3 from stay has been granted and apparently, from the statements
4 is on the agenda. Asking permission, if necessary, to address
5 the Court.

6 THE COURT: I don't know if we're going to get into
7 that. We'll see.

8 MR. SIMONS: Thank you.

9 THE COURT: Okay. Thank you.

10 MR. SCHIAVONI: Hello, Your Honor. Again, it's Tanc
11 Schiavoni for the Pacific Insurers from O'Melveny.

12 THE COURT: Okay. Thank you.

13 Let's get on the screen here. Let me start with the
14 mediators. I see a couple of them, I think.

15 MR. SONTCHI: Good afternoon, Your Honor. Christopher
16 Sontchi, mediator.

17 MR. GALLAGHER: Hi. Good afternoon, Your Honor. Tim
18 Gallagher, mediator.

19 THE COURT: Okay. All right. How about committee
20 counsel, if there are any on the screen?

21 MR. BURNS: Tim Burns, special insurance counsel for
22 the committee, Your Honor.

23 THE COURT: Okay. Anybody else representing the
24 debtor or the committee on the screen?

25 Okay. How about insurers?

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1 MR. JACOBS: Good afternoon, Your Honor.

2 MR. WYATT: Good morning, Your Honor. Andrew Wyatt
3 and my colleague Lauren MackSoud for Travelers.

4 THE COURT: Okay.

5 MR. JACOBS: Good afternoon, Your Honor. Todd Jacobs
6 for Westport.

7 THE COURT: Okay.

8 MR. PLEVIN: Good afternoon, Your Honor. Mark Plevin
9 for Continental Casualty company.

10 THE COURT: Okay.

11 MR. EVANSTON: Good afternoon, Your Honor. Timothy
12 Evanston for the London Market insurers.

13 THE COURT: Okay. Anybody else on? How about how
14 about other interested parties?

15 MR. MANNNS: Good afternoon, Your Honor. Ryan Manns on
16 behalf of the nondebtors RCWC, RCC, OPF, and Adventus.

17 THE COURT: Okay. And U.S. Trustee.

18 MR. FEHR: Good afternoon, Your Honor. Trever Fehr on
19 behalf of the United States Trustee.

20 THE COURT: Okay. Before we get going, I've got a
21 housekeeping matter.

22 On January 12, the Court received a letter. And I'm
23 sure you all know how much courts enjoy receiving letters.
24 This is from somebody who has an affiliation or past
25 affiliation with the debtor. He is not, as far as I -- he does

1 not represent the debtor. Doesn't represent the committee. Is
2 not a creditor, as far as I know. But he has a lot of opinions
3 about things. I'm not going to name him because we haven't
4 decided yet whether the letter is fit to go onto the docket and
5 whether, if it were fit to go onto the docket, it would have to
6 be at least partially redacted.

7 The letter purports to address a number of issues,
8 purportedly from the individual's recollections and personal
9 experiences, and expresses many opinions about the bona fides
10 of the debtor and various individuals associated with the
11 debtor and the process that we've undertaken so far to try to
12 resolve this case. The debtor names at least one alleged
13 victim, whose identity I do not know was public. I haven't
14 been able to figure that out yet.

15 As an aside, this is one of those moments where I've
16 relied on my brilliant law clerk, Meera Balasubramanian, to
17 read the letter herself. I read the first line and thought, I
18 do not want to read the rest of this right now. I would rather
19 have my trusted law clerk have a look at it to determine, among
20 other things, whether it contains materials that are salacious
21 or otherwise should not become public for purposes of putting
22 the letter on the docket, if that's appropriate because the
23 least, the least, appropriate thing to do in these situations
24 is to try to have a personal dialog with the judge.

25 The person who wrote me this letter may well be

1 listening. They've apparently been appearing in some fashion
2 at different hearings. There is nothing less appropriate in
3 this process than trying individually to contact the judge,
4 obviously without any attempt to let anybody else know they
5 were doing it, and getting into matters that are confidential,
6 that would possibly expose the identity of a victim in this
7 case, and that otherwise express inflammatory and invective-
8 filled thoughts about this case.

9 I'm not going to tell anybody what to think about
10 this. You can think whatever you want. I don't care. It is
11 an insult to the Court and to all the parties who work so hard
12 to try to have a fair, open, and equitable proceeding to try to
13 have a communication with the judge. And no, I do not pick up
14 the phone and call people. I don't do that. No judge does
15 that. I'm stunned at the stupidity of this communication.

16 We're looking at it now. I don't know if we're going
17 to put it -- we may just put it back in an envelope and send it
18 back to the sender. I don't know.

19 But for anybody listening, this is the least
20 appropriate thing to do in this case or any other. I
21 understand that people have high emotions about this. That's
22 not the issue. There is an integrity to this process, and that
23 depends thoroughly on the openness and the transparency and the
24 goodwill of the people trying to help resolve these problems.

25 This person may think they're doing the same thing,

1 and on some level, maybe they are. But this kind of
2 communication thoroughly undermines this process. And if that
3 person is listening, I hope they will take to heart what I am
4 saying and realizing how incredibly inappropriate this was.

5 So I'm sorry to begin with that, but I was just
6 stunned at this stage of this case to get something along those
7 lines. So sorry, folks.

8 Okay. We're here on a status conference. Ms. Uetz,
9 do you want to tell me what you think we ought to be doing?

10 By the way, did I skip an appearance? It looks like
11 we got a new face on the screen.

12 MR. HALL: Yes, Your Honor. I'm sorry. It was a
13 little late in pushing the raise hand button. It's Frederick
14 Hall on behalf of the California Insurance Guarantee
15 Association.

16 THE COURT: Okay. Nice to see you again. Okay.

17 MS. UETZ: Good afternoon, Your Honor. Ann Marie Uetz
18 of Foley & Lardner on behalf of the debtor. Your Honor, this
19 is the time set for a status conference in this case.

20 The debtor filed its status report Friday afternoon --

21 THE COURT: Right.

22 MS. UETZ: -- as mediations' getting underway.

23 THE COURT: Right.

24 MS. UETZ: Reported the status as of that time from
25 the debtor's perspective. Since then, the committee and

1 Travelers have filed reports with the Court, to my knowledge.

2 THE COURT: Um-hum.

3 MS. UETZ: I want to describe three things I want to
4 cover in my status for the Court today. The first is an update
5 regarding progress towards settlement. The second is to
6 preview for the Court this debtor's present intentions with
7 respect to this case. The third is to present to the Court an
8 idea which the debtor has, which the debtor believes might
9 assist the Court and by extension, all of the stakeholders in
10 this Chapter 11 case in achieving an outcome other than
11 dismissal. Those are the three --

12 THE COURT: Okay.

13 MS. UETZ: -- things I'd like to talk about. I begin
14 by highlighting for this case, for this Court, though, the
15 following.

16 In the history of diocesan Chapter 11 bankruptcy
17 filings in this country, three things have never occurred,
18 setting aside San Diego and San Juan, which occurred for other
19 reasons. But generally, these three things have never
20 occurred. One, no case has been dismissed without a
21 resolution. Without a settlement. Two, no debtor has gotten
22 to a contested confirmation hearing to cram down a committee
23 with a plan that the committee opposes. And the third --

24 THE COURT: Can I translate that back?

25 MS. UETZ: Sure.

1 THE COURT: Such a hearing has never been commenced.

2 MS. UETZ: Yes.

3 THE COURT: Okay.

4 MS. UETZ: Thank you. I was trying to parse my words
5 because we proposed one, but we didn't get to the confirmation
6 hearing stage.

7 THE COURT: Yeah.

8 MS. UETZ: And third, no debtor has ever assembled a
9 settlement sum using its own assets, as well as drawing on
10 assets from nondebtors, which would pay sexual abuse survivors
11 the record-breaking sum the debtor has proposed here. Those
12 three things, neither of those three things has happened. It
13 seems that one of them may happen here, but hopefully we get to
14 resolution.

15 Your Honor, the debtor's proposed settlement is well
16 documented, and even though I have it in my notes here, I'm not
17 going to repeat it because you've seen it in December. You've
18 seen it in our status conference report. I refer to it as a
19 record-breaking sum in terms of the average payment per
20 survivor. And so I'm not going to repeat, but I do want to
21 emphasize that fact to this Court.

22 Not only is it greater than any other average
23 settlements per claimants, it is so by a wide margin, even when
24 compared with Diocese of Rockville Center, for example. Any
25 average of about 410 per claim. And more recently, New

1 Orleans, some 660 claims, 200 million dollars paid.

2 I will now turn to the mediation update. As reported
3 to the Court at the last status conference by my partner, Matt
4 Lee, and I attended remotely, in early December, the debtor and
5 the committee and the mediators advised the Court that progress
6 had been made and that the debtor and the committee had reached
7 agreement regarding the dollar amount to be paid to settle.
8 200 million dollars. That was real progress. And we reported
9 that to the Court, and we reported to the Court our view that
10 that was real progress.

11 Judge Sontchi, and I'm quoting from the transcript,
12 stated, "For the first time, we are talking about the same
13 number. For the first time, we are on the same document." Mr.
14 Prol stated, and I'm quoting from the transcript, "Our markup
15 is intended to address timing of payments."

16 And thus, Your Honor, although other issues remain
17 open, and there always are trying to finalize a settlement, the
18 timing of settlement payments has been a gating issue since
19 December. The 200 million dollars that the debtor agreed to
20 pay at that time, as it's accepted other recommendations, it
21 was always premised on we're going to need another year. It's
22 going to take five years. It always has been.

23 Since the December hearing, the debtor provided the
24 committee with the response to the committee's last
25 counterproposal. And we've talked. We provided the committee

1 with a response. We redlined it against our last proposal, as
2 well as the last mediator's proposal, so everybody could see
3 what was happening with the counter.

4 And we believe it resolved. And I think there's some
5 consensus that it really moved forward on a number of issues.
6 And I'll just give you one really thorny one, Your Honor.

7 THE COURT: Are we talking about anything that
8 shouldn't be talked about, Mr. Prol?

9 MR. PROL: We've repeatedly objected throughout this
10 case to mediation privilege issues. And if we're not over the
11 line, we're darn near close to it.

12 THE COURT: Okay. I don't want to stifle any good
13 news here, but just --

14 MS. UETZ: Sure.

15 THE COURT: There's a lot of sensitivities here. I'm
16 sure you know. Okay.

17 MS. UETZ: I'll frame it this way, Your Honor.

18 THE COURT: Okay.

19 MS. UETZ: When a debtor -- when a plan of
20 reorganization is confirmed, there's an effective date.

21 THE COURT: Yep.

22 MS. UETZ: Debtor goes hard with payments.

23 THE COURT: Yep.

24 MS. UETZ: A lot of times, that's after final,
25 nonappealable order --

1 THE COURT: Um-hum.

2 MS. UETZ: -- which can be years.

3 THE COURT: Um-hum.

4 MS. UETZ: Debtor is willing to go hard with payments.
5 That's our position.

6 THE COURT: Well, as long as there's no stay, right?

7 MS. UETZ: We will go hard with payments --

8 THE COURT: As long as there's no stay.

9 MS. UETZ: -- before a final -- pardon?

10 THE COURT: As long as there is no stay, I'm assuming.

11 MS. UETZ: As long as there's a stay.

12 THE COURT: Yeah.

13 MS. UETZ: But we came up with a mechanism, and we are
14 willing to stand behind actually going hard.

15 THE COURT: Okay. I got it. I got it.

16 MS. UETZ: So that's the good news --

17 THE COURT: Okay.

18 MS. UETZ: -- which I wanted to share.

19 The problem, Your Honor, again, remains one of timing.
20 And I will quote myself from mediation last Friday, when I said
21 we are this close on having resolved the number. Shame on me
22 that I can't persuade folks to the timing.

23 There are really good professionals working really
24 hard, including the mediators. Including my counsel in court
25 today. The timing of payment is an issue. And the debtor has

1 consistently said it has to be feasible. We're not going to
2 commit to timing that we know we cannot meet.

3 However, the debtor is also even willing to pay
4 interest in the fourth and fifth year, the separation between
5 the parties on the duration it will take to pay this record-
6 breaking amount. That's not enough because folks don't believe
7 us when we say, we and our professionals have determined it is
8 not feasible to pay this record-breaking amount sooner.

9 THE COURT: Okay.

10 MS. UETZ: And Your Honor, I want to give you -- and
11 this isn't -- I don't think -- I'm getting farther back from
12 the fence, maybe, that I was at perhaps a minute ago. I just
13 want to give the Court some context for this and what the
14 debtor will need to do to pay a settlement in this case.

15 First of all, the debtor is borrowing exit funding
16 from Cemeteries fifty-five million dollars, plus we have a
17 current loan. So the total exit facility there I think is some
18 eighty-some million dollars. We have to service that debt.

19 The debtor will need to liquidate a lot of real
20 estate. That will take time. And the reason it takes time,
21 we've worked with our professionals, Your Honor, is things like
22 churches will need to be rezoned because a buyer doesn't want
23 to buy a church. Properties need to be marketed, and they
24 can't be flooding the market all at the same time.

25 Livermore. There's been a lot of talk about

1 Livermore. And really, Your Honor, I just want to give you
2 this context, and I'll move on.

3 First of all, Livermore is not owned by the debtor.
4 It's owned by a nondebtor who's contributing it. Adventus
5 doesn't have any claims against it, but Adventus is willing to
6 work to monetize that asset to support a settlement.

7 Almost a year ago, the City of Livermore and the
8 debtor finally reached agreement to even start to negotiate a
9 development agreement. Think that's what it's called. That
10 work is still underway. It's been a year. And it's not
11 because we haven't done anything on it. It's because those
12 things move very slowly.

13 Once completed, the City will need to update its
14 master land use plan. That's the whole process. This will
15 determine things such as density and property use. Its
16 ultimate value. The City would also still need to rezone the
17 property. That's a whole nother process, in addition to the
18 master planning for the property.

19 And then a developer would need to come and commit to
20 purchase the property and that entails, according to our
21 experts, a whole host of entitlements and infrastructure. And
22 they don't go hard. They're not going to hand us a check for a
23 hundred million dollars till a lot of those things have
24 happened with respect to the infrastructure. All those other
25 things will need to have happened. And it's not going to

1 happen in three years. It's just not.

