IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
HARRISBURG DIVISION

In re: ROMAN CATHOLIC DIOCESE OF HARRISBURG, Debtors.	Case No. 1:20-bk-00599 (HWV) Chapter 11

LONDON MARKET INSURERS' OMNIBUS REPLY IN SUPPORT OF CLAIM OBJECTIONS

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Certain Underwriters at Lloyd's, London, Catalina Worthing Insurance Ltd., RiverStone Insurance (UK) Limited, and Sompo Japan Nipponkoa Insurance Company of Europe Limited ("London Market Insurers" or "LMI"), by and through their undersigned counsel, hereby reply to Claimants' Nos. 46, 91, 52, 76, 78, 48, 50 (dup. 240), and 49 (dup. 241) Response to Insurance Companies' Objections to Proofs of Claim ("A+F Claimants' Response"), filed January 7, 2022, at ECF. No. 902; the *Consolidated Response of the Official Committee of Tort Claimants to Claim Objections Filed by Multiple Insurers*, filed January 10, 2022, at ECF. No. 908; Claimants' Nos. 51, 57, 60, 75, and 87 Responses to Insurance Companies' Objections to Proofs of Claim ("RS Claimants' Response"), filed January 11, 2022, at ECF. No. 909; and Claimants' Nos. 71, 79 83, 234, 242 (dup. 238 and 239), 244, 10010 and 10013 Response to Claim Objections Filed by Multiple Insurers ("Horowitz Claimants' Response"), filed January 12, 2022, at ECF. No. 920 (collectively, "Oppositions"), to address the arguments raised in the Oppositions LMI's Claim Objections, and in support thereof, LMI respectfully state as follows:

INTRODUCTION

1. Neither the Committee nor any of the claimants have cited any authority to support their arguments that LMI do not have standing to object to their claims, that LMI cannot assert the Debtor's defenses to liability in claim objections, or that LMI's claim objections are not ripe for adjudication. Instead, applicable precedent from the Third Circuit and other jurisdictions—including most of the cases cited in the Oppositions—support LMI's right to object to Claimants' claims. Lacking any basis in statutory authority or case law, the Oppositions should be disregarded.

BACKGROUND

2. The Oppositions raise a number of unsupported arguments. They include:

1. The Insurers are not parties in interest and have no standing. *See* Doc. 902, Claimants' Nos. 46, 91, 52, 76, 78, 48, 50 (dup. 240), and 49 (dup. 241) Response to Insurance Companies' Objections to Proofs of Claim at 2 ("A+F Claimants' Response"); Doc. 908, Consolidated Response of the Official Committee of Tort Claimants to Claim Objections Filed by Multiple Insurers at 3-5 ("Committee's Response"); Doc. 909, Claimants' Nos. 51, 57, 60, 75, and 87 Responses to Insurance Companies' Objections to Proofs of Claim at 2-3 ("RS Claimants' Response"); Doc. 920, Claimants' Nos. 71, 79 83, 234, 242 (dup. 238 and 239), 244, 10010 and 10013 Response to Claim Objections Filed by Multiple Insurers at 2("Horowitz Claimants' Response").

2. The claim objections are not ripe because their insurance has not yet been implicated. *See* A+F Claimants' Response at 2; RS Claimants' Response at 2; Horowitz Claimants' Response at 2; Committee's Response at 6-7.

3. The statute of limitations is an affirmative defense that belongs to the Debtor and was waived. *See* A+F Claimants' Response at 2; RS Claimants' Response at 3; Horowitz Claimants' Response at 3; Committee's Response at 5-6.

4. Courts have allowed an entity to file a proof of claim, even if that claim is barred by the statute of limitations. *See* A+F Claimants' Response at 2; RS Claimants' Response at 3; Horowitz Claimants' Response at 2-3.

5. The Insurers' rights are subordinate to the Debtor. *See* A+F Claimants' Response at 2; Horowitz Claimants' Response at 2.

