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**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY**

In re:

THE DIOCESE OF CAMDEN, NEW JERSEY,

Debtor.

Chapter 11

Case No. 20-21257 (JNP)

Hearing Date and Time:  
April 28, 2021 at 10:00am

**NOTICE OF JOINT MOTION OF THE DIOCESE AND THE  
OFFICIAL COMMITTEE OF TORT CLAIMANT  
CREDITORS FOR ENTRY OF AN ORDER (I)  
APPOINTING A MEDIATOR, (II) REFERRING MATTERS  
TO MANDATORY GLOBAL MEDIATION, AND (III)  
GRANTING RELATED RELIEF**

**PLEASE TAKE NOTICE** that on **April 28, 2021 at 10:00 a.m.**, The Diocese of Camden, New Jersey, debtor and debtor-in-possession (the “Diocese”), by and through its counsel, McManimon, Scotland & Baumann, LLC, and the Official Committee of Tort Claimant Creditors (the “Tort Committee,” and together with the Diocese, the “Moving Parties”), by and through its counsel, Lowenstein Sandler LLP, will move before the Honorable Jerrold N. Poslusny, Jr., United States Bankruptcy Judge, at the United States Bankruptcy Court, Mitchell H. Cohen U.S. Courthouse, 400 Cooper Street, 4th Floor, Camden, New Jersey 08101<sup>1</sup>, for entry of an order (i) appointing one or more mediators to mediate any and all issues related to the comprehensive resolution of this bankruptcy case, (ii) referring this matter to mandatory global mediation (the “Mediation”), and (iii) granting related relief (the “Motion”).

**PLEASE TAKE FURTHER NOTICE** that in support of the Motion the Moving Parties shall rely upon the brief submitted concurrently herewith. The Moving Parties submit that no separate memorandum of law is necessary because the applicable law is adequately set forth in the supporting brief.

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to the relief requested in the Motion shall: (i) be in writing; (ii) state with particularity the basis of the objection; and (iii) be filed with the Clerk of the United States Bankruptcy in accordance with D.N.J. LBR 9013-2.

**PLEASE TAKE FURTHER NOTICE** that unless an objection is timely filed and served, the Motion will be deemed uncontested in accordance with D.N.J. LBR 9013-1(a) and the relief may be granted without a hearing.

**PLEASE TAKE FURTHER NOTICE** that oral argument is hereby waived unless timely objection is received.

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<sup>1</sup> Unless otherwise determined by the Court, the hearing will be held virtually.



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**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY**

In re:

THE DIOCESE OF CAMDEN, NEW JERSEY,

Debtor.

Chapter 11

Case No. 20-21257 (JNP)

Hearing Date and Time:  
April 28, 2021 at 10:00 a.m.

**JOINT MOTION OF THE DIOCESE AND THE OFFICIAL  
COMMITTEE OF TORT CLAIMANT CREDITORS FOR  
ENTRY OF AN ORDER (I) APPOINTING A MEDIATOR,  
(II) REFERRING MATTERS TO MANDATORY GLOBAL  
MEDIATION, AND (III) GRANTING RELATED RELIEF**

The Diocese of Camden, New Jersey, debtor and debtor-in-possession (the “Diocese”),  
by and through its undersigned counsel, McManimon, Scotland & Baumann, LLC, and the

Official Committee of Tort Claimant Creditors (the “Tort Committee,” and together with the Diocese, the “Moving Parties”), by and through its counsel, Lowenstein Sandler LLP, submit this brief in support of their motion pursuant to section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), for entry of an order (i) appointing one or more mediators to mediate any and all issues related to the comprehensive resolution of this bankruptcy case, (ii) referring this matter to mandatory global mediation (the “Mediation”), and (iii) granting related relief (the “Motion”), and in support thereof respectfully represent as follows:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the Standing Order of Reference to the Bankruptcy Court Under Title 11 of the United States District Court for the District of New Jersey, entered on July 23, 1984, and amended on September 18, 2012.

2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

3. The statutory predicate for the relief requested herein is section 105 of the Bankruptcy Code.

### **BACKGROUND**

4. On October 1, 2020 (the “Petition Date”), the Diocese filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, commencing the above-captioned chapter 11 case in the United States Bankruptcy Court for the District of New Jersey. [ECF 1]

5. The Diocese continues to maintain its operations to fulfill its mission and manage its affairs as a debtor-in-possession pursuant to Bankruptcy Code Sections 1107(a) and 1108.