2 I wanted to give the Court context for what is
3 necessary to maximize the value of real estate, so that these
4 payments can be afforded. And again, an interest component in
5 the fourth and fifth year seems like a good fix. But
6 unfortunately, Your Honor, with respect to mediation, this
7 timing issue seems to have derailed negotiations. That was
8 apparent Friday. It does not seem to have changed since then.

9 For more than a year, the debtor has provided
10 information, including even in its third amended plan, but also
11 outside of that, to show the assets it will utilize to fund a
12 settlement. It's not a secret. A document known as "exhibit
13 B", in air quotes. Exhibit B has a list with names on it.
14 Churches. Whole parish campuses that are operating today. A
15 church. A school. Property. There is a plan, and it has been
16 shared.

17 There have been exhaustive discussions between the
18 professionals that are engaged in this case right now, between
19 the debtors. Financial professionals. The committees. The
20 mediators. These are all smart people, Your Honor. They're
21 all working really hard. We've had meetings to go through it.
22 We've talked through timing and the like.

23 There's a lot of statements by the committee about the
24 cash that the debtor has. And it's just not true, Your Honor.
25 Cash is restricted. We come back to the committee's position

1 that restricted cash ought to be repurposed. Never mind that
2 Adventus is just volunteering proceeds from Livermore that it
3 doesn't need to.

4 Even setting that aside, there is no cash. There's
5 some cash. I shouldn't say there is no. There is some
6 unrestricted cash. And churches are using it to help fund this
7 plan, and their operating budgets are going to be impacted as a
8 result.

9 The exhibit B properties, as I said, Your Honor, they
10 include twelve real property locations where churches currently
11 operate. Vacant real estate. Vacant portions of additional
12 properties. Whole campuses. Residential homes. And again,
13 Livermore.

14 And the reason I'm going into this detail, Your Honor,
15 is to give you some context into how hard it is to liquidate
16 this real estate portfolio. And I know the committee, I expect
17 the committee counsel is going to come up and say, well, we
18 haven't done anything yet. Well, the truth is we have, Your
19 Honor. We have.

20 We have engaged professionals who are expert in
21 selling real estate. They are doing the groundwork necessary
22 to launch properties to market. They've already sold one
23 residence. There's another one in the near term. And as to
24 the churches and the vacant property and Livermore, that work
25 is underway. There are not for sale signs on dozens of

1 properties across the diocese today, but the work is underway
2 in a way that the professionals deem appropriate to maximize
3 the value of those properties so that the settlement can be
4 funded.

5 The timing isn't based on what Bishop Barber prefers
6 or what I think might be good. These are real estate
7 professionals who have provided their input. And Your Honor,
8 we have zero, zero, incentive to drag this out. What possible
9 reason could the debtor have for wanting to delay?

10 We want to reorganize. We want to conclude this case.
11 And again, we are proposing to do so with support from
12 nondebtor entities who don't have to help. Biggest one being
13 Livermore. Schools. Others.

14 Committee cites the debtor's unwillingness to
15 contribute even a single dollar from its vast reserves of cash
16 and marketable securities and its proposed sale of real estate
17 to fund this Chapter 11 case and a distribution to survivors.
18 That's a quote. It's just not true.

19 And I think I said this, Your Honor, but the rezoning
20 is not just related to Livermore. It's also related to
21 churches. I think I might have said that, but I wasn't sure.

22 THE COURT: Um-hum.

23 MS. UETZ: I'm going to turn now to the second thing
24 that I said I wanted to speak to the Court about, which is the
25 debtor's present intentions.

1 Your Honor, we strongly believe that RCBO is a good
2 candidate for confirmation of a Chapter 11 plan because of the
3 record breaking amount it has assembled to pay creditors,
4 including from nondebtor affiliates, who are volunteering their
5 assets for this cause. The fact RCBO and these nondebtors must
6 first liquidate certain assets to pay this record breaking sum
7 and the fact that takes time, that does not mean that RCBO is
8 not a good candidate for confirmation of a plan.

9 Nonprofit and religious entities may invoke the
10 protections of the Bankruptcy Code, and there is no exception
11 to this when the creditors are survivors of sexual abuse.
12 Bankruptcy Code provides for confirmation of a plan of
13 reorganization, provided certain standards are met. And again,
14 there is no exception to this when creditors are survivors of
15 sexual abuse.

16 Your Honor, it is without question, and the debtor and
17 I acknowledge, that the abuse the creditors in this case
18 suffered is horrific. There is simply no question about that.

19 There is similarly no question that on behalf of the
20 debtor, The Roman Catholic Bishop of Oakland, Bishop Barber,
21 has unequivocally and publicly apologized for it. And that is
22 notwithstanding the repeated denials by the committee and its
23 members of this fact. Nothing this Court, nothing the
24 Bankruptcy Code says, and nothing in this Chapter 11 case
25 undoes the damage done to survivors that suffered and continue

1 to suffer because of the abuse that was committed by some of
2 the priests and other individuals who historically worked with
3 the Oakland diocese.

4 And yet, Chapter 11 exists for a reason. It exists to
5 allow debtors to restructure their liabilities through a plan
6 of reorganization, which we are attempting to do in a manner
7 that is fair and equitable for all similarly situated
8 creditors, not just a chosen few. This is, in fact, one of the
9 overarching principles underlying the Bankruptcy Code.

10 And just like any other debtor, the RCBO may avail
11 itself of the tools the Bankruptcy Code provides. That is all
12 we are trying to do here. Present a fair and equitable
13 settlement to all so that the creditors can be treated
14 similarly and so that first to trial do not obtain outsized
15 payments, while other creditors are left behind, delaying
16 payment to those other creditors for many more years than what
17 we are currently disputing, three, four or five years.

18 And so finally, Your Honor, the third thing I want to
19 talk about. I turn to this Court. In early August 2025, as I
20 recall, Your Honor asked during a status conference how you
21 might assist. How you might break the logjam, as it was termed
22 at that time. And of course, it goes without saying, but I
23 will say it, we respect the Court's decision to not involve
24 itself in the negotiations and mediations. Of course, we do.

25 We want to suggest and highlight for the Court what

1 has been demonstrated in some other Chapter 11 cases, complex
2 Chapter 11 cases, including some with sexual abuse claims. It
3 has been demonstrated in some of those other cases that the
4 Court may be aided by an independent third-party financial
5 consultant who can help the Court cut through financial issues.
6 In this case, this gating timing issue. And I'll give a couple
7 of examples.

8 I'm from Detroit. Largest Chapter 9 filing in the
9 history of the world. The country. And in that case, retired
10 Judge Steven Rhodes, who was then chief judge of the bankruptcy
11 court assigned to the City of Detroit case, sua sponte issued a
12 show cause order to the parties and engaged a financial
13 consultant for his consult. Take the input from stakeholders,
14 but he could cut through it with the aid of a financial
15 consultant. It has been well reported that that was very
16 helpful in forging what became known as the grand bargain in
17 that case, which Stahl (phonetic) would observe was an
18 incredible settlement with insurmountable issues.

19 I'll give one more example, Your Honor, and another
20 idea kind of in the same vein. In the Rockville Center case,
21 Judge Glenn, he appointed two new mediators, and a financial
22 consultant was brought in to help settle that case. And in
23 doing so, this is what he said. Quote from the transcript.

24 "I express my disappointment, not about how the
25 professionals have worked in the case. Disappointment the case

1 has not been successfully resolved consensually. And it's,
2 again, no criticism of the two, originally one, but now two who
3 have been the mediators. I think that a fresh look and a fresh
4 push can be helpful. We'll see."

5 And indeed, the world saw because four months later,
6 that case consensually resolved. And incidentally, we'll be
7 arguing this February 4th, Judge Glenn curtailed payments to
8 professionals during that period. That is a point of leverage.
9 But I believe because again, spending money, and in our case --
10 we'll argue it the 4th. I'm going to leave it at that.

11 I'm going to wrap up, Your Honor. The professional
12 fees motion will be heard February 4th. We have suggested that
13 we may move to have this Court revisit the lift stay. We have
14 also talked about a fourth amended plan on the basis of the
15 nonbinding term sheet. That is not our preference. We can't
16 afford a contested fight, nor do we want one. Bishop Barber,
17 on behalf of the RCBO, wants to get to a consensual resolution.

18 I want to make just a couple of comments in response
19 to the committee's filing.

20 Concept of a competing plan. It would be one thing if
21 the creditors were to propose a plan. They can't force the use
22 of nondebtor assets to fund it. Can't force a lender to lend
23 to the debtor. They can't force the debtor to borrow money.
24 So how can that possibly be better than the debtor's proposed
25 plan, which provides a record-breaking recovery to survivors?

1 That concept will enrich professionals, will drag this case
2 out, if it were to occur, and it won't get to a positive
3 outcome for anyone, not the least of which the survivors.

4 To conclude, Your Honor. The RCBO is not insensitive
5 to the effects of the continued uncertainty and delay that the
6 survivors face here. We want to fund as quickly as we can
7 fund, but we are powerless to force or even to persuade, I'm
8 ashamed to admit, this committee. And I'm focused in
9 particular on this committee in this case, Your Honor. We are
10 powerless to force that settlement.

11 And so we have two choices, at least, that we can
12 think of. Seek approval of a plan that provides all of the
13 creditors with record-breaking compensation over the
14 committee's objection. We've been there before. This is
15 different. We are way past the amounts that were considered in
16 the third amended plan. I also feel that we are much closer,
17 this is our opinion, in trying to forge a resolution. So we
18 could do that. We could seek approval of a fourth amended
19 plan.

20 We could accept dismissal of this case, Your Honor.
21 Seek it. Ask for it. And be faced with, not just us, but
22 survivors be faced with years and years and years and years and
23 years -- I didn't use enough of them -- of litigation and
24 delays much longer than what is contemplated and what is at
25 issue in this case currently.

1 Your Honor, this Court's views are going to be
2 instructive here. Whether it's with respect to any of the
3 ideas that we've raised, and we've reviewed these with our
4 financial consultants. With our financial restructuring
5 consultant. Any ideas. Maybe that's something this Court
6 would consider.

7 Maybe there's another idea someone has because we are
8 all open for it. And if someone can describe for us how we can
9 liquidate exhibit B and pay sooner, we embrace that. We want
10 to pay it sooner. We would prefer to not pay interest.

11 We really do invite these ideas to try to avoid a
12 dismissal because where we are right now, having resolved
13 around the 200-million-dollar number, it's just -- you said
14 earlier that dismissal of this case would be a tragedy, even
15 more so in light of the progress that has been made.

16 So again, Your Honor, much of what we do depends on
17 this dialog. Bankruptcy is a collaborative process. I was
18 talking about that earlier today. No one wins. No one loses.
19 A lot of times, we switch chairs, and people collaborate with
20 different folks. You collaborate with the Court. Trying to
21 get to a positive outcome here, one that we can afford to
22 sustain. In Chapter 11, that's going to require our appearance
23 on the 4th and some direction from the Court there.

24 And that is the best way I can describe the status
25 from the debtor's perspective today, Your Honor.

1 THE COURT: Okay. Thanks.

2 MR. PROL: For the record, Jeff Prol for the
3 committee.

4 Preparing my remarks for today, Your Honor, I was
5 reminded of a quote attributed to Winston Churchill. Those
6 that fail to learn from the past are condemned to repeat it.
7 And the last thing we want to do here is to repeat another
8 contested confirmation hearing, which the first one resulted in
9 the loss of approximately a year's worth of time and the
10 wasteful spending of millions of dollars in administrative
11 costs to wind up exactly where the committee predicted we would
12 wind up. The vote would be overwhelmingly reject the plan, and
13 the debtor would not be able to cram it plan down.

14 We don't believe that the term sheet that has been
15 surfaced to Your Honor, which describes a fourth amended plan,
16 would result in any better fate than the third amended plan.
17 And if we go forward with that, we're likely to be standing
18 here a year from now in the same exact -- well, in the exact
19 same posture, with no plan confirmed, but in a much worse
20 position if the debtor's vision of terminating payments to
21 professionals goes forward because they projected through March
22 of 2026 to incur another eleven million dollars.

23 And we'll be -- and they haven't paid about a million
24 dollars' worth of existing fees. So we'll be in a twelve
25 million dollar administrative in March. And if the

1 confirmation takes a year, the number will be significantly
2 greater. And that must be avoided at all costs.

3 This case was filed approximately a little more than
4 two and a half years ago. May 8th of 2023. And I've stood
5 here at this podium before and complained to Your Honor that
6 this case was filed solely for the purpose of tamping down the
7 value of survivor claims and allowing the bishop to use
8 peripheral assets, not dedicate his assets, not as the Supreme
9 Court said in Purdue. Put all of its assets on the table in
10 order to satisfy these claims.

11 And that continues today. We've heard that the debtor
12 needs to sell real estate. The only way to fund this plan is
13 to sell real estate. But in the two and a half years that
14 we've been before Your Honor, the debtor has done nothing to
15 reorganize its business.

16 To the best of my knowledge, it's not rejected a
17 single contract or lease. It's not, other than the two parcels
18 of real -- the one parcel that's been sold and one other parcel
19 where there's a motion pending, total of three million dollars,
20 not sold any real estate. It's not any reduction in workforce.
21 It's not downsized it's business. It's done nothing that a
22 traditional debtor would come in order to reorganize its
23 business in order to be able to generate funds with which to
24 fund a plan of reorganization.

25 And so we're stuck here, two and a half years later,

1 where the debtor says the only way we can raise money is to
2 sell real estate. And the question arises, Your Honor, what
3 have we been doing for the last two and a half years? If that
4 was how we were going to generate the money to pay to the
5 survivor's trust, why didn't we start two and a half years ago,
6 or even before the case was filed? The debtor retained Hilco
7 in March. Siu Advisors (phonetic) in August of this year. So
8 certainly, there was a substantial delay in terms of when they
9 were retained.

10 And they've largely worked outside of the view of the
11 committee. Yes, we have seen exhibit B. Yes, we have received
12 some other information about properties that will be sold. But
13 as I stand here today, I don't know what properties are on the
14 market. I don't know what properties they're projecting to put
15 on the market and when. And so there is a bit of a black hole
16 there in terms of what the committee knows.

17 And I would also suggest to Your Honor that while
18 debtor's counsel highlights this earth-shattering plan.
19 Highest number of dollars ever. Best distribution to creditors
20 ever. Beauty's in the eye of the beholder. This plan, in
21 terms of contributions to a trust, is probably less beneficial
22 to the trust than the third amended plan.