6. LMI did not adequately serve the respective claimants and their counsel. *See* A+F Claimants' Response at 2; RS Claimants' Response at 4-5.

7. The RS Claimants argue that bankruptcy courts are courts of equity and they will apply equitable principles to the administration of the bankruptcy proceedings. *See* RS Claimants' Response at 4.

3. Objections 1 and 2 are addressed in Sections I.A-C, below. Objections 3, 4 and 5 are addressed in Section II below. Objection 6 is addressed in Section III, below. Objection 7 is addressed in Section IV, below.

LEGAL ARGUMENT

I. Standing and Ripeness

A. The Issues of Standing and Ripeness Do Not Apply to a Party Asserting a Claim Objection

4. It is the claimants' burden to show they have standing and that their claim is ripe because by filing a proof of claim they have invoked the jurisdiction of the Court. It is not LMIs' burden to show they have standing to object, and that their objections are ripe. "By filing a proof of claim against Continental's estate in bankruptcy court, the Claimants 'invoked the special rules of bankruptcy concerning objections to the claim.'" *Air Line Pilots Ass'n v. Cont'l Airlines (In re Cont'l Airlines)*, 125 F.3d 120, 131 (3d Cir. 1997). "The reason a creditor loses its jury right by filing a proof of claim is because its action not only voluntarily submits it to the jurisdiction of the bankruptcy court but also triggers the claims-allowance process," *Billing v. Ravin, Greenberg & Zackin, P.A.*, 22 F.3d 1242, 1251 (3d Cir. 1994).

5. "The party asserting [federal court] jurisdiction bears the burden of showing that at all stages of the litigation the case is properly before the federal court." *Samuel-Bassett v. Kia Motors Am., Inc.*, 357 F.3d 392, 396 (3d Cir. 2004). Filing a proof of claim in a bankruptcy proceeding invokes federal court jurisdiction with respect to the claim included in the proof of claim. *Devon Energy Prod. Co., L.P. v. Samson Expl., LLC*, No. 16-00437-BAJ-RLB, 2017 U.S. Dist. LEXIS 8099, at *2 n.1 (M.D. La. Jan. 19, 2017) (citing *Central Vermont Public Service Corp. v. Hebert*, 341 F.3d 186, 191 (2d Cir. 2003) ("Our cases have upheld bankruptcy jurisdiction in what would otherwise be non-core proceedings where the party opposing the finding of jurisdiction has filed a proof of claim.").

6. "Article III of the Constitution limits the federal judicial power to 'Cases' or 'Controversies.'" *Khodara Envtl., Inc. v. Blakey*, 376 F.3d 187, 193 (3d Cir. 2004) (quoting *United*

Food and Commercial Workers Union Local 751 v. Brown Group, Inc., 517 U.S. 544, 551, 116 S.Ct. 1529, 134 L. Ed. 2d 758 (1996)). "Courts enforce the case-or-controversy requirement through the several justiciability doctrines," including "standing, ripeness, mootness, the political-question doctrine, and the prohibition on advisory opinions." *Toll Bros., Inc. v. Twp. of Readington*, 555 F.3d 131, 137 (3d Cir. 2009) (citations omitted). The standing and ripeness doctrines are related, as "[e]ach is a component of the Constitution's limitation of the judicial power to real cases and controversies." *Presbytery of N.J. of Orthodox Presbyterian Church v. Florio*, 40 F.3d 1454, 1462 (3d Cir. 1994). Ripeness determines when a proper party may bring an action and standing determines who may bring the action. *Id*. (quoting *Smith v. Wis. Dep't of Agric, Trade & Consumer Prot*, 23 F.3d 1134, 1141 (7th Cir. 1994)); *see also, Smith*, 23 F.3d at 1141 (noting "[i]f no injury has occurred, the plaintiff can be told either that she cannot sue, or that she cannot sue yet").

