UNITED STATES
BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption In Compliance With D.N.J. LBR 9004-1

Clyde & Co US LLP
Marianne May, Esq.
200 Campus Drive, Suite 300
Florham Park, NJ 07932
Telephone: (973) 210-6700

O'Melveny & Myers
Tancred Schiavoni, Esq.
Times Square Tower
7 Times Square
New York, NY 10036
Telephone: (212) 326-2000

Counsel for Counsel for Century Indemnity Company, as successor to CCI Insurance Company, as successor to Insurance Company of North America (also improperly pled as Chubb Limited)

In Re: THE DIOCESE OF CAMDEN, NEW JERSEY, Debtor.	Chapter 11 Case No. 20-21257 (JNP) Reference Docket No. 99 Hearing Date: January 27, 2021

CENTURY'S LIMITED OBJECTION TO THE DIOCESE'S MOTION TO ESTABLISH THE MEDIATION PROCESS

The Tort Committee has declined to provide information about the claims held by its plaintiff firms until the bar date runs. At the same time, the Tort Committee has sought to delay the setting of a bar date as long as possible using its delay in providing information on the claims as leverage to try to extract concessions from the Diocese. This is wrong and not productive. Unless a prompt bar date is set, the point of any mediation order will be frustrated.

Century was not consulted about the selection of a mediator, the procedures for a mediation or its timing. Before the Court entertains a motion to appoint a mediator, the Court should require any mediator candidate to provide disclosures consistent with Rule 2014(a), which requires disclosure of "all of the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee." Fed. R. Bankr. P. 2014(a).[1] The court's analysis in *In re Smith*, 524 B.R. 689, 694 (Bankr. S.D. Tex. 2015), holding that Rule 2014(a) disclosures should be made by a mediator, is directly on point here. Pending compliance with the rule, Century reserves its rights.

Otherwise, Century joins London Market Insurers[2] in asking that the Court deny the Debtor's request to establish an estimation process, or in the alternative, to specify that any estimation will have no effect whatsoever on any insurers' alleged obligations under their policies for the reasons advanced by London Market Insurers in its Limited Objection.

---

[1] While Section 327 of the Code and Rule 2014(a) do not expressly state whether a mediator is a "professional" that is subject to disclosure requirements, numerous courts have required disclosures of professionals even when not "employed" by a party, such as the appointment of the future claims representative. Moreover, at least one bankruptcy court has concluded that a mediator is a professional required to make Rule 2014 disclosures, and a number of bankruptcy courts have local rules to the same effect. *See In re Smith*, 524 B.R. 689, 694 (Bankr. S.D. Tex. 2015) ("[T]he Court finds that the substantial discretion a mediator has in helping to resolve a bankruptcy dispute is sufficiently significant to the overall administration of the estate to require court approval under § 327(a) and Rule 2014(a)."); *see also* Amended Standing Order 09-04 (Bankr. D. Mass. 2010); Voluntary Mediation Program and Procedural Requirements (Bankr. W.D. La. 2005); Voluntary Mediation Program Procedural Requirements (Bankr. E.D. Wash. 2000).

[2] *See* Limited Objection (the "Limited Objection") of Certain Underwriters at Lloyd's, London and Certain London Market Companies (collectively "London Market Insurers") [ECF No. 255] to the Diocese's Motion for Entry of an Order: (i) Establishing Mediation Process Relating to Survivor and Tort Claims; (ii) Estimating Remaining Survivor and Tort Claims Pursuant to 11 U.S.C. § 502(c)(1) and Fed. R. Bankr. P. 3018(a) for Purpose of Voting on Plan of Reorganization and Confirmation Process; and (iii) Granting Related Relief [ECF No. 99.].

Dated: January 13, 2021

Respectfully Submitted,

By: */s/ Marianne May*

CLYDE & CO US LLP
Daren McNally, Esq. (NJ Bar No. 049991992)
Marianne May, Esq. (NJ Bar No. 047031997)
200 Campus Drive, Suite 300
Florham Park, NJ 07932
Telephone: (973) 210-6700
E-mail: daren.mcnally@clydeco.us
marianne.may@clydeco.us

O'MELVENY & MYERS LLP
Tancred Schiavoni, Esq. (*pro hac vice*)
Colleen Powers, Esq. (NJ Bar No. 5532320)
Times Square Tower
7 Times Square
New York, New York 10036-6537
Telephone: (212) 326-2000
Email: tschiavoni@omm.com
cpowers@omm.com

Counsel for Counsel for Century Indemnity Company, as successor to CCI Insurance Company, as successor to Insurance Company of North America (also improperly pled as Chubb Limited)