23 Although the headline number is 200 million dollars,
24 we all know that when you pay money over time, the headline
25 number is not the real number. And this plan, while the prior

1 plan proposed to contribute less dollars, the dollars were more
2 front-loaded. Because approximately sixty-four percent of the
3 of the money comes in here in years four and five, the present
4 value of this 200 million dollars is closer to 165 million
5 dollars, which is a large sum, but nowhere near the huge
6 headline number that they're proposing and not fair and
7 equitable.

8 Again, what the debtor does with this plan and what
9 they did in court today is they want to compare this case to
10 select other dioceses in bankruptcy cases. They didn't even
11 compare them to all diocesan bankruptcy cases. They cherry
12 pick in order to make the numbers look good.

13 But the fact of the matter is, Your Honor, in order to
14 confirm a plan, and they certainly are entitled under the
15 Bankruptcy Code, in order to confirm a plan, they have to show
16 that the plan is fair and equitable. They have to value the
17 claims, and they have to show that the creditors are getting
18 more through the plan than they would get in a Chapter 7.

19 And we have a huge disagreement in terms of what
20 assets are available to pay. We've both appraised the real
21 estate. The value of the real estate, we believe, approaches
22 about a billion dollars. We believe they have far more cash
23 than what they're acknowledging.

24 Their plan proposes a third-party release for schools.
25 Roman Catholic Welfare Corp. Roman Catholic Welfare Corp. has

1 a substantial amount of cash available to it, which is not
2 being contributed to this reorganization. They're contributing
3 real estate, just like the bishop is.

4 Your Honor, the cash, cash equivalents are available.
5 Should be available. We have a restricted assets adversary
6 proceeding. That was put on hold when the last plan was put on
7 hold.

8 To the extent that we're going to go forward in the
9 Chapter 11 process, that adversary should be recommenced and
10 should be on the same schedule, so that when, if, as, and when
11 we get to confirmation, Your Honor will be well aware in terms
12 of whether or not there's another thirty to forty million
13 dollars of debtor money available. And we will also do
14 discovery, to the extent that there's a release for schools,
15 into what cash schools have available.

16 The other thing the debtor ignores, Your Honor, is the
17 ability to obtain financing from banks or in the commercial
18 market. When the cathedral was destroyed in the earthquake
19 several years ago, the bishop needed to build a new cathedral.
20 Ironically, I believe that somewhere in the neighborhood of 200
21 million dollars was borrowed using bank loans to fund that
22 cathedral. It was then converted into bond debt.

23 And so the debtor, when it needed money to build the
24 cathedral, had the ability to go into the marketplace and
25 borrow the money. And as we previously argued to Your Honor,

1 they had the ability at that time to pledge the assets of all
2 of these affiliates who basically no longer are willing to
3 pledge those assets. And Your Honor, if they wanted to raise
4 money, if they wanted to fund this plan in less than four to
5 five years, they could certainly do so through that mechanism.

6 Another interesting quirk in their plan, Your Honor,
7 is this loan from RCC, Roman Catholic Cemeteries.
8 Historically, the affiliated entities have moved money around,
9 borrowed money, amongst themselves on an unsecured basis. But
10 now, suddenly that we're in Chapter 11 and we have a plan of
11 reorganization, RCC now is only willing to loan money on a
12 secured basis. They're taking collateral. Liens on real
13 estate. And they're paying interest from day 1 at six and a
14 half percent.

15 Traditionally, in a commercial case, Your Honor, where
16 you have insider debt, the insider debt is subordinated to the
17 outside debt, not the other way around. Here, under their
18 plan, they're asking the committee to extend a five-year loan.
19 Five-year loan, which sixty-four percent of which is paid in
20 years four and five, but not pay any interest until years four
21 and five.

22 And I think it's also curious, when you look at the
23 plan, that sixty-four percent, over a hundred million dollars,
24 is being paid in years 4 and 5. It certainly raises the
25 question as to what real estate is going to be sold in years 1

1 through 3. A lot of talk about Livermore has been gone here --
2 gone on here, Your Honor. And Livermore has been valued
3 somewhere 70, 80, over 100 million dollars. Is it that the
4 bishop is hoping that Livermore is going to come to pass, and
5 that's going to get sold? That'll be the only piece of real
6 estate that he sells? I don't know.

7 Again, there needs to be much more transparency into
8 this whole real estate process, which is why we suggested as
9 part of a go-forward plan, if we're going to go forward, the
10 case is not going to be dismissed, that that should be spread
11 on the record in the light of day. Where are we in terms of
12 listing property. What has to be done in order to get
13 properties listed. Anticipated time for sale. Anticipated
14 proceeds, So that we can get a perspective in terms of how and
15 when dollars are really going to be generated to fund a plan
16 and in order to make sure that we're not going into this huge
17 administrative hole that we're projecting.

18 The debtor's suggestion about the Court retaining a
19 financial advisor is something that's interesting. Not
20 something that we've talked about or even thought about. And
21 so I don't really have a reaction for that, Your Honor, today.
22 I'd certainly like to talk to my colleagues about that. Speak
23 to my client about whether or not that presents an avenue
24 forward.

25 Your Honor, we think, given the circumstances here,

1 given that there's nothing new under the sun in terms of this
2 plan, the administrative hole that we're going to build for
3 ourselves if we move forward, and the idea that they're going
4 to ask Your Honor to reimpose the stay, if you will, with
5 regard to the six cases weigh heavily in favor of proceeding,
6 as the debtor requested several months ago, and that is
7 dismissing the case and allowing creditors to go back into
8 state court.

9 The debtors, that's the parade of horribles.
10 Bankruptcy is designed for equality of distribution. Well, we
11 haven't had equality of distribution. All we've had is delay.
12 All we see is further delay. All we see is a deeper
13 administrative hole, where the creditors are getting further
14 and further behind.

15 It's time for the creditors' voices to be heard here,
16 Your Honor. Your Honor suggested at some point that the
17 committee would become the protagonist. After two and a half
18 years and no progress towards a plan, we request that the case
19 be dismissed so that creditors can go back to state court and
20 prosecute their claims there.

21 We also made some suggestions to Your Honor, if Your
22 Honor rejects that, in terms of ways to level the playing
23 field. And we would request that Your Honor consider those
24 forms of relief as well. Thank you.

25 THE COURT: Okay. Thanks.

1 Not now.

2 Hang on a second. Do either one of the mediators want
3 to give me any thoughts? I suspect they'd be very short if
4 they did, but I'm just kind of curious.

5 MR. SONTCHI: Your Honor, Christopher Sontchi.

6 THE COURT: Yes.

7 MR. SONTCHI: Well, I almost objected about half a
8 dozen times to try to protect the mediation privilege.

9 THE COURT: Right.

10 MR. SONTCHI: But it's really a question for the
11 parties. I don't want to -- I'm not going to put myself in the
12 middle of any of these disputes --

13 THE COURT: Right. I understand.

14 MR. SONTCHI: -- other than to say, frankly, we
15 haven't formally declared an impasse. But Mr. Gallagher and I
16 and Judge Newsome have talked about it. And at this point,
17 sir, I really see very little hope for a mediated resolution in
18 the near term.

19 THE COURT: Okay.

20 MR. SONTCHI: Let me just say that.

21 THE COURT: Appreciate it.

22 Mr. Gallagher, anything else on your end?

23 MR. GALLAGHER: I agree with Judge Sontchi. I guess I
24 would just say, it's hard to give up because we've come so
25 close. So I'm always glass half full and still want to

1 continue to try to do something. But I understand the degree
2 of difficulty, both Chris and I. So thank you, Your Honor.

3 THE COURT: Okay. I appreciate it.

4 Why don't we hear from Mr. Schiavoni, and then I'll
5 let you have sort of the last word, unless somebody else is
6 jumping up.

7 MR. SCHIAVONI: Pacific Insurers. Just briefly in
8 support of the diocese, Your Honor, New Orleans, The
9 Archdiocese of New Orleans is also a case where the court
10 appointed an expert, a financial advisor, a restructuring
11 expert who gave a report to the court on some issues that were
12 in dispute there. And at the same time, the Judge Grabill put
13 in place a fee moratorium, in essence, I think that's actually
14 what she called it, to keep focus on getting over the -- get
15 focused on a plan I think is exactly what she said.

16 That plan was confirmed. Actually, it may be a little
17 less in there because a significant number of the claimants
18 were objecting to the plan going right into confirmation. And
19 they reached resolution at the confirmation hearing. That plan
20 is actually being funded next week. I actually played a role
21 in the plan there. So Your Honor, that case is getting done.

22 And it is more than -- I think debtor's counsel said
23 there were 600 claims. There are really closer to 900 claims.
24 It's an open claim forum so -- or an open window forum. So
25 it's sort of a success story. And that in part was, I think,

1 due to some of those steps to kind of close some of these
2 issues.

3 Second, Boy Scouts is a case where a plan went ahead
4 to confirmation with the committee opposing the plan. The
5 committee was against the plan. A subgroup of claimants
6 supported it. And the plan went to a confirmation hearing.
7 And in the course of the confirmation hearing, when I think the
8 direction of what was going to happen was clear, the committee
9 jumped on board. And ultimately, the plan had support. But in
10 part because of the money on the table and whatnot and the
11 stark realization of sort of what they faced at that point, I
12 think that case got over the hump.

13 And that's another case where, just last week, the
14 Supreme Court denied cert. There's --

15 THE COURT: Um-hum.

16 MR. SCHIAVONI: -- believe it or not, a thirty-five
17 day period -- or I think it's twenty-five. No, twenty-five for
18 a motion for rehearing on cert to be filed. So our money's
19 being held for that. But that's a happy conclusion. And some
20 of the claimants or some of the plaintiffs' lawyers who have
21 claimants in those cases are going to be paid very shortly.

22 I haven't been in their exchanges. So I really can't
23 disclose mediation communications there, and I won't. But just
24 from what you heard at the last time, we were before you about
25 where things stood and what was left to be done. And I think

1 Your Honor asked some questions about, well, it sounds like
2 it's down to just what financial assurance to be provided for
3 the five-year payments and where we are today.

4 And one could say, if you look closely enough at the
5 public filings about the term sheets by the debtor that they
6 had filed over time with the Court, there's a goalpost moving
7 going on here, where the goalposts just keep shifting so that
8 no one can close. And that's all I'll say about that.

9 But many times, Judge Silverstein will look at me in
10 court and say, in Delaware, I only see -- to me, cases are like
11 icebergs. I only see the five percent above water. And this
12 is that case. There's a lot below the water on what has gone
13 on here, and no one can talk about it. But it's extremely
14 frustrating on where we are. And there's a goalpost shifting
15 going on here. Thank you, Your Honor.

16 THE COURT: Thank you. Okay.

17 Anyone want to be heard before Ms. Uetz?

18 Okay. Ms. Uetz, come on up.

19 MS. UETZ: Your Honor, I must correct the record. Ann
20 Marie Uetz on behalf of the debtor. I'm sorry.

21 I must correct the record concerning what have we done
22 for the last two and a half years and a lack of transparency
23 about the sequencing on sale of real estate. The statement that
24 we don't know what is listed for sale, what will be sold when
25 and for how much, and the anticipated time for sale,

1 anticipated proceeds. We've met, and we've provided that
2 information.

3 And I won't provide the details of it because I will
4 be challenged under the mediation privilege, but it is
5 absolutely untrue. There has been written documentation and
6 meetings with experts and with the lawyers literally spelling
7 out the sequencing for what real estate on exhibit B would be
8 sold when and how much the anticipated proceeds would be from
9 each property listed on that exhibit. So it is patently false
10 that that information has not been traded.

11 Secondly, Your Honor, I have two more points. One is,
12 again, we cannot be compelled use the assets of nondebtor
13 entities. Nondebtors can't be compelled to do it. That's why
14 what we've assembled here, that's part of why, it's so
15 valuable.

16 There's not a billion dollars of real estate with
17 RCBO, and Mr. Prol knows so. There's not a bunch of cash
18 that's unrestricted with RCBO, and the committee knows so.
19 Schools, even the cash that was referenced for RCWC, and I will
20 defer to Mr. Manns on this, not only is it nondebtor cash, it
21 is restricted. And that is what the committee keeps coming
22 back to and just won't accept.

23 Finally, Your Honor, what have we done for the last
24 two and a half years?

25 First, we've mediated in good faith, and we've done

1 everything that's been asked of us on the hope that it would
2 close the deal. Everything.

3 Secondly, to reorganize the debtor through a plan of
4 reorganization that can be presented to this Court for
5 confirmation, we have focused on funding, mostly through the
6 use of real estate. We have explored a loan. Other than the
7 RCC loan, Your Honor, it's not feasible. It's not.

8 You don't see it in -- I can't think, and I can think
9 of examples in other cases, where the interest rates from --
10 well, even in this one, it's just not feasible. It's not, oh,
11 you can take out a loan for five or ten or twelve percent. No,
12 it's twenty, twenty-five percent. Needs to be serviced. Needs
13 to fold into the feasibility analysis. Can't happen.

14 But here's what else we've done. We've retained
15 Century Urban to create an overall strategic and tactical
16 planning for the real estate. And we've shared the sequencing
17 and the expected proceeds.

18 We're meeting regularly, prioritizing the projects,
19 meeting with the presbyteral council, the College of
20 Consultors, to get necessary approvals for disposition. We've
21 identified and met with a canon law expert with respect to
22 that. We've met with the finance counsel of specific parishes
23 to obtain support for sale of real estate. And again, the
24 efforts to monetize Livermore.

25 Your Honor, the fact is, had we sold real estate and

1 closed on it already, number one, it wouldn't have maximized
2 the value because it wouldn't have gone through the process
3 that it needs to go through to maximize the value. Number two,
4 the professionals in this case would have eaten that money, and
5 it never would have gotten to the survivors. We need that
6 money to pay survivors and to fund a plan.

7 Thank you, Your Honor.

8 THE COURT: Okay. Thank you.

9 MS. UETZ: I'm not sure if this is my phone or someone
10 else's. I think it's mine. Okay.

11 THE COURT: Anybody else?

12 MR. PROL: Couple quick points --

13 THE COURT: Yeah. Um-hum.

14 MR. PROL: -- Your Honor, in response. Jeff Prol on
15 behalf of the committee.

16 In response to Mr. Schiavoni's assertion or intimation
17 that the goalposts have somehow shifted, don't know who that
18 was directed at. In our view, the goalposts have not shifted.
19 The issue here has always been the time value of money and the
20 fact that, quite frankly, the committee and the survivors do
21 not want to be partners with the bishop on a go-forward basis.