7. Plaintiffs (here, the Survivor Claimants) bear the burden of proving standing. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561, 119 L. Ed. 2d 351, 112 S. Ct. 2130 (1992). In addition, "[t]he party invoking federal jurisdiction bears the burden of establishing ripeness. *Douris v. Bucks Cty.*, No. 04-CV-232, 2005 U.S. Dist. LEXIS 1279, at *29-30 (E.D. Pa. Jan. 31, 2005) (citing *Presbytery of N.J. of Orthodox Presbyterian Church v. Florio*, 40 F.3d 1454, 1462 (3d Cir. 1994) (quoting *Abbott Labs. v. Gardner*, 387 U.S. 136, 149, 18 L. Ed. 2d 681, 87 S. Ct. 1507 (1967))).

8. What is obvious from the foregoing, and is missing from the reasoning in the Oppositions, is that the doctrines of ripeness and standing are the burden of the party bringing the claim, *i.e.*, here, Survivor Claimants, not the parties objecting to claims, such as LMI. Given that the Oppositions failed to cite a single case that held an insurer did not have standing to object to a

claim against an insured (and if they had, it would have contravened controlling precedent), the Court should find that neither standing nor ripeness are relevant to whether LMI may object to claims.

B. Even if the Standing Doctrine Were Applicable to LMI's Claim Objections, LMI Have Standing to Object to the Claims Alleging Injury in Their Coverage Periods

9. Even if the standing doctrine were applicable to whether LMI may assert claim objections, the Oppositions' contention that LMI do not have the requisite standing to object to claims within their periods of coverage would still contradict controlling Third Circuit precedent, and ignore LMI's rights under the Policies, including their right to associate in the defense of claims. If (i) the Oppositions are contending that the claims to which LMI objected are not seeking proceeds from LMI's policies; (ii) neither the Debtor, nor the Trust to be established to pay such claims, seek any indemnity from LMI for such claims; and (iii) the claimants, the Debtor and the Trustee to be appointed, all stipulate that they will not seek indemnity from the LMI Policies, then LMI would agree they have no standing. However, absent such circumstances, the contention that LMI lack standing is unsupportable.

10. The standing analysis starts with the proposition that any party with a legally protectable interest can participate in a bankruptcy case. The Committee concedes, as they must, that "a 'party in interest; is any party with a legally protected interest affected by the bankruptcy proceeding." Committee's Response Opposition at 3 (citing *In re Glob. Indus. Techs., Inc.*, 645 F.3d 201, 212 (3d Cir. 2011); *Frontier Ins. Co. v. Westport Ins. Corp. (In re Black)*, 460 B.R. 407, 414 (Bankr. M.D. Pa. 2011)). The Oppositions seem to make the unsupported contention that LMI do not have standing because they have not yet agreed to pay the claims. *See* A+F Claimants' Response at 2; RS Claimants' Response at 2; Horowitz Claimants' Response at 2; and Committee's Response at 6-7. That notion was disposed of by the Court of Appeals over ten years

ago when it ruled that appellant insurers with potential liability for silica claims had standing. "[T]he Supreme Court established that an injury's having a contingent aspect does not necessarily make that injury incognizable under Article III." *Glob. Indus. Techs.*, 645 F.3d at 213.

11. As the entities asked to pay the claims against the Debtor to which they objected, LMI have broad standing to participate in the bankruptcy case. *Global Indus. Techs.*, 645 F.3d at 204 ("when a federal court gives its approval to a plan that allows a party to put its hands into other people's pockets, the ones with the pockets are entitled to be fully heard and to have their legitimate objections addressed. In short, they at least have bankruptcy standing."); *see also In re Standard Insulations, Inc.*, 138 B.R. 947, 950 (Bankr. W.D. Mo. 1992) ("The insurers are parties in interest under 11 U.S.C. §§ 1109(b) and 502(a), and have standing to object to claims against the estate."); *see also In re Heating Oil Partners*, 2009 U.S. Dist. LEXIS 117871, at *17 (D. Conn. Dec. 17, 2009) ("Where the debtor's insurance was … the true asset sought by personal injury claimants against the debtor, the insurers were parties in interest with standing to object to claims against the estate.").