6. On October 23, 2020, the Office of the United States Trustee formed the Tort Committee. [ECF 111].

7. On December 24, 2020, the Office of the United States Trustee appointed the Official Committee of Unsecured Trade Creditors (the “Trade Committee”). [ECF 293].

8. The Diocese is a Roman Catholic diocese of the Latin Church in New Jersey in which there are sixty-two (62) separately constituted parishes and approximately 486,000 Catholic parishioners in the six (6) southern New Jersey counties of Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem. The Diocese is a not for profit religious corporation organized under the laws of the State of New Jersey.

9. A more detailed history and description of the Diocese and its operations, together with the reasons for its Chapter 11 filing, are set forth in the First Day Declaration of Rev. Robert E. Hughes, Vicar General [ECF 3] and the Amended First Day Declaration of Laura J. Montgomery [ECF 43], which are incorporated herein as if set forth in their entirety.

### **RELIEF REQUESTED**

10. By this Motion, the Moving Parties request entry of an order, substantially in the form filed herewith, pursuant to section 105(a) of the Bankruptcy Code (i) appointing mediators (collectively, the “Mediators”)<sup>1</sup> to mediate any and all issues related to the comprehensive resolution of this chapter 11 proceeding, (ii) referring the Mediation Parties (as defined herein) to Mediation, and (iii) granting related relief.

11. The Moving Parties request that the following parties be directed to participate in the mediation (collectively, the “Mediation Parties”): (a) the Moving Parties; (b) the Trade Committee; (c) the parishes, schools, and missions located within the territory of the Diocese,

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<sup>1</sup> While the Motion seeks to have two separate mediators, the Moving Parties reserve the right to select one mediator for both the Bankruptcy Issues and the Insurance Issues.

including those listed in Docket No. 481-7 (collectively, the “Parishes”); (d) the other Catholic entities located within the territory of the Diocese, including those listed in Docket No. 481-8 (collectively, the “Other Catholic Entities”); (e) applicable insurers under one or more insurance policies that afford the Debtors rights, benefits, indemnity or insurance coverage with respect to abuse claims (collectively, the “Insurers”); and (f) any other parties the Court, the Mediator, or the Mediation Parties agree in the future should participate in the mediation process.

### **BASIS FOR RELIEF**

12. Section 105 of the Bankruptcy Code provides that this Court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions” of the Bankruptcy Code. 11 U.S.C. § 105(a); see also In re Atl. Pipe Corp., 304 F.3d 135, 140 (1st Cir. 2002) (“There are four potential sources of judicial authority for ordering mandatory non-binding mediation of pending cases, namely (a) the court’s local rules, (b) an applicable statute, (c) the Federal Rules of Civil Procedures, and (d) the court’s inherent powers.”); In re A.T. Reynolds & Sons, Inc., 424 B.R. 76, 85 (Bankr. S.D.N.Y. 2010) (“While it goes without saying that a court may not order a party to settle, this Court has authority to order the parties to participate in the process of mediation, which entails discussion and risk analysis.”), rev’d on other grounds, 452 B.R. 374 (S.D.N.Y. 2011).

13. Here, the Moving Parties request the entry of an order appointing and directing the Mediation Parties to participate in the Mediation. The Moving Parties will coordinate selection of the Mediators with the Mediation Parties in advance of the hearing on this Motion (the “Hearing”). If the Mediation Parties agree on the Mediators, the Moving Parties shall submit a supplement to the Motion in advance of the Hearing. To the extent that the Mediation Parties cannot agree on the selection of Mediators, each Mediation Party, as necessary, shall

submit to the Court no later than five (5) days prior to the Hearing, a list of proposed mediators, and the Moving Parties request that the Court appoint a Mediator or two Mediators from the Mediation Parties lists.

14. As has been expressed at numerous hearings by parties in interest to this case, the appointment of Mediators is an important part of resolving this case. The complexity and sheer number of issues that must be resolved in connection with a global resolution of claims under a plan of reorganization cannot be overstated. The Moving Parties believe that it is appropriate to select two Mediators to handle separate issues. First, these issues include the following bankruptcy related issues (the “Bankruptcy Issues”):

- a. Identification of property of the estate and property of the Parishes;
- b. Claims and causes of action against the Parishes;
- c. Terms of a consensual Plan, including, contributions to be made by the Diocese and the Parishes to a trust for the benefit of Survivors, third party releases in favor of the Parishes, the terms of a channeling injunction, treatment of future claims, and the form of Trust Agreement and Trust Distribution Procedures, and classification and treatment of other claims against the Diocese;
- d. Form of Disclosure Statement;
- e. Solicitation Procedures;
- f. Form of ballots; and
- g. Such other issues as may arise.