22 We attach to our papers a letter that we received from
23 a survivor, and we asked for permission to share that with Your
24 Honor, the survivors, not only the committee members, but
25 survivors we hear from on a daily basis are passionate about

1 getting to finality here. Many of them were abused decades
2 ago. Filed their lawsuits years ago. They've been waiting for
3 a long, long time for the day of reckoning, not only for the
4 bishop to acknowledge accountability, but also to be able to
5 put this chapter behind them.

6 And asking survivors to take money over five years
7 simply extends the pain. Extends the obligation of having to
8 continue to bear with this. To continue to try to trust an
9 organization that has betrayed their trust, number one.

10 And number two, there are a lot of survivors out
11 there, Your Honor, who need the money. Some are financially
12 well off, and this isn't about the money for them. But there
13 were many, many survivors who are in very difficult straits.
14 And simply getting a trickle of dollars years 1 to 3 and then
15 substantial payments in year 4 and 5, they frankly may no
16 longer be here. And they need the money today.

17 Just to correct, if I misspoke, with regard to the
18 real estate. Yes, we have talked about real estate sales. We
19 have a schedule that shows the year in which it's anticipated
20 that parcels will be sold and what they project the proceeds to
21 be.

22 What we do not have is what the status of actually
23 listing these properties is, and that's a critical element,
24 Your Honor. We understand that there's a canon law process
25 that has to be -- has to be gone through in order to list the

1 properties. We've got no insight into when and if that process
2 was commenced. No insight into -- in fact, the one property
3 that was sold, it took some time to get the property on the
4 market because repairs were being done. That's okay. That's
5 legitimate. But we simply do not know when the debtor is
6 proposing to actually list properties for sale and get involved
7 in active marketing.

8 Just to go back to this concept of if the committee
9 were to propose a plan, we can't compel nondebtors to
10 contribute money. Again, under their plan, the RCWC would
11 receive a third-party release. That release has to be
12 consensual. And to the extent that they are going to get a
13 release, they have to pay.

14 And it would be our burden, if we were to file a plan,
15 to be able to show that our plan is feasible, and it would
16 include all of the issues that they've talked about in terms of
17 what loans are coming in and how they can be funded and what
18 other affiliates might be contributing money.

19 And so we understand that we would have burden there,
20 but we think we've given the debtor a plan, which they've
21 rejected in terms of how it is that they can pay contributions
22 to the trust on a much, much shorter schedule than what the
23 debtor has proposed. And if the case does go forward, we would
24 request the opportunity to do that.

25 THE COURT: Okay. Okay.

1 MS. UETZ: Can I just say two sentences, Your Honor?

2 THE COURT: Come on up.

3 MS. UETZ: Your Honor, the debtor has proposed to pay
4 107 million dollars into the survivor's trust on day 1, on the
5 effective date. Second sentence is that is much more than a
6 trickle.

7 THE COURT: Okay. Thanks. Okay.

8 MR. MANNS: Your Honor. Your Honor, may I be heard?
9 Just a point of clarification.

10 THE COURT: Yeah. You bet. You go ahead. Yes.

11 MR. MANNS: Just for the record and just for the
12 avoidance of doubt, RCWC is not sitting on just a pile of
13 money. That money that's been alluded to, it's in large part
14 restricted, and the other part is earmarked for operations.

15 And with respect to RCC, RCC advanced a loan to the
16 debtor pre-petition on a secured basis. And in order to
17 maintain the status quo, RCC needs to obtain a secured loan on
18 the exit loan on a secured basis. There's no way the RCC board
19 will approve that on an unsecured basis.

20 So I just wanted to clarify that for the record, Your
21 Honor, just to clarify those comments.

22 THE COURT: Okay. Appreciate it.

23 Anybody else?

24 I can't even say submit it because I'm not sure what
25 we're talking about. This is the -- this is the judge's worst

1 dilemma, and it comes up -- ironically, this is proven over and
2 over and over again in my part-time job, where I sit on the
3 BAP. And you would -- maybe you wouldn't be surprised but
4 might be to learn that over and over and over again, the
5 question when a matter gets up on appeal is well, what did the
6 judge really do? And what was the question really in front of
7 that person? What got decided?

8 It's stunning how often that is not clear. Partly
9 because of the fog of war kind of problems we have in these
10 cases, where things move so fast and conditions change and you
11 begin in one place and end up in another. And partly because,
12 as I think I remarked this morning, this is by nature a very
13 volatile and very forward-looking series of questions far
14 different from litigation, which is so often purely historical.
15 What happened when somebody's car hit somebody else.

16 So let me begin the discussion with there was at one
17 point maybe a deceptively simple question in front of us a
18 couple of months ago, when the debtor said, well, we're out of
19 money. We're not confident that we can get to or negotiate a
20 resolution with the committee. I won't be surprising anybody
21 to say some things that are obviously true in this context and
22 this dynamic. We proposed a plan, maybe on the hope that that
23 process would get people closer together. And there would be,
24 through that process and all the time and energy spent in
25 opposition, there's always the opportunity to realize what a

1 disaster would be if you went forward, win or lose in that
2 process. And thereby, you decide to make compromises and end
3 up in a middle place.

4 For whatever reason, the third plan did not achieve
5 that. And I think the debtor's position months ago was an
6 acknowledgment of that. So we came at that time to a fairly
7 meat-cleaver-ish decision. Are we going to have a case or not
8 going to have a case? We'll dismiss the case.

9 And through a series of lurches, we established
10 deadlines. Push them out based on representations from the
11 mediators and the agreement of the parties that progress was
12 being made. But the model was still we get there in some grand
13 way, as in something term sheet-like gets signed, realizing
14 that plans are different from term sheets, but that we get
15 there by a date certain, and then we go forward to turn that
16 into a disclosure statement and plan. And we have gotten off
17 that track one way or the other.

18 So one question is, are we still on that track? If
19 we're in a place where there's been substantial progress, but
20 there seem to be issues on which people are not agreeing, even
21 with the assistance of extremely skilled mediators and
22 wonderfully committed professionals? Are we at a place where
23 the decision is still should I just dismiss this case?

24 And the committee's kind of sort of saying that, but
25 there's a lot of contingencies. And I'm not saying this to be

1 funny. This is a -- this is the dilemma we all have here,
2 including the committee.

3 Are we really better off dismissing this case or
4 taking the next step, which is going back into the mode we had
5 been before, with different timing. That we just have to force
6 something here. So is there just a deadline by which we have
7 this agreement, or we don't? And if we don't, it isn't worth
8 it anymore because we're not going to get there.

9 So question 1 is do I dismiss the case today.
10 Question 2 is do I set a deadline. You either have a -- you
11 have a deal, in principle, as much as one gets through a letter
12 of intent, term sheet kind of thing. You either have that by a
13 certain date, or you don't. If you don't, we don't know where
14 we are because when I look at the alternative -- and again,
15 this is not meant disrespectfully, but I just, I can't help but
16 comment that there doesn't seem to be much of an alternative
17 except to describe a fourth amended plan that I think everyone
18 knows is not going to be crammed down. I think would be the
19 vehicle for continuing a discussion that so far has gotten up
20 to a certain point but no further.

21 So going forward with the fourth amended plan, I don't
22 know that it has a utility, other than a continuing vehicle for
23 people to talk about and try to get to agreement on. But I'm
24 not sure what the other incentive of that is other than a
25 deadline. So and if we get past these points, if we neither

1 dismiss the case today nor do I set a hard deadline, I'm
2 struggling with what the next step is that's going to be
3 helpful here.

4 The idea of a financial consultant, I think, is
5 interesting. I don't know if -- it's not entirely clear to me
6 whether that person does anything other than say, my real world
7 view of this is X. And the parties, it's not as if I am a DJ
8 appointing some sort of a commissioner here who's going to make
9 a recommendation. And then I'm going to say, oh, yes, that's
10 what we're going to do. I don't think this plays out that way.

11 I think it's a further mediation-like tool. And if
12 I'm missing something, somebody tell me. That having the
13 financial consultant is just is another voice of reason. It's
14 somebody who is able to add some experience and some expertise
15 to give a objective view of something. But that may not be
16 exactly what's needed here. I really can't tell.

17 So I am asking myself what we should do today. I
18 don't think anybody is strenuously suggesting I dismiss the
19 case today. If somebody is, tell me. Because I think the
20 committee is mindful of the fact that some progress has been
21 made. They're as frustrated as everybody, I'm sure, that we're
22 not done yet. And I hear loud and clear their concerns about
23 things happening four and five years in the future. Those are
24 not idle concerns at all.

25 Having said that, I'm just not -- I'm not hearing

1 anybody tell me that they're highly confident that there is a
2 scenario in which these issues get overcome, including the
3 mediators, who have told me it's not at an impasse. That's
4 helpful information, but it leaves me kind of in this open-
5 ended question.

6 If anybody wants to react to any of that, I'd be all
7 ears. And then I'm going to tell you what I think I ought to
8 do.

9 MS. UETZ: Your Honor, Ann Marie Uetz is for the
10 debtor.

11 THE COURT: You're choosing your words especially
12 carefully. I --

13 MS. UETZ: Anytime I begin the sentence with
14 respectfully, Your Honor, I really mean it.

15 THE COURT: Okay.

16 MS. UETZ: I'm surprised to hear --

17 THE COURT: And I am hoping to be humble. So you go
18 ahead.

19 MS. UETZ: I'm surprised to hear Your Honor say what I
20 think I heard, which is we can't cram down the committee in
21 this case. I'm surprised to hear that today. And that's what
22 I think I heard so --

23 THE COURT: Well, that's what I thought I heard from
24 you.

25 MS. UETZ: Then I did a terrible job expressing myself

1 because I tried to express that the Bankruptcy Code permits a
2 debtor, even a Catholic entity with sexual abuse creditors, to
3 avail itself of the protections under the plan and attempt to
4 cram down a committee and get a plan confirmed when it meets
5 the standards of the Bankruptcy Code. If this Court is telling
6 the debtor, if this Court is concluding that cramdown is not an
7 option, which is what I think I heard, then we really need to,
8 I think, assess what our what our position is.

9 THE COURT: Well, let me give you this reaction. I
10 thought what I was hearing from you between the lines was the
11 purpose of a fourth amended plan was to try to drive a
12 consensus in a short period of time.

13 MS. UETZ: Again, Your Honor, I regret that I did a
14 terrible job expressing myself.

15 THE COURT: Because that would have been a good thing
16 to say. Okay.

17 MS. UETZ: Yeah. While a fourth amended plan with a
18 threat of a cramdown could certainly forge resolution between
19 the parties, and that would be the optimal desired outcome for
20 the debtor's perspective to have a consensual settlement. But
21 failing that, it may become necessary --

22 THE COURT: Is it --

23 MS. UETZ: -- to get an order cramming down this
24 committee.

25 THE COURT: Okay. So just playing this out a little

1 bit, and if the answer is I'm not sure, that's okay. And --

2 MS. UETZ: I'm particularly good at saying that, Your
3 Honor. I have no hesitation.

4 THE COURT: Well, equally respectfully, okay, we spent
5 a lot of time last summer getting ready for a third amended
6 plan. This one has more money. The money element for now is
7 agreed to. There are some things that aren't agreed to.
8 Why -- I mean, the main lesson from the third amended plan was
9 it was voted down so virtually unanimously. Are you telling me
10 you don't think that would happen again or something else?

11 MS. UETZ: Yeah, I'm telling you something else, Your
12 Honor. We've got a -- I think the committee would be hard
13 pressed to challenge feasibility because its argument is I can
14 pay the settlement amount sooner than five years. So
15 feasibility of what we are proposing seems to me to be
16 something that I like my chances on --

17 THE COURT: Okay.

18 MS. UETZ: -- if I'm permitted to use that kind of
19 phrase.

20 THE COURT: No, no, and it was not an idle question.

21 MS. UETZ: Yeah.

22 THE COURT: I really want to know what you think.

23 MS. UETZ: No, really. That's what I think.

24 THE COURT: Yeah. Okay.

25 MS. UETZ: I think that this committee would be hard

1 pressed to challenge feasibility were we to proceed with --

2 THE COURT: Okay.

3 MS. UETZ: -- the fourth amended plan.

4 THE COURT: Okay.

5 MS. UETZ: I think the focus would be on whether it's
6 fair and equitable. We would be asking for an accelerated
7 confirmation schedule. We have well established all of the
8 discovery that we did last summer. So some values would need
9 to be updated, some depositions would need to be taken, but we
10 would hope to persuade Your Honor to a fairly condensed
11 schedule so that we can get through this and not turn it into a
12 year of professional fees being accrued if not paid.

13 So that is, again, while we would always prefer and
14 maybe I overemphasized it so it came out wrong, we would
15 absolutely always prefer a consensual plan, but I'm hard
16 pressed to understand how paying the amount that we are
17 committing to pay, getting the contribution from some of the
18 insurers, and leaving an insurance assignment to the individual
19 creditors to elect whether to pursue or not, plus a fast,
20 immediate payment option if people want that, 102 or 107
21 million dollars down on day one, I think we could get that plan
22 confirmed. I don't think we can spend --

23 THE COURT: Just remind me --

24 MS. UETZ: -- a year doing it. Sorry.

25 THE COURT: -- based on the numbers that you have in

1 your head, I'm sure, you think you're over a best interest test
2 problem, right?

3 MS. UETZ: Yeah.

4 THE COURT: Okay. I think this --

5 MS. UETZ: We well satisfy the liquidation --

6 THE COURT: Okay.

7 MS. UETZ: -- analysis. Best interest for creditors.
8 Yeah.

9 THE COURT: Okay. The committee probably feels
10 differently but --

11 MS. UETZ: I believe they probably do, and I'm --

12 THE COURT: Okay.

13 MS. UETZ: -- shocked that I'm still standing here.

14 THE COURT: Yeah. All right. Okay. Thank you.
15 Appreciate it.

16 MS. UETZ: You're welcome.

17 THE COURT: Mr. Prol, you want to give me some
18 thoughts?

19 MR. PROL: Your Honor, in terms of a fourth amended
20 plan, I think I can unequivocally state that if the debtor's
21 view is that they need five years to make payments to the
22 trust, that plan will never, never, be acceptable to the
23 committee. That plan will get voted down. We believe the
24 debtor has the ability to pay the obligations to the trust in a
25 shorter period of time, number one.