12. Standing in bankruptcy cases is governed by the terms of 11 U.S.C. § 1109(b). It states "A party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, or any indenture trustee, may raise and may appear and be heard on any issue in a case under this chapter." However, "[t]he list of potential parties in interest in § 1109(b) is not exclusive. On the contrary, that section "has been construed to create a broad right of participation in Chapter 11 cases." *Glob. Indus. Techs.*, 645 F.3d at 210 (quoting *In re Combustion Eng'g, Inc*., 391 F.3d 190, 214 n.21 (3d Cir. 2004)). Thus, Section 1109(b), by its terms, is to be read broadly so as to have the greatest possible reach. *In re Amatex Corp*., 755 F.2d 1034 (3d Cir. 1985). "[T]he broad and absolute construction

of section 1109(b) comports with the usual expectation of parties in interest that they will have a right to be heard as parties in interest, by the tribunal adjudicating their interests. This expectation has its roots in notions of due process and fair play." *Official Unsecured Creditors' Committee v. Michaels (in the Matter of Marin Motor Oil, Inc.)*, 689 F.2d 445, 457 (3d Cir. 1982), *cert. denied sub nom*., 459 U.S. 1206 (1983).[1]

13. As this Court has previously found, section 502(a) authorizes a party with a legally protectable interest to object to claims. 11 U.S.C. 502(a); *see also e.g.*, *Whiteley v. Slobodian (In re Mechanicsburg Fitness, Inc.)*, 592 B.R. 798, 805 (Bankr. M.D. Pa. 2018) ("Whiteley's legally protected interest and the potential for it to be affected by this bankruptcy proceeding qualifies her as a section 502(a) 'party in interest' under the standard articulated by the Third Circuit Court of Appeals in *Global Industrial*."). LMI have such a legally protectable interest as to the abuse claims. *See, e.g., In re W. Asbestos Co.*, 313 B.R. 832, 845 and n. 17 (Bankr. N.D. Cal. 2003). There can be no question that the Debtor's insurers have such an interest. "A proof of claim is a 'claim' which may subject the Debtor to liability." *In re Amatex Corp.*, 107 B.R. 856, 870 (E.D. Pa. 1989). Such liability might implicate the insurers' obligations under their policies. *See id*

[1] Moreover, the trend for many years has been that insurers have broad standing in bankruptcy court. *See, e.g.*, *Motor Vehicle Cas. Co. v. Thorpe Insulation Co. (In re Thorpe Insulation Co.)*, 677 F.3d 869, 885-886 (9th Cir. 2012) (reversing a confirmation order that followed a bankruptcy court ruling that insurers lacked standing to be heard at confirmation; the Ninth Circuit found insurer standing where "the plan may economically affect [insurers] in substantial ways," stating, "As a general matter, parties with potential responsibility to pay claims against debtors regularly have standing to participate in bankruptcy cases"); *Global Indus. Techs.*, 645 F.3d at 211 ("Without a contrary signal from Congress, we will not read a provision that confers a broad right of participation [11 U.S.C. § 1109(b)] to be a restriction on access to bankruptcy proceedings."); *Baron & Budd, P.C. v. Unsecured Asbestos Claimants Comm.*, 321 B.R. 147, 158 (D.N.J. 2005) ("parties with potential responsibility to pay claims against debtors regularly have standing to participate in bankruptcy cases.") (citing *In re Peter Del Grande Corp.*, 138 B.R. 458, 459 (Bankr. D.N.J. 1992); *In re Berkshire Foods, Inc.*, 302 B.R. 587, 588-90 (Bankr. N.D. Ill. 2003); *Marcus Hook Dev. Park, Inc.*, 153 B.R. 693, 700 (Bankr. W.D. Penn. 1993)).

