

**LOWENSTEIN SANDLER LLP**

Jeffrey D. Prol, Esq.  
Michael A. Kaplan, Esq.  
Colleen Maker, Esq.  
One Lowenstein Drive  
Roseland, NJ 07068  
Telephone: (973) 597-2500  
*Counsel to the Official Committee of Tort Claimant Creditors*

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

In re:	Chapter 11
THE DIOCESE OF CAMDEN, NEW JERSEY,	Case No. 20-21257 (JNP)
Debtor.	
-----	
OFFICIAL COMMITTEE OF TORT CLAIMANT CREDITORS OF THE DIOCESE OF CAMDEN, NEW JERSEY,	Adv. Pro. No. 21- _____ (JNP)
Plaintiff,	
v.	
THE DIOCESE OF CAMDEN, NEW JERSEY, THE DIOCESE OF CAMDEN TRUSTS, INC.,	
Defendants.	

**ADVERSARY COMPLAINT**

Plaintiff, the Official Committee of Tort Claimant Creditors (the “Committee”) of the Diocese of Camden, New Jersey (the “Debtor” or “Diocese”), by way of this adversary complaint (the “Complaint”) against the Diocese and the Diocese of Camden Trusts, Inc. (“DOCT” and together with the Diocese, the “Defendants”), hereby states and alleges as follows:

**PRELIMINARY STATEMENT**<sup>1</sup>

1. By this Complaint, the Committee seeks, *inter alia*, a determination from the Court regarding the ownership of more than \$100 million in assets, as of January 31, 2021, held by the Diocese in the DOCT Accounts.

2. The Diocese controls the DOCT Accounts, which it claims to hold in trust for the benefit of DOCT, a non-debtor. DOCT however, was established to hold funds solely for the benefit of the Diocese and with no other purpose than to financially support the Diocese. This circular structure demonstrates that DOCT is not an independent entity but rather a secondary arm of the Diocese, akin to simply acting as a privately managed investment account held at a bank separate from the Diocese's operating accounts. Therefore the DOCT Accounts belong to the Debtor and its estate.

3. The Diocese contends that the estimated \$100 million in assets purportedly held in trust are not part of the Diocese's estate, and thus cannot be reached by creditors of the Diocese, including the abuse survivors comprising the Committee's constituency.

4. The Committee respectfully requests a judgment from this Court declaring the DOCT Accounts property of the estate.

5. Alternatively, the Committee seeks substantive consolidation of the Defendants and a declaratory judgment that the DOCT Accounts are so entangled with the Diocese and its estate as to require substantive consolidation.

6. Alternatively, the Committee seeks a judgement determining that DOCT is a mere instrumentality agent and/or alter ego of the Diocese and that the Diocese and DOCT are a single legal entity.

---

<sup>1</sup> Capitalized terms not defined in this Preliminary Statement shall have the meanings ascribed to them in this Complaint.

7. The Committee further contends that the Diocese failed to establish, and indeed cannot establish, that a valid trust exists with respect to the \$100 million in the DOCT Accounts.

8. The Committee further contends that the Diocese owns all legal and equitable interest in the DOCT Accounts.

9. To the extent a valid trust exists, such trust is an avoidable self-settled trust pursuant to Section 548(e)(1) of the Bankruptcy Code and any deposits of the Diocese's assets into such trust are avoidable fraudulent transfers.

10. The Committee further contends the DOCT Accounts were initially funded with comingled assets which cannot be traced.

### **JURISDICTION AND VENUE**

11. This Court has jurisdiction over this adversary proceeding (the "Adversary Proceeding") pursuant to 28 U.S.C. §§ 157 and 1334(b).

12. Venue in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409 as this adversary proceeding arises under and in connection with a case under Chapter 11 of the Bankruptcy Code that is pending in this District.

13. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O).

14. The Committee has standing to pursue this Complaint pursuant to 11 U.S.C. § 1103.<sup>2</sup>

### **PARTIES**

15. Plaintiff is the Official Committee of Tort Claimant Creditors in this Chapter 11 case appointed by the Office of the United States Trustee pursuant to 11 U.S.C. § 1102(a)(1). The Committee is a party in interest in the Debtor's Chapter 11 case pursuant to 11 U.S.C. § 1109(b).