15. Second, a separate Mediator may be used with respect to insurance issues (the “Insurance Issues”), including, but not limited to, the following:

- a. Coverage disputes;
- b. Issues pertaining to shared insurance between the Diocese and the Parishes;
- c. Terms of a consensual Plan, including contributions to be made by the insurers to fund a trust for the benefit of survivors, releases in favor of settling insurers,



assignment of insurance rights with respect to non-settling insurers, and the terms of a channeling injunction; and

d. Such other issues as may arise

16. Mediation would unquestionably assist the Mediation Parties in attempting to reach a consensual resolution of the Bankruptcy Issues and the Insurance Issues. As has been demonstrated by the course of this case, litigating these issues would entail extensive discovery costs, professional fees and expenses, and extend the timeline of this chapter 11 case, thereby compounding such costs. These costs would predominantly be borne by the Diocese's estate to the detriment of its creditors, including Survivors. As described herein, resolving these issues both expeditiously and efficiently is of paramount importance to achieving a resolution of this case and providing the best recovery for creditors.

17. The Moving Parties believe that the Mediators, once chosen, should determine, among other things, the schedule for the Mediation, the participation (or non-participation) of certain Mediation Parties based on the topics/issues to be covered, and how to resolve any discovery disputes. The Mediators will have ability to take into account all of the Mediation Parties' thoughts on the process by which the Mediation will take place, and formulate the best course of action.

18. The Moving Parties propose that the Diocese shall pay for the Mediator dealing with the Bankruptcy Issues. With respect to the Mediator for Insurance Issues, the Diocese shall pay one-half of the fees and expenses of the Mediator. The Insurers shall be jointly responsible for the remaining one-half of fees and expenses.

19. For these reasons, Mediation will benefit the Diocese's estate, its creditors, and all parties in interest. Accordingly, the Moving Parties respectfully request that the Court enter an

order appointing one or more Mediators and directing the Mediation Parties to participate in the Mediation.

**WAIVER OF BRIEF**

20. As the legal points and authorities upon which the Moving Parties rely are incorporated herein and do not raise any novel issues of law, the Moving Parties respectfully request that the requirement of service and filing of a separate memorandum of law pursuant to Local Rule 9013-2 be deemed waived.

**NOTICE**

21. Notice of this Motion has been given to: (i) the Office of the United States Trustee for the District of New Jersey, One Newark Center, Suite 2100, Newark, NJ 07102; (ii) counsel for the Tort Committee; (iii) counsel for the Trade Committee; (iv) counsel for the Insurers; (v) those parties who have filed a notice of appearance and request for service of pleadings in these Chapter 11 Cases pursuant to Fed. R. Bankr. P. 2002; and (vi) the Diocese's twenty largest unsecured creditors.



<b>UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY</b>	
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In re:  THE DIOCESE OF CAMDEN, NEW JERSEY,  Debtor.	Chapter 11  Case No. 20-21257 (JNP)  Hearing Date and Time: April 28, 2021 at 10:00 a.m.

**ORDER (I) APPOINTING MEDIATORS, (II) REFERRING  
CERTAIN MATTERS TO MEDIATION, AND (III)  
GRANTING RELATED RELIEF**

The relief set forth on the following pages, numbered two (2) through five (5), is hereby  
**ORDERED.**

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Debtor: The Diocese of Camden, New Jersey

Case No. 20-21257 (JNP)

Caption of Order: Order (i) Appointing Mediators, (ii) Referring Certain Matters to Mediation, and  
(iii) Granting Related Relief

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**THIS MATTER** having been presented to the Court by The Diocese of Camden, New Jersey, debtor and debtor-in-possession (the “Diocese”), by and through its undersigned counsel, McManimon, Scotland & Baumann, LLC, and the Official Committee of Tort Claimant Creditors (the “Tort Committee,” and together with the Diocese, the “Moving Parties”), by and through its counsel, Lowenstein Sandler LLP upon the filing of a motion pursuant to section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), for entry of an order (i) appointing one or more mediators to mediate any and all issues related to the comprehensive resolution of this bankruptcy case, (ii) referring this matter to mandatory global mediation, and (iii) granting related relief (the “Motion”)<sup>1</sup>; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11 of the United States District Court for the District of New Jersey*, as amended on September 18, 2012; and venue being proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Motion being sufficient under the circumstances; and it appearing that no other or further notice need be provided; and the Court having determined that the relief sought in the Motion is in the best interests of the Diocese, its estate and creditors; and after due deliberation and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED** as follows:

1. The Motion is **GRANTED** as set forth herein.

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<sup>1</sup> Capitalized terms used but not defined herein shall have the same meaning ascribed to such term in the Motion.