14. Given that LMI, because they have a legally protectable interest in not being asked to pay claims for which the Debtor has no legal liability, are "parties in interest" under 11 U.S.C. 1109(b), LMI may object to any claims implicating such interest. 11 U.S.C. § 1109(b) (all parties in interest in chapter 11 cases have the right to "raise and be heard on" any issue in a case). The claims to which LMI objected assert that the Debtor has liability, and that such liability allegedly arose during LMI's years of coverage. The Committee's Plan proposes to establish a Trust to pay exactly those claims to which LMI have objected, from funds to be paid by LMI to such Trust. This fits within the Third Circuit's description of a circumstance where a plan that would allow a claimant to "put its hands into other people's pockets" gives the insurers' standing. Thus, LMI have a strong interest in in limiting their exposure to the claims filed in this case. LMI's interest in limiting the claims paid by the Diocese gives them standing to object to the claims.

15. The cases cited by the Committee are not to the contrary. In *Combustion Eng'g, Inc.*, the Court of Appeals considered whether insurers had *appellate* standing, not whether the insurers had standing in the bankruptcy case. It found that, due to the super–preemptory language in the Bankruptcy Court's confirmation order, which fully preserved insurers' rights, insurers had standing only to appeal the district court's changes to the Bankruptcy Court's language. *Id*. at 216. ("Our task in assessing the *appellate standing* of the Objecting Insurers and the London Market Insurers is informed by the 'superpreemptory' and 'neutrality' provisions of the Plan.") *(emphasis added* and *citations omitted).* The issue here is not whether LMI have appellate standing, but rather whether LMI have bankruptcy standing. Further, following *Combustion Engineering*, the Court of Appeals held insurers to have the broad standing conferred by 11 U.S.C 1109(b). *Global Indus. Techs.*, 645 F.3d at 211 ("Article III standing and standing under the Bankruptcy Code are effectively co-extensive").

16. *Mt. McKinley Ins. Co. v. Pittsburg Corning Corp.*, 518 B.R. 307, 329 (W.D. Pa. 2014) is also not on point because it hinges on the existence of language in the Bankruptcy Court's confirmation order, similar to that in *Combustion Engineering*, fully preserving insurers' rights. In *Mt. McKinley Ins*., the District Court found that the insurance neutrality language in Pittsburgh Corning's plan, in addition to the repeated provisions in the plan prohibiting findings in the plan from having any effect on insurers, to be sufficient to deprive Mt. McKinley of standing to object to Pittsburgh Corning's plan. Similarly, *In re Fuller-Austin Insulation*, Case No. 98-2038-JJF, 1998 WL 812388, at *3 (D. Del. Nov. 10, 1998) concerned whether insurers would have standing to object to a plan when the confirmation order included insurance neutrality language. LMI have no similar protection here. But, even if they did under a plan in this case, the relevant circumstances here are different. LMI are not objecting to a plan, but to individual claims for which every interested party has asserted LMI have liability.

17. Moreover, despite the Committee's attempt to distinguish *Frontier Ins. Co. v. Westport Ins. Corp. (In re Black)*, 460 B.R. 407 (Bankr. M.D. Pa. 2011), it is applicable here. In *Frontier Ins.*, the Court found that Westport had standing to object to Frontier's claims because "[i]f the Frontier Claims are allowed, the proceeds of the insurance policy issued by Westport would be the primary source for the payment of the Frontier Claims." *Id*. at 415. LMI have that same interest here.

C. The Objection Is Ripe for Determination

18. While LMI have found many cases holding that a *claim* is unripe, LMI have been unable to find a single case holding that a *claim objection* is unripe other than for lack of notice, which issue is not present here. *See, e.g., In re Quintero*, 513 B.R. 127, 133 (Bankr. D.N.M. 2014) ("Since no notice of an objection deadline was ever given to Cavalry, nor any hearing set or

noticed, the Claim Objection is not ripe for entry of an order disallowing the claim even if the Trustee had not filed a response.")