---

<sup>2</sup> Simultaneously herewith, the Committee has filed a motion for an order granting standing to pursue Count Three (Alter Ego) and Count Six (Avoidance of Declaration of Trust) only.

16. The Committee is comprised of nine creditors with claims against, *inter alia*, the Diocese based upon sexual abuse by members of the clergy, workers, teachers, volunteers, or other persons or entities associated with or representing the Diocese and/or parishes, schools, or other Diocese-related institutions served by the Diocese.

17. Defendant the Diocese of Camden, New Jersey is a New Jersey not-for-profit religious organization with its principal place of business at 631 Market Street, Camden, New Jersey 08102 and is the Chapter 11 debtor and debtor-in-possession in the underlying bankruptcy proceeding.

18. The Diocese's governing body is comprised of six members. The Most Reverend Dennis J. Sullivan (the current Bishop of the Diocese and hereafter the "Bishop") is the President of the Diocese.

19. Defendant Diocese of Camden Trusts, Inc. is a New Jersey nonprofit membership corporation with its principal place of business at 631 Market Street, Camden, New Jersey 08102. DOCT assists the Diocese by providing funding for education, religious personnel development, long-term capital needs, and the maintenance of diocesan offices. The Bishop is the sole member of DOCT. The current trustees are Monsignor Thomas Morgan, the Honorable Joseph H. Rodriguez, U.S.D.J. (ret.), and Kenneth J. Bossong, Esq. (the "Board of DOCT").

20. The Board of DOCT is assisted by the Diocese's Investment Committee on the investment of DOCT's assets. All the investments of DOCT are managed based on the *Diocese of Camden Trusts, Inc. Statement of Investment Policies and Objectives*.

## **FACTUAL BACKGROUND**

### **A. The Diocese owns and controls all funds in the DOCT Accounts**

21. Prior to the creation of DOCT, certain funds received by the parishes within the Diocese's territory (the "Parishes") were required to be transferred to and held by the Diocese. Those funds were commingled with the assets of the Diocese and were subsequently used to fund DOCT, in part.

22. DOCT was initially funded with funds held by the Diocese. Upon information and belief, no additional funding has been provided to DOCT from any entity since its initial funding.

23. After the formation of DOCT, the funds held by DOCT continue to be used for the same purposes that the funds were used for prior to the formation of DOCT, *i.e.* to fund the capital needs of the Diocese.

24. The Diocese routinely received and used funds from DOCT in the form of grants before the grants and issuance of the funds were approved by the Board of DOCT.

25. DOCT essentially functions as the Diocese's privately managed investment account.

26. Purportedly by corporate resolutions dated July 10, 2015 and October 15, 2015 respectively, the trustees of the Diocese and the Board of DOCT entered into a *Declaration of Trust and Trust Agreement* (the "Declaration of Trust") in an attempt to form the Diocese of Camden Trusts, Inc. Investment Trust, while also requesting that the Declaration of Trust apply *nunc pro tunc* to June 25, 2001. However, the Board of DOCT did not approve the Declaration of Trust until November 2, 2016, more than a year after the date on the Declaration of Trust and more than fifteen years after the retroactive application of the Declaration of Trust.

27. The Diocese declared the alleged trust on DOCT's behalf, and the Diocese funded DOCT by diverting certain of its assets to DOCT.

28. Pursuant to the Declaration of Trust, the Diocese (not DOCT) has the unilateral power to amend the provisions governing the administration of the alleged trust.

29. The purpose of the formation of DOCT was to shield assets from creditors of the Diocese.

30. The Declaration of Trust does not clearly define what assets are subject to the purported trust. The Declaration of Trust states: "The assets of the trust . . . consist of those investments, funds, monies and any other property, assets held for the account of the DOCT in Diocese's custodial account with PNC Bank (the "Master Custody Account"), together with any earnings thereon," without providing sufficient information to identify what the Master Custody Account is. The Master Custody Account, and all other assets purportedly held or owned by DOCT, are referred to herein as the "DOCT Accounts".

31. The Declaration of Trust provides that the DOCT Accounts may, at the Diocese's discretion, be commingled with the Diocese's assets.