1 Number two, if they were to propose a fourth amended
2 plan, the debtor is really only contributing 150 million of the
3 200. The remaining fifty comes from RCWC and only gets paid in
4 if they get a consensual third-party release. So this is
5 really a 150-million-dollar plan, not a 200-million-dollar
6 plan, because there's no way, we believe, that they're going to
7 get the vote to get a consensual third-party release to RCWC.

8 In terms of feasibility, Your Honor, we just
9 completely disagree. That was part of the battle in the third
10 amended plan.

11 THE COURT: Um-hum.

12 MR. PROL: We'll have that same battle here, and it'll
13 be the battle of the experts. And it'll depend which expert
14 Your Honor believes. We think we've got the much better side
15 of that argument.

16 In terms of discovery and getting to confirmation,
17 yes, a lot of ground was plowed last year. Some of that
18 information will remain useful. But we're a year down the
19 road. The financial picture, I assume, is different and will
20 have to be explored. And so the idea that we're going to get
21 through a very, very short-term discovery schedule, I think, is
22 not accurate.

23 I would also say, Your Honor, that the fourth amended
24 plan is even more complicated than the third amended plan in
25 that the plan would also include settling insurers. An

1 additional forty-three million dollars, I believe, is coming
2 from settling insurers. We believe, Your Honor, that the
3 contributions from the insurers are woefully inadequate in
4 light of their exposure. And we would oppose the approval of
5 each and every one of those insurance settlements at the values
6 contained in the plan.

7 And again, while forty-four million dollars sounds
8 like a lot of money, in the scope of this case and the scope of
9 their liability and the nature of these claims, it is
10 inadequate consideration to allow the carriers to buy back
11 those policies. And so there's a whole nother set of issues
12 that will have to be addressed at this confirmation hearing.

13 And finally, Your Honor, I keep coming back to this
14 because it's really, really important. And that is the
15 administrative insolvency issue. In order to dismiss the case,
16 three months ago, Your Honor found that they were either
17 insolvent or were about to be and did not have the ability to
18 continue these types of fights. And I've heard nothing today
19 that would even suggest that the debtor's backing away from the
20 fact that they're administratively insolvent or that the
21 additional fees that would be incurred to continue this fight
22 would not sink the ship. Thank you.

23 THE COURT: All right. Thanks.

24 MR. SCHIAVONI: Tanc Schiavoni for the Pacific
25 Insurers.

1 Your Honor, if you look at the legislative history for
2 the cramdown provision, it was put there specifically for
3 actually this kind of situation, a situation where you have a
4 group of, like, holdout claimants who are unreasonably sort of
5 holding out their position. If Congress granted creditors an
6 absolute veto or even a subgroup of them, you would have --
7 you'd never have a plan. They would have such leverage to
8 drive an outcome that all types of reasoned outcomes would be
9 extinguished.

10 You can actually see that in what's happening here.
11 The congressional scheme and the Code for charities doesn't
12 require them to contribute restricted assets. Yet, we have the
13 committee standing here, expressing dissatisfaction that
14 essentially they're treating it like a business and saying that
15 all the parishes should be sold or shut down.

16 In a liquidation, they would do worse off than what
17 they have on this proposal. This proposal sort of puts in a
18 lot of assets that are untouchable in a liquidation. You don't
19 have to close all the parishes and sell them.

20 The notion that a committee of plaintiffs' lawyers
21 would basically sort of turn around and say, these are the
22 parishes that you have to shut down. Here are the other
23 operations you have to shut down. You actually have to take
24 money out of cemeteries so that they're at risk of not being
25 able to maintain the plots of people on a going-forward basis.

1 This is the extreme. This is why the cramdown provision was
2 there. For this sort of circumstance.

3 But I don't actually think you're going to get there,
4 just like Judge Silverstein didn't have to get there in Boy
5 Scouts. There is dramatically more money on the table now than
6 there was previously. The biggest surprise here is, I mean,
7 and I have told Mr. Prol this. I've said it in open court.
8 Like, the claimants here don't know when to declare victory and
9 to say, like, we've won.

10 I heard Mr. Prol suggest that, oh, somehow, the
11 comparisons are cherry picked. I have a chart, I'm happy to
12 give it to Your Honor, of all the recent cases. There's none
13 anywhere close to this. New Orleans comes in I think almost a
14 third or half of this. The New York cases are all below this.
15 This is a victory. Declare victory. Claim credit. Put an ad
16 in the New York Times or the Mercury Times here.

17 It's like, this is -- they've done really well. They
18 will never -- if one measures this on what the claimed
19 injustice, this is not the Court for that, in all due respect.

20 THE COURT: Oh, I get that.

21 MR. SCHIAVONI: This is a court to distribute money.

22 THE COURT: Yeah.

23 MR. SCHIAVONI: You can cross the street and go to the
24 district attorney's office and deal --

25 THE COURT: Um-hum.

1 MR. PROL: -- with those Issues there. This is a
2 court to distribute money, and that's what the cramdown --

3 THE COURT: I thoroughly agree with that.

4 MR. SCHIAVONI: And I think, sometimes, like the
5 letter writing and things like that, I think it does a
6 disservice to suggest that one's going to get satisfaction in
7 that regard here. And no disrespect to Your Honor or the court
8 or --

9 THE COURT: No, no, no, I --

10 MR. SCHIAVONI: -- or to the parties. It's
11 something -- when I'm in the cases where I've pro bono
12 represented people, it's like, one of the things as a lawyer
13 you have is your job to try to sit down with the family and
14 explain to them what they're going to get. They're not going
15 to get their son back if they've lost their son. That's not
16 what this is about.

17 So Your Honor, I give them a shot at going forward. I
18 think they retain exclusivity, as long as the plan is along the
19 lines that it is. There's significant extra contribution. I
20 think, as we get closer, I think we can swing a lot of the -- I
21 made this point before. We've spoken to claimants' or
22 plaintiffs' lawyers who -- and not their direct clients, but
23 we've spoken to them outside of the ones who come to the
24 mediation for the committee. And there's very different views.

25 Your Honor, I fully respect your lift stay order, but

1 it's got us in the position where the chairman of the
2 committee, of course, had his case list stayed and set it for,
3 number 1, the first case to go forward to trial. One might
4 posit he's a difficult sell. That any plan should be done at
5 all. It's a very problematic situation.

6 I made that point about discrimination when we argued
7 those, that that is what it is, and we're dealing with that as
8 it is. We have an appeal on it, but it's a problem. I just
9 think, as you get closer to confirmation and you see how the
10 facts lay out on what's on the table, the Court would have it
11 in its power to cram down.

12 But I don't think you'd end up having to because
13 everyone would be faced with a very stark decision of if you
14 take X, everybody could declare victory in a monetary way. Or
15 at that point, you could push them over. The Court would have
16 to decide whether the fees that were incurred and whether it
17 was over litigated. Whether they all should be paid. That was
18 a point made by Judge Glenn and Judge Grabill on whether the
19 parties were really pushing things too far on the litigation
20 front. It's an issue that came up in Camden when fees were
21 held back till the end of the year. And we might get over
22 the -- get over the hump.

23 Thank you, Your Honor.

24 THE COURT: Thank you very much.

25 MR. SIMONS: Your Honor, may I address the Court?

1 THE COURT: Very, very briefly.

2 MR. SIMONS: Thank you, Your Honor.

3 THE COURT: Because it really isn't necessary. It
4 went in and out the other. Okay.

5 MR. SIMONS: I will, Your Honor. Mr. Woodall
6 (phonetic) was chosen before there was a bankruptcy to be the
7 first bellwether trial --

8 THE COURT: Um-hum.

9 MR. SIMONS: -- in Northern California. He was chosen
10 to be that plaintiff by the Foley firm, not by the plaintiff's
11 side.

12 THE COURT: Okay. Thank you.

13 MR. SIMONS: Thank you, Your Honor.

14 MR. WEISENBERG: Your Honor, Brent Weisenberg on
15 behalf of the committee. Just four points to respond to Mr.
16 Schiavoni. First --

17 THE COURT: Dismiss today. That's what --

18 MR. WEISENBERG: Well, it may be, Your Honor.

19 THE COURT: Okay.

20 MR. WEISENBERG: It may just be.

21 THE COURT: All right.

22 MR. WEISENBERG: But I think what's most important to
23 remind the Court, and you know what? Earlier today, my clients
24 reminded me, and I'm referring to the Friar's case --

25 THE COURT: Um-hum.

1 MR. WEISENBERG: -- where we had three survivors, and
2 they stared at me and said, you didn't talk about us. You
3 didn't talk about humans. And we have to remind ourselves that
4 this case is about human and human suffering. And so I think
5 our guiding light should be how can we help them. What is the
6 most expeditious way to assist with their healing and get them
7 a fair and equitable distribution?

8 This notion that we should go down a fourth
9 confirmation fight, where the recalcitrant creditors that Mr.
10 Schiavoni talks about that he wants to cram down are the
11 entirety population of the survivors. That's not recalcitrant
12 creditors. That is the survivor population. That is not why
13 the Code was created. That's point one.

14 Point two, we appreciate his testimony on what is and
15 is not restricted assets. That is for Your Honor to decide.
16 And that was one of our suggestions is we allow that to go
17 forward so that we can decide whether thirty-six million or so
18 is or is not on the table.

19 The notion that we should declare victory, oh, my God.
20 There is no victory here for anybody. Our client's lives are
21 forever ruined. There is no victory here.

22 The best we can do is try to claw as much as we can to
23 give them some solace of peace. We have a vehement
24 disagreement on how much that should be and when, and we're
25 fighting as hard as we can for them. But no matter what we

1 get, we're not declaring victory.

2 Finally, Your Honor, with respect to the stay order,
3 if this case moves forward past today, this idea that we're
4 going to restay those cases while at the same time permit no
5 professional to get paid, also, the debtor could get a free
6 shot at confirmation, I don't proclaim to have all the answers.
7 I can tell you that's one way it cannot go forward, and it
8 should not go forward.

9 That is a recipe for disaster because we would be
10 allowing the debtor to get a free shot. If they ultimately
11 confirm their plan over our objection, they win. If they
12 don't, it is all but certain they're going to say, sorry, we
13 don't have any money. I mean, they're saying it today that
14 they're administratively insolvent. So how could it be that
15 they're going to go forward on the backs of professionals to
16 get a free shot at confirmation?

17 So again, Your Honor, I don't stand here today to
18 profess that I have all the answers. I wish I did. But I know
19 that's not the answer. And we appreciate the collaborative
20 process you're allowing us to go down.

21 THE COURT: Um-hum.

22 MR. WEISENBERG: And unfortunately, where we keep
23 coming back to is, if our guiding light is what we could do for
24 survivors, dismissal is the best option, Your Honor, because
25 right now, there is no path forward. And if there's no path

1 forward, let's allow the survivors to have their state court
2 rights and move forward without delay because as it stands here
3 today, sitting here in this courtroom, we don't see any
4 expeditious way out.

5 Thank you, Your Honor.

6 THE COURT: Okay. Thanks.

7 Come on up.

8 MS. UETZ: Your Honor, I'll note that I did talk about
9 the survivors at some length.

10 Your Honor, there is a motion for reconsideration on
11 the subcon ruling, I think, that has been briefed and that we
12 haven't moved forward on. It's not a question of, well, let's
13 just go forward with that case. I mean, there's a motion for
14 reconsideration that we think should be denied so --

15 THE COURT: Is that set for hearing?

16 MS. UETZ: I think that that's ready for your
17 decision, Your Honor. I'll stand corrected on that.

18 THE COURT: Um-hum.

19 MS. UETZ: But the gloss that the committee counsel
20 seems to be putting on it is, well, let's just resume the
21 subcon. No. There is a motion for reconsideration before any
22 action can proceed on that. And Your Honor, we believe, should
23 deny that motion, and then that will be put to rest.

24 THE COURT: Okay.

25 MS. UETZ: And so maybe that's another status --

1 THE COURT: So --

2 MS. UETZ: -- that we can provide Your Honor as we --

3 THE COURT: -- there's a very quizzical look over on
4 that --

5 MS. UETZ: There's some sound coming too, so it's hard
6 to concentrate, but okay.

7 THE COURT: Yeah.

8 MR. WEISENBERG: Your Honor, I thought what I said --
9 Brent Weisberg, for the record-- was focusing on the restricted
10 asset complaint. I don't believe I ever talked about subcon.

11 MS. UETZ: Maybe I mixed up --

12 THE COURT: All right. Okay.

13 MS. UETZ: -- or conflated the two so --

14 THE COURT: So somebody remind me how we ended up with
15 a fully briefed subcon motion that hasn't been decided yet.

16 MS. UETZ: There's a motion for reconsideration that
17 was filed that was briefed and is before Your Honor. And I
18 think it's just been kind of back-burnered while we've been --

19 THE COURT: I'm sorry. Has that been argued?

20 MR. WEISENBERG: Yes, Your Honor.

21 MS. UETZ: Yeah.

22 THE COURT: Oh, yes. I'm sorry.

23 MS. UETZ: And so --

24 THE COURT: I'm sorry. I'm sorry. Yeah.

25 MS. UETZ: -- we may actually be in agreement that a

1 decision from Your Honor on that could be useful --

2 THE COURT: Yeah, I mean, that --

3 MS. UETZ: -- as well, but --

4 THE COURT: Now, my recollection is part of the
5 confusion there from my end was sort of a -- sort of a to what
6 end. I mean, what are we really questioning here.

7 MS. UETZ: Um-hum.

8 THE COURT: I wasn't sure that I lined it up the same
9 way counsel did in terms of what was at stake and what was to
10 be decided. I thought it was -- I mean, I wouldn't say --

11 MS. UETZ: Christ. Right there, Your Honor.

12 THE COURT: -- I wouldn't say -- I wouldn't say moot,
13 but I think I was struggling with sort of why I needed to
14 decide it. No, you're right. That's been there for a while,
15 and that has been off my radar because of all the drama we had
16 about dismissal and so on and so forth. If that is something
17 that should be revisited, I will turn prompt attention to that,
18 I promise you.

19 MS. UETZ: I think we'd embrace a decision from Your
20 Honor.

21 THE COURT: All right. I --

22 MS. UETZ: And that, I'll just say that for the
23 debtor.

24 THE COURT: Okay.

25 MS. UETZ: Your Honor, I will close with the

1 following. We could sell some real estate to pay Mr.
2 Weisenberg's firm. We want to save that to pay the settlement.
3 So yes, we are going to be back before Your Honor arguing on
4 February 4th with respect to professional fees. And I'll leave
5 it for then.