19. The reason that LMI have been unable to find such a case is that the filing of a claim makes the claim ripe for determination. "A case is ripe when it is fit for judicial decision and further withholding of our consideration would cause the parties hardship." *In re Energy Future Holdings Corp*, 949 F.3d 806, 816 (3d Cir. 2020) (citing *In re Rickel Home Ctrs., Inc.*, 209 F.3d 291, 307 (3d Cir. 2000). "To determine whether this standard is met, we ask whether the parties are 'sufficiently adversarial,'… 'and the issues appropriately "crystallized".'" *Jie Fang v. Dir. U.S. ICE*, 935 F.3d 172, 186 (3d Cir. 2019) (citation omitted).

20. The filing of a proof of claim makes a claim or controversy ripe for consideration by the Court. *See, e.g.*, *In re Energy Future Holdings Corp.*, 949 F.3d 806 (3d Cir. 2020) (No. 19-1430) ("The remaining Appellants' claims are not ripe for appeal because none have even attempted to file a proof of claim or seek relief from the Asbestos Bar Date Order in the Bankruptcy Court."); *In re Energy Future Holdings Corp.*, 619 B.R. 99, 112 n.79 (Bankr. D. Del. 2020). Once Claimants filed their proofs of claim, those claims became ripe for consideration before this Court; the Oppositions do not offer any authority to counter this well-established principle.

II. LMI Have the Contractual Right to Raise Any Defense to Liability that Its Insureds Have

21. LMI have the contractual right under the Policies' Claims Condition to "associate on defense of any claims, suits, or proceedings" where their liability may be involved, and the Diocese "shall cooperate to the mutual advantage of both."

22. Despite the contentions in the Oppositions, the Debtor did not waive the statute of limitations defense. *See Roman Catholic Diocese of Harrisburg's Objection to the Official Committee of Tort Claimants' Motion for Standing and Authority to Commence, Prosecute, and*

Settle Causes of Action on Behalf of the Debtor's Bankruptcy Estate, filed January 11, 2022, ECF No. 913, at 17 ("While the Debtor has refrained from objecting to Survivor Claims on this basis, the Debtor has not waived any defenses to the Survivor Claims, including those defenses premised upon the statute of limitations.").

23. Moreover, the cases cited in the Oppositions for the proposition that time-barred claims may be filed in a bankruptcy case have nothing to do with whether such claim is enforceable under state law and hence may be allowed.[2] In fact, every one of these cases support LMI because in every single case the Bankruptcy Court held that the assertion of a statutes of limitations defense means the claim must be disallowed.

24. Because the Debtor has not waived its affirmative defense, LMI can assert it in their claim objections.[3] Under Pennsylvania law, a cooperation clause is a material condition in an insurance policy and requires an insured to "assist the insurer fully in its handling of the claim and agree[] to take no action which would vitiate a valid defense"—such as the purported waiver of the statute of limitations here. *Forest City Grant Liberty Assocs. v. Genro II, Inc.,* 652 A.2d 948, 951 (Pa. Super. 1995). The Third Circuit has similarly acknowledged an insurer's right to associate in the defense of claims against an insured. *Brooks v. Am. Centennial Ins. Co.*, 327 F.3d 260, 265 (3d Cir. 2003). Far from preventing LMI from standing in the place of their insured, the Policies

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[2] *See In re McGregor*, 398 B.R. 561, 564 (Bankr. N.D. Miss. 2008); *In re Simpson*, 2008 WL 4216317 (Bankr. N.D. Ala. 2008); *In re Pearce*, Case No. 07–12123 (Bankr. E.D. La. 2008); *In re Rosa*, Case No. 08–13226 (Bankr. E.D. Va. 2008); *In re Andrews*, Case No. 08–00151 (Bankr. E.D.N.C. 2008); *In re Keeler*, 440 B.R. 354 (Bankr. E.D. Pa. 2009), *In re Pariseau*, 395 B.R. 492, 2008 WL 4542879 (Bankr. M.D. Fla. 2008); *In re Williams*, Case No. 08–00030 (Bankr. M.D. Fla. 2008); and *In re Varona*, 388 B.R. 705, 723-724 (Bankr. E.D. Va. 2008); Keeler v. PRA Receivables Mgmt., LLC (In re Keeler), 440 B.R. 354, 363 (Bankr. E.D. Pa. 2009).