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Debtor: The Diocese of Camden, New Jersey

Case No. 20-21257 (JNP)

Caption of Order: Order (i) Appointing Mediators, (ii) Referring Certain Matters to Mediation, and  
(iii) Granting Related Relief

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2. [•] is appointed as mediator for the purpose of mediating the Bankruptcy Issues, which include, without limitation, identification of property of the estate and property of the Parishes, claims and causes of action against the Parishes, terms of a consensual Plan, including, contributions to be made by the Diocese and the Parishes to a trust for the benefit of Survivors, third party releases in favor of the Parishes, the terms of a channeling injunction, treatment of future claims, and the form of Trust Agreement and Trust Distribution Procedures, and classification and treatment of other claims against the Diocese, form of Disclosure Statement, solicitation Procedures, form of ballots and such other issues as may arise.

3. [•] is appointed as mediator with respect to the Insurance Issues, including, without limitation, coverage disputes, issues pertaining to shared insurance between the Diocese and the Parishes and terms of a consensual Plan, including contributions to be made by the insurers to fund a trust for the benefit of survivors, releases in favor of settling insurers, assignment of insurance rights with respect to non-settling insurers, and the terms of a channeling injunction and such other issues as may arise.

4. Except as otherwise provided herein, the following parties (collectively, the “Mediation Parties”) are referred to the Mediation: (a) the Diocese; (b) the Tort Committee, including its members, professionals, and the individual members’ professionals; (c) the Trade Committee, including its members, professionals, and the individual members’ professionals; (d) the Parishes; (e) the Other Catholic Entities; and (f) each of the Insurers. Any additional party or parties who wish to participate in the Mediation, including, without limitation, any additional

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Debtor: The Diocese of Camden, New Jersey

Case No. 20-21257 (JNP)

Caption of Order: Order (i) Appointing Mediators, (ii) Referring Certain Matters to Mediation, and  
(iii) Granting Related Relief

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insurers, shall be included in the Mediation if (i) all of the Mediation Parties agree to include such additional party or parties in the Mediation and (ii) the Mediators agree that the participation of such additional party or parties is necessary or would be beneficial to the Mediation.

5. The Mediators shall consult with the Mediation Parties on the matters concerning the Mediation, including, without limitation: (a) the structure and timing of Mediation procedures, including, without limitation, the attendance of specific Mediation Parties at particular Mediation sessions; and (b) the timing, general content, and manner of any submissions to the Mediators.

6. The Diocese is responsible for timely payment of the fees and costs of [•] with respect to the Bankruptcy Issues, which shall be payable without further application to or order of the Court. The Insurers are responsible for timely payment of one-half of the fees and costs of [•] with respect to the Insurance Issues. The Diocese is responsible for timely payment of the other half of the fees and costs of [•]. All such amounts shall be payable to [•] without further application to or order of the Court.

7. All rights of the Mediation Parties are preserved and shall not be prejudiced by participation in the Mediation, including, without limitation, any rights to: (i) have final orders in non-core matters entered only after a de novo review by a District Court Judge; (ii) seek withdrawal of the reference of any matter subject to mandatory or discretionary withdrawal; (iii) seek remand of any removed matter; (iv) oppose venue transfer of any removed matter; (v)

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Debtor: The Diocese of Camden, New Jersey

Case No. 20-21257 (JNP)

Caption of Order: Order (i) Appointing Mediators, (ii) Referring Certain Matters to Mediation, and  
(iii) Granting Related Relief

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demand arbitration or a jury trial in any proceeding; and (vi) contest the jurisdiction of this Court to enter any order concerning any alleged insurance coverage that is the subject of the Mediation.

8. The Moving Parties are authorized to take all actions necessary or appropriate to effectuate the relief granted in this Order in accordance with the Motion.

9. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.