6 THE COURT: Okay.

7 MS. UETZ: But there are other solutions. Sure, we
8 could sell real estate and pay the lawyers.

9 THE COURT: Okay. Okay.

10 MS. UETZ: The debtor doesn't think that's in the best
11 interest --

12 THE COURT: All right. Okay.

13 MS. UETZ: -- of the estate.

14 And the last thing I'll say about the cramdown, Your
15 Honor, is, not to oversimplify, but I'm going to because I
16 don't think it's too much of an oversimplification. If I
17 persuade you that I need four to five years with interest
18 payments to make the settlement payments, I like my chances on
19 my plan being fair and equitable.

20 THE COURT: Okay.

21 MS. UETZ: I think it's that simple.

22 THE COURT: I mean, can I assume that financially
23 sophisticated lawyers have explored a lot of things to make a
24 payment in year 4 or 5 more palatable, not just interest? Can
25 I assume that?

1 MS. UETZ: Yes, Your Honor.

2 THE COURT: Okay.

3 MS. UETZ: And we're stretching with --

4 THE COURT: I mean, there's a number --

5 MS. UETZ: And these are the professionals' opinions,
6 which, again, is why we came up with the idea today.

7 THE COURT: Even I can come up with four or five right
8 now, and I assume you've been down that road. Right.

9 MS. UETZ: To no avail, Your Honor.

10 THE COURT: All right.

11 MS. UETZ: We always come back to, well, you got to --
12 schools has a bunch of cash. There's a bunch of restricted
13 assets. I --

14 THE COURT: I got it. All right. Okay.

15 MS. UETZ: So my challenge at confirmation of a fourth
16 amended plan, should we proceed that way, is to absolutely
17 persuade you the plan is fair and equitable, including
18 because -- well, let me say it this way. There may be a lot of
19 different presentations, pots of money, and timelines for
20 payment that are fair and equitable. Mine is one of them, and
21 I believe we will be able to persuade Your Honor of that.

22 THE COURT: Yeah.

23 MS. UETZ: Not just one thing in the world that's fair
24 and equitable. Right.

25 THE COURT: Um-hum.

1 MS. UETZ: There can be all different components of a
2 plan of reorganization. And so if I persuade you that under
3 the circumstances of this debtor, what I am proposing for these
4 creditors is fair and equitable, and I understand that includes
5 my timing for payment. I like my chances.

6 THE COURT: Okay. Appreciate it. Thanks.

7 MS. UETZ: Thank you.

8 THE COURT: Anybody else? We're good?

9 Okay. I --

10 MS. UETZ: I had a note on a procedure, Your Honor,
11 but I can wait or --

12 THE COURT: Go ahead.

13 MS. UETZ: So thank you for indulging. We do have
14 February 4th --

15 THE COURT: Yeah.

16 MS. UETZ: -- on the professional fees motion.

17 THE COURT: Yep.

18 MS. UETZ: There was maybe more argument today than we
19 needed on a motion that we have not yet filed with respect to
20 the lift stay issue.

21 THE COURT: Um-hum.

22 MS. UETZ: Whether we file that motion and whether we
23 seek to tie it to the February 4th hearing, I think we'll have
24 some discussion --

25 THE COURT: Okay. That's fine. That's fine.

1 MS. UETZ: -- about. So if that's useful for the
2 Court, I wanted to highlight that for you.

3 THE COURT: Yeah. Well, I mean, I assumed I was --
4 assumed I was going to hear about it --

5 MS. UETZ: Thank you.

6 THE COURT: -- at some point. Okay. Thanks.

7 I'm not trying to be funny. I need to get my head
8 around this in a very fundamental way and just think through
9 what the decisions really are and where we're likely to head if
10 we complicate this by getting into discussions about a fourth
11 amended plan that is, at least for the moment, not agreeable.

12 So I want to take a couple of weeks to do that. I may
13 have some thoughts before then. If I do, I will let you know
14 and try to gather the troops, as it were, and give you some
15 thoughts before February 4th if I'm able to advance my own
16 thinking that way. But I'm not trying to be funny here. I'm
17 literally getting my head around the best way forward when we
18 had a very simple way forward and this case is no longer quite
19 that simple. So that's my task.

20 I will put the reconsideration motion back on a front
21 burner. And assuming we're going forward on the 4th, and I
22 don't come up with something else that says we're not, for
23 whatever reason, I will expect to be able to dispose of that by
24 the 4th at the latest. And I'll do it orally, just so it's
25 not -- there's no more delays in getting something written out

1 there because I don't think it's -- I don't think it's going to
2 be the most difficult thing to explain or have you understand,
3 if I remember my thinking about it.

4 Anything else for the good of the order today?

5 All right. Thank you.

6 Thanks to the bishop for coming. I appreciate it.
7 What could be more scintillating than hearing all this? Right.

8 UNIDENTIFIED SPEAKER: Yes, Your Honor.

9 THE COURT: Okay. Oh, did you come to something on
10 the order?

11 MR. SCHIAVONI: We sort of did come (indiscernible)
12 I'm prepared to do is there's a question about whether the list
13 of the lawsuits, whether every one of them are, in fact,
14 against the Friars or not.

15 THE COURT: Yes.

16 MR. SCHIAVONI: And I mean, I'm willing to represent
17 on the record or we can add a line in the order that says that
18 if any of those are not lawsuits against the Friars, they're
19 off the list. They come off the list, so to speak.

20 THE COURT: Okay.

21 MR. SCHIAVONI: But otherwise, I think the issues are
22 just, like, it comes down to who can draft it better, the
23 requests, and we'd rather just leave the requests otherwise as
24 they are. And if there are objections to it, they --

25 THE COURT: All right.

1 MR. SCHIAVONI: -- can deal with it there.

2 THE COURT: Yeah.

3 MR. WEISENBERG: Your Honor, the only other point of
4 disagreement was language. We had proposed to make abundantly
5 clear Your Honor's ruling, which was that no claim forms that
6 had been provided by a survivor to BrownGreer, which is the
7 archdiocese claims administrator, would be provided. So long
8 as we have a representation from Mr. Schiavoni that they're not
9 seeking that, we don't want to overly burden this --

10 THE COURT: Okay.

11 MR. WEISENBERG: -- and we'll let it go, and we'll be
12 sort of comfortable.

13 THE COURT: All right. Thank you.

14 MR. SCHIAVONI: We struck that request, Your Honor,
15 so --

16 THE COURT: All right. Then I thank you. Thanks to
17 both of you for your continuing efforts on something that I'm
18 sure everybody thought was not that difficult. What else is
19 new around here?

20 All right. Thanks very much, everybody. And thank
21 you to the mediators for coming today. And thanks to all the
22 counsel. Appreciate it.

23 MS. UETZ: Thank you, Your Honor.

24 THE COURT: Thank you.

25 (Whereupon these proceedings were concluded at 2:43 PM)

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C E R T I F I C A T I O N

I, River Wolfe, certify that the foregoing transcript is a true and accurate record of the proceedings.



/s/ RIVER WOLFE, CDLT-265

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Date: January 23, 2026

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Exhibit 3

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Weisenberg, Brent I.

From: Gabrielle Albert <galbert@kbkllp.com>
Sent: Wednesday, January 21, 2026 5:10 PM
To: Moses, Shane
Cc: Kaplan, Michael A.; Weisenberg, Brent I.; Prol, Jeffrey D.; Rauchberg, Jake Andrew; Restel, Colleen M.; Mannix, Erica G.
Subject: RCBO - Subpoena & Document Request
Attachments: P814 (Document Requests to Debtor re Motion to Amend Interim Comp Procedures).pdf; P815 (Dep Notice to Daniel Flanagan Jan 2026).pdf

Shane,

Please see the attached subpoena and document request.

Please let me know if Foley will not accept service on behalf of the Debtor.

Best,
Brelle

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Counsel for the Official Committee of Unsecured Creditors

**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

**THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS' NOTICE OF
DEPOSITION OF DANIEL FLANAGAN**

1 **PLEASE TAKE NOTICE** that, pursuant to Rules 26 and 30 of the Federal Rules of
2 Civil Procedure, made applicable to these proceedings by Rules 7026, 7030, and 9014 of the
3 Federal Rules of Bankruptcy Procedure, and pursuant to the Local Rules of Bankruptcy Practice
4 and Procedure of the United States Bankruptcy Court for the Northern District of California, and
5 in connection with the *Declaration of Daniel Flanagan in Support of Debtor’s Motion to Amend*
6 *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of*
7 *Professionals* filed with the Bankruptcy Court on January 13, 2026 [Dkt. No. 2561], the Official
8 Committee of Unsecured Creditors (the “Committee”) appointed in the bankruptcy case of the
9 above-captioned debtor (the “Debtor”), by and through its undersigned counsel, will take the
10 deposition upon oral examination of Daniel Flanagan on **January 26, 2026, at a mutually**
11 **agreeable time, via Zoom.**

12 The deposition shall continue from day to day until completed or otherwise adjourned
13 or continued by agreement of counsel. The deposition shall be taken before a notary public or
14 other person authorized to administer oaths pursuant to Federal Rule of Civil Procedure 28(a),
15 applicable pursuant to Federal Rules of Bankruptcy Procedure 9014 and 7028. The testimony of
16 this deposition may be recorded by videographic and/or stenographic means.

17 Dated: January 21, 2026

LOWENSTEIN SANDLER LLP
KELLER BENVENUTTI KIM LLP

By: /s/ Gabrielle Albert
Jeffrey D. Prol
Michael A. Kaplan
Brent Weisenberg
Colleen M. Restel

– and –

Tobias S. Keller
Jane Kim
Gabrielle L. Albert

*Counsel for the Official Committee of
Unsecured Creditors*

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Counsel for the Official Committee of Unsecured Creditors

**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

**THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS' REQUEST
FOR THE PRODUCTION OF
DOCUMENTS FROM THE DEBTOR**

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PLEASE TAKE NOTICE that, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, made applicable to these proceedings by Rules 7026, 7034, and 9014 of the Federal Rules of Bankruptcy Procedure, and pursuant to the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of California, and in connection with the *Debtor’s Motion to Amend Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* filed with the Bankruptcy Court on January 13, 2026 [Dkt. No. 2560], the Official Committee of Unsecured Creditors (the “Committee”) appointed in the bankruptcy case of the above-captioned debtor (the “Debtor”), by and through its undersigned counsel, submits this Request for the Production of Documents (each, a “Request” and collectively, the “Requests”) from the Debtor. The requested materials shall be produced to the offices of Keller Benvenuti Kim LLP, c/o Gabrielle L. Albert, 101 Montgomery Street, Suite 1950, San Francisco, CA 94104, on or before **January 23, 2026 at 5:00 p.m. (Pacific Time)**.

1 **DEFINITIONS**

2 1. “All” includes the word “any,” and “any” includes the word “all.”

3 2. “And” includes the word “or,” and “or” includes the word “and.”

4 3. “Bankruptcy Court” means the United States Bankruptcy Court for the Northern
5 District of California, Oakland Division.

6 4. “Chapter 11 Case” means the bankruptcy proceeding initiated by RCBO on the
7 Petition Date in the Bankruptcy Court captioned 23-40523 (WJL).

8 5. “Committee” means the Official Committee of Unsecured Creditors appointed in
9 the Chapter 11 Case.

10 6. “Communication(s)” means the transmittal of information, in the form of facts,
11 ideas, inquiries, or otherwise. The term is used here in the broadest sense, and includes any and
12 all conversations, meetings, discussions, copying or forwarding e-mails and other Documents and
13 any other mode of verbal or other information exchange, whether in person or otherwise, as well
14 as all letters, correspondences, memoranda, telegrams, cables, and other Documents
15 memorializing or constituting any information exchange.

16 7. “Concerning” or “Concern(s)” means constituting, Relating to, pertaining to, based
17 upon, bearing upon, referring to, with reference to, arising in connection with, arising out of,
18 regarding, by reason of, having to do with, or having any relation to, in the broadest sense.

19 8. “Debtor” or “RCBO” means The Roman Catholic Bishop of Oakland, including its
20 affiliated churches, and each of their current and former affiliates, corporate parents, subsidiaries,
21 officers, directors, employees, professionals representatives, insurance brokers, attorneys, joint
22 ventures, partners, and anyone acting on its or their behalf. For the avoidance of doubt, this
23 includes VeraCruz Advisory, LLC.

24 9. “Document(s)” is used in its broadest sense and includes all Communications and
25 writings of every kind, whether sent or received, including the original, drafts, copies and non-
26 identical copies bearing notations or marks not found on the original, and including, but not limited
27 to, text messages, short messaging service (SMS), multimedia messaging service (MMS), any
28

1 instant messages through any instant message service, letters, memoranda, reports, studies, notes,
2 speeches, press releases, agendas, minutes, transcripts, summaries, self-sticking removable notes,
3 telegrams, teletypes, telefax, cancelled checks, check stubs, invoices, receipts, medical records,
4 ticket stubs, maps, pamphlets, notes, charts, contracts, agreements, diaries, calendars, appointment
5 books, tabulations, analyses, statistical or information accumulation, audits and associated
6 workpapers, any kinds of records, film impressions, magnetic tape, tape records, sound or
7 mechanical reproductions, all stored compilations of information of any kind which may be
8 retrievable (such as, but without limitation, the content of computer memory or information storage
9 facilities, and computer programs, and any instructions or interpretive materials associated with
10 them), electronic files or Documents or any Electronically Stored Information of any kind
11 (including associated metadata, email, and voice-mail messages), and any other writings, papers,
12 and tangible things of whatever description whatsoever including, but not limited to, any
13 information contained in any computer, even if not printed out, copies of Documents which are
14 not identical duplicates of the originals (*e.g.*, because handwritten or “blind” notes appear thereon
15 or attached thereto), including prior drafts, whether or not the originals are in Your possession,
16 custody, or control.

17 10. “Each” shall mean each, every, any, and all.

18 11. “Electronically Stored Information” includes, without limitation, the following:
19 information that is generated, received, processed, recorded, or accessed by computers and other
20 electronic devices, including but not limited to—

- 21 a. E-mail;
- 22 b. Internal or external web sites;
- 23 c. Output resulting from the use of any software program; and
- 24 d. All information stored on cache memories, magnetic disks (such as
25 computer hard drives or floppy drives), optical disks (such as DVDs or
26 CDs), magnetic tapes, microfiche, or on any other media for digital data

1 storage or transmittal (e.g., a smartphone such as an iPhone®, a tablet such
2 as an iPad®, or a personal digital assistant such as a BlackBerry®).