[3] The broad assertion that the insurers are somehow "subordinate to the Debtor", and thus unable to assert the statute of limitations defense is unsupported by reference to any of LMI's insurance policies or a shred of case law and should be disregarded.

and Pennsylvania law permit LMI participate in the Diocese's defense where LMIs' interests are at stake.

25. In such association, there is no Pennsylvania law, case or statute, which would bar an insurer who has the contractual right to associate in the defense of claims from asserting affirmative defenses on behalf of its insured.

26. The sole authority cited by the Committee does not support a contrary conclusion. In *Dszugan v. Little Russian Union of Am.*, 1916 WL 3493, at *1 (Pa. Com. Pl. 1916), a decision handed down over a century ago, the Court of Common Pleas held that a defendant could not prevail on a statute of limitations defense after judgment was entered for the plaintiff when it failed to appropriately plead the defense. Here, where the statute of limitations defense has been asserted before judgment, that case is inapplicable. That decision did not involve an insurer raising an affirmative defense on behalf of its insured; it did not even consider one party raising a defense on behalf of another. *Dszugan* has not been cited by any Pennsylvania court, let alone for the proposition that the Committee argues for here.

27. Hence, the Court should overrule the Oppositions.

III. LMI Served the Objections in Accordance with Rule 3007(a), Claimants' Oppositions Show they Received Actual Notice

28. In the A+F Claimants' Response, the A+F Claimants state, "A+F Claimants and counsel for other claimants did not receive hard copies of Insurers' Objections." A+F Claimants' Response at 2. First, LMI provided unredacted hard copies in compliance with Federal Rule of Bankruptcy Procedure ("FRBP") 3007. *See* Doc. 753, Certificate of Service for Motion to File Documents Under Seal; Doc. 759, Certificate of Service re Motion to File Documents Under Seal (Proof of Claim 91); Doc. 762, Certificate of Service Re Objection to Proof of Claim 52; Doc. 778, Certificate of Service re Motion to File Documents Under Seal Re Objection to Proof of Claim 76;

Doc. 796, Certificate of Service RE Motion to File Documents Under Seal re Proof of Claim 78; Doc. 805, Certificate of Service Re Motion to File Documents Under Seal re Proof of Claim 48; Doc. 843, Certificate of Service re Motion to File Documents Under Seal re Proof of Claim 49; Doc. 870, Certificate of Service re Motion to File Documents Under Seal re Proof of Claim 241. In relevant part, FRBP 3007 states, "The objection and notice shall be served on a claimant by first-class mail to the person most recently designated on the claimant's original or amended proof of claim as the person to receive notices, at the address so indicated." Fed. R. Bankr. P. 3007(a)(2). Here, the POCs designated Claimant's counsel as the person to receive notices and their address. Therefore, that is where LMI's counsel sent the claim objection documents and LMI is not required to send each Claimant copies of the claim objection documents. Second, as for the "counsel for other claimants," the such persons are defined as "Permitted Parties" under the terms of the Bar Date Order, and must request unredacted copies from the Debtor. *See* Order (I) Establishing Deadlines for Filing Proofs of Claim; (II) Approving Sexual Abuse Claim Form; (III) Approving Form and Manner of Notice; and (IV) Approving Confidentiality Procedures, entered May 6, 2020, ECF No. 291, paragraph 8.c. at 4.

29. In the RS Claimants' Response, the RS Claimants indicate that their counsel did not receive copies of LMI's Claim Objection to POC 60. *See* RS Claimants' Response at 5. However, LMI mailed RS Claimants' counsel a copy of the unredacted claim objection via U.S. Mail on December 13, 2021. *See* Doc. 768, Certificate of Service re Objection to Proof of Claim 60. To resolve any dispute, on January 13, 2022, LMI's counsel sent an additional courtesy copy of the unredacted documents via FedEx Overnight Mail to RS Claimants' counsel. *See* Declaration of Andrew Mina attached hereto.

IV. The Bankruptcy Court's Equitable Powers Cannot Conflict with the Bankruptcy Code

30. The RS Claimants argue that bankruptcy courts are courts of equity and they will apply equitable principles to the administration of the bankruptcy proceedings. *See* RS Claimants' Response at 4.

31. Section 502 of the Bankruptcy Code states, in relevant part,

> Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that--
>
> **(1)** such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmature

11 U.S.C. § 502(b)(1).

The Court cannot exercise its equitable powers in conflict with the Bankruptcy Code. *See Beal Bank, S.S.B. v. Jack's Marine, Inc.*, 201 B.R. 376, 380 (E.D. Pa. 1996) ("Though a bankruptcy court exercises its equitable powers at its own discretion, it cannot override specific provisions of the Bankruptcy Code."); *In re Tomco*, 339 BR 145, 161 (Bankr WD Pa 2006) (holding that a bankruptcy court cannot exercise its equitable powers in a manner inconsistent with the express provisions of the Bankruptcy Code).

Bankruptcy Code Section 502 states that a claim is allowed unless it is unenforceable under applicable law. 11 U.S.C.A. § 502 (b)(1). As discussed in the claim objections, the claims are not allowed under Pennsylvania law because the statute of limitations has lapsed. Here, if the Court were to apply its equitable powers and allow the claims, then it would be in direct conflict with Section 502, which does not allow for claims that are unenforceable against the Debtor under applicable law. Therefore, the Court cannot override the Pennsylvania statute of limitations.

CONCLUSION

WHEREFORE, London Market Insurers respectfully request that the Court enter an order disallowing each of the POCs to which they objected, in its entirety, and granting such further relief as is just and proper.

Dated: January 18, 2022

Respectfully submitted,

By: */s/ Jeff D. Kahane*

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
HARRISBURG DIVISION

In re: ROMAN CATHOLIC DIOCESE OF HARRISBURG, Debtors.	Case No. 1:20-bk-00599 (HWV) Chapter 11

DECLARATION OF ANDREW MINA IN SUPPORT OF THE LONDON MARKET INSURERS' OMNIBUS REPLY IN SUPPORT OF CLAIM OBJECTIONS

I, Andrew E. Mina, hereby declare as follows:

1. I am an attorney at the law firm of Duane Morris LLP, counsel of record for the London Market Insurers.

2. I caused our office to send an additional courtesy copy of the unredacted Claim Objection documents for Proof of Claim 60 via FedEx Overnight Mail to RS Claimants' counsel on January 13, 2022.

I declare under penalty of perjury that the facts set forth in the foregoing declaration are true and correct to the best of my knowledge, information and belief.

Dated: January 18, 2022

/s/ Andrew E. Mina
Andrew E. Mina

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
HARRISBURG DIVISION

In re: ROMAN CATHOLIC DIOCESE OF HARRISBURG, Debtors.	Case No. 1:20-bk-00599 (HWV) Chapter 11

AFFIDAVIT OF SERVICE

I, Jeff D. Kahane, hereby certify that on January 18, 2022, I electronically filed the London Market Insurers' Omnibus Reply in Support of Claim Objections (the "Reply") with the Clerk of Court in the United States Bankruptcy Court – Middle District of Pennsylvania, using the CM/ECF system which sent notification of such filing to all counsel of record.

Dated: January 18, 2022

/s/ Jeff D. Kahane
Jeff D. Kahane