3 12. “Explain” means to elucidate, to make plain or understandable, to give the reason
4 for or cause of, and to show the logical development or relationships thereof.

5 13. “Flanagan Declaration” means the *Declaration of Daniel Flanagan in Support of*
6 *Debtor’s Motion to Amend Order Establishing Procedures for Interim Compensation and*
7 *Reimbursement of Expenses of Professionals*, filed on January 13, 2026 at Docket No. 2561 in the
8 Chapter 11 Case, including the exhibits attached thereto.

9 14. “Identify,” “identified,” “identity,” “state the identity,” “identifying,” and
10 “identification” means:

11 a. When used in reference to an individual, his or her (i) full name; (ii) present
12 or last known home address and telephone numbers; (iii) present or last
13 known business address and telephone numbers; and (iv) present or last
14 known occupation, employer and job title or description (indicating whether
15 the information provided is “current” or “last known” in each instance);

16 b. When used in reference to an organization of any kind, (i) its full name; (ii)
17 or other Entity; (iii) its date and state of incorporation (if applicable); (iv)
18 the address of its principal place of business and its telephone numbers; (v)
19 each state in which it is registered or authorized to do business and the date
20 on which it was first so registered or authorized; (vi) each state in which it
21 was, but is no longer, registered or authorized to do business, the date on
22 which it was first so registered or authorized, and the date on which it ceased
23 to be so registered or authorized; (vii) the name and current or last known
24 address of each Person who currently serves as an officer or director (if
25 applicable) together with the title held by each such Person and the date
26 from which such title has been held; (viii) whether it is currently active and,
27 if not, the date on which and reason for which it ceased doing business; (ix)

1 whether it is currently in good standing in each state in which it is
2 incorporated or registered or authorized to do business; (x) the address and
3 phone number of each other location at which it currently does business and
4 the date on which it commenced doing business at that location; and (xi) the
5 address and phone number of each location at which it did business in the
6 past, but at which it currently does not operate, and the dates between which
7 it did business at each such location;

8 c. When used in reference to a Document, (i) the type of Document; (ii) its
9 date; (iii) the identity of its author(s) and its recipient(s); (iv) any title and/or
10 serial or file number appearing on the Document; (v) the identity of its
11 present custodian; (vi) its present location, and (vii) a brief description of
12 its subject matter. If any such Document was, but is no longer in Your
13 possession or control or in existence, state whether it is missing, lost, has
14 been destroyed, has been transferred to others or has been otherwise
15 disposed of; and

16 d. When used in reference to an oral communication, (i) the date, place or
17 places, and parties to the oral communication or some other means of
18 identifying the oral communication; (ii) the substance of the oral
19 communication; (iii) the medium through which the oral communication
20 was made (in person or by telephone or video conference); (iv) each Person
21 who participated in the oral communication; (v) each Person hearing the
22 oral communication; and (vi) whether any written note or memorandum
23 documenting the oral communication exists in the manner required to
24 Identify a Document as defined above.

25 15. “Including” means including without limitation.
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1 16. “Motion” means the *Debtor’s Motion to Amend Order Establishing Procedures for*
2 *Interim Compensation and Reimbursement of Expenses of Professionals* filed on January 13, 2026
3 at Docket No. 2560 in the Chapter 11 Case.

4 17. “OCP Order” means the *Order (I) Authorizing the Retention and Payment, Effective*
5 *as of the Petition Date, of Professionals Utilized by the Debtor in the Ordinary Course of Business;*
6 *and (II) Granting Related Relief* filed on July 20, 2023 at Docket No. 263 in the Chapter 11 Case.

7 18. “Petition Date” means May 8, 2023.

8 19. “Relate(d) to” or “Relating to” means constitutes, refers, reflects, Concerns,
9 pertains to, supports, refutes, consists of, summarizes, discusses, notes, mentions, corroborates,
10 demonstrates, shows, embodies, identifies, analyzes, describes, evidences, or in any way logically
11 or factually connects with the matter described or referenced in the request.

12 20. “You” or “Your” refers to the Debtor.

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1 **GENERAL INSTRUCTIONS**

2 1. Federal Rule of Civil Procedure 34, made applicable to this proceeding pursuant to
3 Federal Rules of Bankruptcy Procedure 7026, 7034, and 9014, is hereby incorporated by reference
4 and applies to each of the following instructions. All responses shall comply with the requirements
5 of the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, and the Local
6 Rules of the United States Bankruptcy Court for the Northern District of California.

7 2. Unless otherwise stated in a Request herein, the relevant time period for the
8 discovery being sought shall be May 8, 2022 to the present.

9 3. The terms “all,” “any,” and “each” shall each be construed as encompassing any
10 and all.

11 4. The connectives “and” and “or” shall be construed either disjunctively or
12 conjunctively as necessary to bring within the scope of the Requests all responses that might
13 otherwise be construed to be outside of its scope.

14 5. The use of the singular form of any word includes the plural and vice versa. The
15 term “including” means “including without limitation.” The present tense shall be construed to
16 include the past tense, and the past tense shall be construed to include the present tense. The
17 singular and masculine form of nouns and pronouns shall embrace, and be read and applied as
18 including, the plural, feminine, or neuter, as circumstances may make appropriate.

19 6. The phrase “possession, custody, or control” shall be construed in the broadest
20 possible manner and includes not only those things in Your immediate possession, but also those
21 things which are subject to Your control.

22 7. These Requests shall be deemed continuing in nature. In accordance with Rule
23 26(e) of the Federal Rules of Civil Procedure, You are required to supplement or correct Your
24 written response and/or production in a timely manner if You learn that in some material respect
25 the response and/or production is incomplete or incorrect, and if the additional or corrective
26 information has not otherwise been made known to the Committee during the discovery process
27 or in writing.

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1 8. Produce all Documents and all other materials described below in Your actual or
2 constructive possession, custody, or control, regardless of whether the Documents were prepared
3 by You and/or are kept or maintained by You at Your place of business or in any other location,
4 and which includes Documents in the possession, custody or control of Your employees,
5 representatives, agents, independent contractors, consultants, attorneys, accountants, auditors, or
6 any other Persons acting or purporting to act on Your behalf. The Requests specifically include
7 the desk and personal files, including electronic files, of all such Persons.

8 9. Documents should include all exhibits, appendices, linked Documents, or otherwise
9 appended Documents that are referenced in, attached to, included with, or are a part of the
10 Requests.

11 10. Documents not otherwise responsive to these Requests should be produced: (a) if
12 such Documents mention, discuss, refer to, Explain, or Concern one or more Documents that are
13 called for by these Requests; (b) if such Documents are attached to, enclosed with, or
14 accompanying Documents called for by these Requests; or (c) if such Documents constitute
15 routing slips, transmittal memoranda or letters, comments, evaluations, or similar materials.

16 11. If any Document, or any part thereof, is not produced based on a claim of attorney-
17 client privilege, work-product protection, or any other privilege, then in answer to such Request
18 or part thereof, for each such Document, You must:

- 19 a. Identify the type, title, and subject matter of the Document;
- 20 b. State the place, date, and manner of preparation of the Document;
- 21 c. Identify all authors, addresses, and recipients of the Document, Including
22 information about such Persons to assess the privilege asserted; and
- 23 d. Identify the legal privilege(s) and the factual basis for the claim.

24 12. Documents should not contain redactions unless such redactions are made to protect
25 information subject to the attorney-client privilege and/or work-product doctrine. In the event any
26 Documents are produced with redactions, a log setting forth the information requested in
27 Instruction 11 above must be provided.

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1 13. To the extent a Document sought herein was at one time, but is no longer, in Your
2 actual or constructive possession, custody, or control, state whether it: (a) is missing or lost; (b)
3 has been destroyed; (c) has been transferred to others; and/or (d) has been otherwise disposed of.
4 In each instance, Identify the Document, state the time period during which it was maintained,
5 state the circumstance and date surrounding authorization for such disposition, Identify each
6 Person having knowledge of the circumstances of the disposition, and Identify each Person who
7 had possession, custody, or control of the Document. Documents prepared prior to, but which
8 relate or refer to, the time period covered by these Requests are to be identified and produced.

9 14. If the identity of Documents responding to a Request is not known, then that lack
10 of knowledge must be specifically indicated in the response. If any information requested is not
11 in Your possession, but is known or believed to be in the possession of another Person or Entity,
12 then Identify that Person or Entity and state the basis of Your belief or knowledge that the
13 requested information is in such Person's or Entity's possession.

14 15. If there are no Documents responsive to a particular Request, please provide a
15 written response so stating.

16 16. If any part of the following Requests cannot be responded to in full, please respond
17 to the extent possible, specifying the reason(s) for Your inability to respond to the remainder and
18 stating whatever information or knowledge You have Concerning the portion to which You do not
19 respond.

20 17. If You object to any of these Requests, state in writing with specificity the grounds
21 of Your objections. Any ground not stated shall be waived. If You object to a particular portion
22 of any Request, You shall respond to any other portions of such Request as to which there is no
23 objection and state with specificity the grounds of the objection.

24 18. If You believe that any Request, definition, or instruction is ambiguous, in whole
25 or in part, You nonetheless must respond and (a) set forth the matter deemed ambiguous and (b)
26 describe the manner in which You construed the Request in order to frame Your response.

1 19. All Documents produced shall be provided in either native file (“native”) or single-
2 page 300 dpi-resolution group IV TIF (“tiff”) format, along with appropriately formatted industry-
3 standard database load files and accompanied by true and correct copies or representations of
4 unaltered attendant metadata. Where Documents are produced in tiff format, each Document shall
5 be produced along with a multi-page, Document-level searchable text file (“searchable text”) as
6 rendered by an industry-standard text extraction program in the case of electronic originals or by
7 an industry-standard Optical Character Recognition (“OCR”) program in the case of scanned paper
8 Documents.

9 20. Documents and other responsive data or materials created, stored, or displayed on
10 electronic or electro-magnetic media shall be produced in the order in which the Documents are
11 or were stored in the ordinary course of business, including all reasonably accessible metadata,
12 custodian, or Document source information, and searchable text as to allow the Committee through
13 a reasonable and modest effort to fairly, accurately, and completely access, search, display,
14 comprehend, and assess the Documents’ true and original content.

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DOCUMENT REQUESTS

1. All Documents You intend to introduce or rely upon at any hearing on the Motion.

2. Documents sufficient to show the total amount paid to each of the Debtor’s professionals retained under the OCP Order, including, but not limited to, Allen, Glaessner, Hazelwood & Werth, LLP, Aprio LLP, Best Best & Krieger LLP, Coblenz Patch Duffy & Bass LLP, CU Advisory Corporation, Dr. Kurt Martens, Levy Design Partners (DBA LDP Architecture), Matthew Kemner, Monsignor Ronny Jenkins, Moss Adams, LLP, Paul Bongiovanni, Plageman, Lund & Cannon LLP, Professional Insurance Archaeology Services, LLC, and VeraCruz Advisory, LLC.

3. All Documents reviewed, relied upon, and/or which support the statements contained in the Motion and the Flanagan Declaration.

Dated: January 21, 2026

**LOWENSTEIN SANDLER LLP
KELLER BENVENUTTI KIM LLP**

By: /s/ Gabrielle Albert
Jeffrey D. Prol
Michael A. Kaplan
Brent Weisenberg
Colleen M. Restel

– and –

Tobias S. Keller
Jane Kim
Gabrielle L. Albert

*Counsel for the Official Committee of
Unsecured Creditors*

Exhibit 4

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Weisenberg, Brent I.

From: Moses, Shane <smoses@foley.com>
Sent: Friday, January 23, 2026 6:13 PM
To: Restel, Colleen M.
Cc: Gabrielle Albert; Rauchberg, Jake Andrew; Mannix, Erica G.; Kaplan, Michael A.; Weisenberg, Brent I.; Prol, Jeffrey D.; Uetz, Ann Marie; Lee, Matt; Moore, Mark C.
Subject: RE: RCBO - Subpoena & Document Request

Colleen,

Good afternoon. Foley will accept service of the notice of deposition and the request for documents.

As an initial matter, it is unfortunate that the Committee seems to prefer to incur the costs of formal discovery and litigation over obtaining information in a more streamlined and productive informal manner. Before the motion to amend interim compensation procedures (the "Motion") was filed, Ann Marie discussed with Brent making VeraCruz available for a meeting with BRG to go over the financial basis for the Motion. In the ten days since the Motion was filed the Committee has not followed up to request or schedule such a meeting. Nevertheless, the Debtor stands by the offer and remains willing to schedule this meeting.

Turning to the Committee's specific requests:

Document Request #1 requests documents the Debtor will rely on at the hearing on the Motion. The Debtor will rely at the hearing on February 4, 2026, on the Motion, the Flanagan Declaration, any reply papers filed, and the record in the Chapter 11 case. We assume you are not asking us to produce the Motion and supporting filings, so we will not be producing any documents in response to this request.

Document Request #2 requests documents sufficient to show total payments to Ordinary Course Professionals. This information has already been provided to the Committee. Specifically, this information is contained in the quarterly OCP compliance reports that are filed with the Court, and in the MOR supporting documents that the Debtor produces to the Committee professionals monthly. The MOR supporting documents include the post-petition total for each professional, including OCPs. Nevertheless, to simplify the Committee's review we will provide a report showing the totals for the case for all OCPs as well as VeraCruz and Century Urban. We anticipate providing this no later than Monday.

Document Request #3 requests all documents reviewed, relied upon, and/or supporting the motion and Flanagan deposition. This request is incredibly and unreasonably broad, potentially encompassing all financial records of the Debtor since the petition was filed. We will not be producing documents in response to this request.

While the Debtor stands by its offer to make VeraCruz available for a meeting, it will not produce Mr. Flanagan or anyone else for a deposition prior to the February 4 hearing.

We will not be adjourning the hearing. As I assume you know, the initial hearing on a motion in this Court is on the papers unless the Court directs otherwise. The Motion can and should be resolved on the papers without the need for discovery.

Best,
-Shane

Shane Moses
Of Counsel

Foley & Lardner LLP
Phone 415.438.6404
[View My Bio](#) | [Visit Foley.com](#) | [Follow us on LinkedIn](#) | smoses@foley.com



From: Restel, Colleen M. <crestel@lowenstein.com>
Sent: Friday, January 23, 2026 12:58:54 PM
To: Gabrielle Albert <galbert@kbkllp.com>; Uetz, Ann Marie <AUetz@foley.com>; Lee, Matt <MDLee@foley.com>; Moore, Mark C. <mmoore@foley.com>
Cc: Rauchberg, Jake Andrew <JRauchberg@lowenstein.com>; Mannix, Erica G. <EMannix@lowenstein.com>; Kaplan, Michael A. <MKaplan@lowenstein.com>; Weisenberg, Brent I. <BWeisenberg@lowenstein.com>; Prol, Jeffrey D. <jprol@lowenstein.com>
Subject: RE: RCBO - Subpoena & Document Request

***** EXTERNAL EMAIL MESSAGE *****

Foley Team,

Following up on the below. Can you please let us know whether you intend to produce documents today and Mr. Flanagan for a deposition on Monday? Alternatively, please let us know if you plan to adjourn the hearing so there is more time to address the discovery requests.

Thank you,

Colleen

Colleen Restel
she, her, hers
Partner
Lowenstein Sandler LLP

T: (973) 597-6310
M: (973) 768-5161



From: Gabrielle Albert <galbert@kbkllp.com>
Sent: Wednesday, January 21, 2026 6:08 PM
To: Uetz, Ann Marie <AUetz@foley.com>; Lee, Matt <MDLee@foley.com>
Cc: Rauchberg, Jake Andrew <JRauchberg@lowenstein.com>; Restel, Colleen M. <crestel@lowenstein.com>; Mannix,

Erica G. <EMannix@lowenstein.com>; Kaplan, Michael A. <MKaplan@lowenstein.com>; Weisenberg, Brent I. <BWeisenberg@lowenstein.com>; Prol, Jeffrey D. <jprol@lowenstein.com>

Subject: FW: RCBO - Subpoena & Document Request

Ann Marie and Matt,

I received an out-of-office response from Shane.

Please see the attached subpoena and document request.

Please let me know if Foley will not accept service on behalf of the Debtor.

Best,
Brelle

GABRIELLE L. ALBERT
Keller Benvenuti Kim LLP
101 Montgomery Street, Suite 1950
San Francisco, CA 94104
Direct: 415.364.6778
[Email: galbert@kbkllp.com](mailto:galbert@kbkllp.com)
[Download vCard](#)

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Online banking fraud is on the rise. Never trust wiring instructions sent via email. Please confirm all wiring instructions by phone directly with our office before transferring funds.

From: Gabrielle "Brelle" Albert <galbert@kbkllp.com>
Date: Wednesday, January 21, 2026 at 2:10 PM
To: "Moses, Shane" <smoses@foley.com>
Cc: "Kaplan, Michael A." <MKaplan@lowenstein.com>, "Weisenberg, Brent" <BWeisenberg@lowenstein.com>, Jeff Prol <jprol@lowenstein.com>, "Rauchberg, Jake Andrew" <JRauchberg@lowenstein.com>, "Restel, Colleen M." <crestel@lowenstein.com>, "Mannix, Erica G." <EMannix@lowenstein.com>
Subject: RCBO - Subpoena & Document Request

Shane,

Please see the attached subpoena and document request.

Please let me know if Foley will not accept service on behalf of the Debtor.

Best,
Brelle

GABRIELLE L. ALBERT
Keller Benvenuti Kim LLP
101 Montgomery Street, Suite 1950
San Francisco, CA 94104
Direct: 415.364.6778
[Email: galbert@kbkllp.com](mailto:galbert@kbkllp.com)
[Download vCard](#)

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construed as a digital or electronic signature, nor is it intended to reflect an intention to make an agreement by electronic means.

Exhibit 5

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Weisenberg, Brent I.

From: Moses, Shane <smoses@foley.com>
Sent: Monday, January 26, 2026 4:10 PM
To: Weisenberg, Brent I.
Cc: Uetz, Ann Marie; Lee, Matt; Moore, Mark C.; Gabrielle Albert; Prol, Jeffrey D.; Restel, Colleen M.; Kaplan, Michael A.
Subject: RE: RCBO - Subpoena & Document Request
Attachments: RCBO OCP&Consultant Payment Totals through 12-31-2025 for BRG 1-26-2026.pdf; RCBO OCP&Consultant Payment Totals through 12-31-2025 for BRG 1-26-2026.xlsx

Brent,

VeraCruz would be available tomorrow after 4:00pm Eastern/1:00pm Pacific. Please let us know if that will work for BRG.

Just to make sure we have a clear understanding, the purpose of this call is for VeraCruz to share information with BRG regarding the cash forecast and the assumptions underlying the motion to amend interim compensation. While we do not object to counsel attending, this is not an opportunity for Committee counsel to examine VeraCruz.

Additionally, as requested, please see the attached summary of payments to OCPs and section 328 professionals from inception through 12/31/2025. Attached in Excel and PDF.

Best,
-Shane

Shane Moses
Of Counsel

Foley & Lardner LLP
Phone 415.438.6404
[View My Bio](#) | [Visit Foley.com](#) | [Follow us on LinkedIn](#) | smoses@foley.com

FOLEY
FOLEY & LARDNER LLP

From: Weisenberg, Brent I. <BWeisenberg@lowenstein.com>
Sent: Monday, January 26, 2026 12:48 PM
To: Moses, Shane <smoses@foley.com>
Cc: Uetz, Ann Marie <AUetz@foley.com>; Lee, Matt <MDLee@foley.com>; Moore, Mark C. <mmoore@foley.com>; Gabrielle Albert <galbert@kblp.com>; Prol, Jeffrey D. <jprol@lowenstein.com>; Restel, Colleen M. <crestel@lowenstein.com>; Kaplan, Michael A. <MKaplan@lowenstein.com>
Subject: RE: RCBO - Subpoena & Document Request

***** EXTERNAL EMAIL MESSAGE *****

Shane, any update for us re: a meeting between BRG and Vera Cruz?

Brent Weisenberg

Partner

Vice Chair, Bankruptcy & Restructuring Department
Lowenstein Sandler LLP

T: (973) 597-6120

M: (646) 483-5523



From: Moses, Shane <smoses@foley.com>

Sent: Friday, January 23, 2026 7:10 PM

To: Weisenberg, Brent I. <BWeisenberg@lowenstein.com>

Cc: Uetz, Ann Marie <AUetz@foley.com>; Lee, Matt <MDLee@foley.com>; Moore, Mark C. <mmoore@foley.com>; Gabrielle Albert <galbert@kbkllp.com>; Prol, Jeffrey D. <jprol@lowenstein.com>; Restel, Colleen M. <crestel@lowenstein.com>; Kaplan, Michael A. <MKaplan@lowenstein.com>

Subject: Re: RCBO - Subpoena & Document Request

Brent,

I will check with VeraCruz on availability, and get back to you.

On behalf of my colleagues in colder climates, thank you. Your email prompted me to look at the Northeast weather forecast. Having done so, I will say stay safe and warm as well.

Best,

-Shane

From: Weisenberg, Brent I. <BWeisenberg@lowenstein.com>

Sent: Friday, January 23, 2026 3:53:54 PM

To: Moses, Shane <smoses@foley.com>

Cc: Uetz, Ann Marie <AUetz@foley.com>; Lee, Matt <MDLee@foley.com>; Moore, Mark C. <mmoore@foley.com>; Gabrielle Albert <galbert@kbkllp.com>; Prol, Jeffrey D. <jprol@lowenstein.com>; Restel, Colleen M. <crestel@lowenstein.com>; Kaplan, Michael A. <MKaplan@lowenstein.com>

Subject: RE: RCBO - Subpoena & Document Request

***** EXTERNAL EMAIL MESSAGE *****

Shane, please circle up with Vera Cruz to propose some convenient times on Monday for them to talk with BRG. We will make one work.

Here is the part of the email where I'd insert "stay safe this weekend" but you are fortunate enough to be in CA. The rest of us will be cold and under a foot of snow. As to those folks, stay safe,

Thank you.

Brent Weisenberg

Partner

Vice Chair, Bankruptcy & Restructuring Department

Lowenstein Sandler LLP

T: (973) 597-6120

M: (646) 483-5523



From: Moses, Shane <smoses@foley.com>

Sent: Friday, January 23, 2026 6:13 PM

To: Restel, Colleen M. <crestel@lowenstein.com>

Cc: Gabrielle Albert <galbert@kbkllp.com>; Rauchberg, Jake Andrew <JRauchberg@lowenstein.com>; Mannix, Erica G. <EMannix@lowenstein.com>; Kaplan, Michael A. <MKaplan@lowenstein.com>; Weisenberg, Brent I. <BWeisenberg@lowenstein.com>; Prol, Jeffrey D. <jprol@lowenstein.com>; Uetz, Ann Marie <AUetz@foley.com>; Lee, Matt <MDLee@foley.com>; Moore, Mark C. <mmoore@foley.com>

Subject: RE: RCBO - Subpoena & Document Request

Colleen,

Good afternoon. Foley will accept service of the notice of deposition and the request for documents.

As an initial matter, it is unfortunate that the Committee seems to prefer to incur the costs of formal discovery and litigation over obtaining information in a more streamlined and productive informal manner. Before the motion to amend interim compensation procedures (the "Motion") was filed, Ann Marie discussed with Brent making VeraCruz available for a meeting with BRG to go over the financial basis for the Motion. In the ten days since the Motion was filed the Committee has not followed up to request or schedule such a meeting. Nevertheless, the Debtor stands by the offer and remains willing to schedule this meeting.

Turning to the Committee's specific requests:

Document Request #1 requests documents the Debtor will rely on at the hearing on the Motion. The Debtor will rely at the hearing on February 4, 2026, on the Motion, the Flanagan Declaration, any reply papers filed, and the record in the Chapter 11 case. We assume you are not asking us to produce the Motion and supporting filings, so we will not be producing any documents in response to this request.

Document Request #2 requests documents sufficient to show total payments to Ordinary Course Professionals. This information has already been provided to the Committee. Specifically, this information is contained in the quarterly OCP compliance reports that are filed with the Court, and in the MOR supporting documents that the Debtor produces to the Committee professionals monthly. The MOR supporting documents include the post-petition total for each professional, including OCPs. Nevertheless, to simplify the Committee's review we will provide a report showing the totals for the case for all OCPs as well as VeraCruz and Century Urban. We anticipate providing this no later than Monday.

Document Request #3 requests all documents reviewed, relied upon, and/or supporting the motion and Flanagan deposition. This request is incredibly and unreasonably broad, potentially encompassing all financial records of the Debtor since the petition was filed. We will not be producing documents in response to this request.

While the Debtor stands by its offer to make VeraCruz available for a meeting, it will not produce Mr. Flanagan or anyone else for a deposition prior to the February 4 hearing.

We will not be adjourning the hearing. As I assume you know, the initial hearing on a motion in this Court is on the papers unless the Court directs otherwise. The Motion can and should be resolved on the papers without the need for discovery.

Best,
-Shane

Shane Moses
Of Counsel

Foley & Lardner LLP
Phone 415.438.6404
[View My Bio](#) | [Visit Foley.com](#) | [Follow us on LinkedIn](#) | smoses@foley.com



From: Restel, Colleen M. <crestel@lowenstein.com>
Sent: Friday, January 23, 2026 12:58:54 PM
To: Gabrielle Albert <galbert@kbkllp.com>; Uetz, Ann Marie <AUetz@foley.com>; Lee, Matt <MDLee@foley.com>; Moore, Mark C. <mmoore@foley.com>
Cc: Rauchberg, Jake Andrew <JRauchberg@lowenstein.com>; Mannix, Erica G. <EMannix@lowenstein.com>; Kaplan, Michael A. <MKaplan@lowenstein.com>; Weisenberg, Brent I. <BWeisenberg@lowenstein.com>; Prol, Jeffrey D. <jprol@lowenstein.com>
Subject: RE: RCBO - Subpoena & Document Request

***** EXTERNAL EMAIL MESSAGE *****

Foley Team,

Following up on the below. Can you please let us know whether you intend to produce documents today and Mr. Flanagan for a deposition on Monday? Alternatively, please let us know if you plan to adjourn the hearing so there is more time to address the discovery requests.

Thank you,

Colleen

Colleen Restel
she, her, hers
Partner

| Lowenstein Sandler LLP

T: (973) 597-6310
M: (973) 768-5161



From: Gabrielle Albert <galbert@kbkllp.com>
Sent: Wednesday, January 21, 2026 6:08 PM
To: Uetz, Ann Marie <AUetz@foley.com>; Lee, Matt <MDLee@foley.com>
Cc: Rauchberg, Jake Andrew <JRauchberg@lowenstein.com>; Restel, Colleen M. <crestel@lowenstein.com>; Mannix, Erica G. <EMannix@lowenstein.com>; Kaplan, Michael A. <MKaplan@lowenstein.com>; Weisenberg, Brent I. <BWeisenberg@lowenstein.com>; Prol, Jeffrey D. <jprol@lowenstein.com>
Subject: FW: RCBO - Subpoena & Document Request

Ann Marie and Matt,

I received an out-of-office response from Shane.

Please see the attached subpoena and document request.

Please let me know if Foley will not accept service on behalf of the Debtor.

Best,
Brelle

GABRIELLE L. ALBERT
Keller Benvenuti Kim LLP
101 Montgomery Street, Suite 1950
San Francisco, CA 94104
Direct: 415.364.6778
[Email: galbert@kbkllp.com](mailto:galbert@kbkllp.com)
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From: Gabrielle "Brelle" Albert <galbert@kbkllp.com>
Date: Wednesday, January 21, 2026 at 2:10 PM
To: "Moses, Shane" <smoses@foley.com>
Cc: "Kaplan, Michael A." <MKaplan@lowenstein.com>, "Weisenberg, Brent" <BWeisenberg@lowenstein.com>, Jeff Prol <jprol@lowenstein.com>, "Rauchberg, Jake Andrew" <JRauchberg@lowenstein.com>, "Restel, Colleen M." <crestel@lowenstein.com>, "Mannix, Erica G." <EMannix@lowenstein.com>
Subject: RCBO - Subpoena & Document Request

Shane,

Please see the attached subpoena and document request.

Please let me know if Foley will not accept service on behalf of the Debtor.

Best,
Brelle

GABRIELLE L. ALBERT
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San Francisco, CA 94104
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