32. Upon information and belief, the funds held in the DOCT Accounts are and have been commingled at all times with non-trust funds of the Diocese.

33. The total amount held in the DOCT Accounts exceeds \$100 million.

34. The Declaration of Trust is a failed attempt at establishing an express trust in accordance with New Jersey law.

35. The Diocese holds legal title to the funds held in the DOCT Accounts.

36. The entire balance of the DOCT Accounts is property of the Debtor's estate under Section 541(a) of the Bankruptcy Code.

## **B. The PNC Loan**

37. On December 9, 2011, the Diocese entered into a Loan Agreement (the “Loan Agreement”) with PNC Bank, National Association (“PNC”) for a revolving line of credit (the “PNC Loan”) wherein the Diocese may borrow the lesser of (a) \$25 million or (b) 90% of the margin value of “Pledged Collateral” (as defined in the Loan Agreement).

38. Upon information and belief, PNC understood that DOCT housed the bulk of the Diocese’s unrestricted assets, which information it utilized when deciding to enter into the Loan Agreement.

39. In connection with the PNC Loan, DOCT entered into a Pledge Agreement with PNC. Through the Pledge Agreement, seven accounts purportedly held by DOCT at PNC Investments, LLC, including all assets credited to those accounts and all additions, substitutions, replacement, proceeds, income, dividends, and distributions thereon (collectively, the “Pledged Accounts”), were pledged as collateral to secure the PNC Loan.

40. As of January 31, 2021, the Pledged Accounts held more than \$66.2 million. That amount reflects an increase of more than \$9.9 million in seven months (since June 30, 2020).

41. In addition to the Pledge Agreement, DOCT entered into a Guaranty and Suretyship Agreement (the “Guaranty”) with PNC, whereby DOCT unconditionally guaranteed and became the surety for prompt payment of all amounts due under the PNC Loan.

42. As of the Petition Date (defined below), the outstanding balance of the PNC Loan was \$22,807,500.

43. On November 17, 2020, the Board of DOCT signed a *Resolution Regarding Guaranteed Loan*, whereby DOCT agreed to assume responsibility for making interest payments on the Loan.

### C. The Chapter 11 Case

44. On October 10, 2020 (the “Petition Date”), the Diocese commenced a voluntary case under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) in this Court.

45. The Diocese’s commencement of the above-captioned bankruptcy case as of the Petition Date created an “estate” as defined pursuant to 11 U.S.C. § 541(a).

46. Upon information and belief, the Diocese sought relief under Chapter 11 of the Bankruptcy Code in response to multiple sexual abuse actions filed by the survivors of such abuse, in order to obtain leverage over the victims and to hide financial resources owned and controlled by the Diocese from the survivors.

47. DOCT is not a legal entity separate from or independent from the Diocese, but rather is merely an operating division and/or a corporate formality designed to shield assets from creditors of the Diocese. DOCT is operated for the purpose of acting as an investment account for the Diocese, *i.e.*, investing funds deposited by the Diocese and then later providing funding to the Diocese.

48. Part 11 of the Debtor’s *Voluntary Petition* [Dkt. 1] (the “Petition”) lists DOCT as an asset of the Debtor’s estate, specifically in the category of “trusts, equitable or future interests in property.”

49. On or about October 6, 2020, the Diocese filed its *Amended Schedules of Assets and Liabilities and List of Creditors* [Dkt. 41] (“Amended Schedules”), which deleted DOCT from the list of estate assets, and instead included DOCT under the list of “property that the debtor holds or controls that another entity owns.”



50. The balances in the DOCT Accounts are under the Diocese's complete control. The DOCT Accounts are property belonging to the Diocese and should be scheduled as property of the estate.

51. An actual controversy exists concerning whether the DOCT Accounts are assets of the estate.

52. On December 31, 2020, the Debtor filed a proposed *Plan of Reorganization* [Dkt. 306], and on March 6, 2021, the Debtor filed a *First Amended Plan of Reorganization* [Dkt. 498] (the "Proposed Plan").

53. The Debtor classifies PNC as a general unsecured creditor in Class 2 under the Proposed Plan. Pursuant to the terms of the Proposed Plan, PNC is impaired and will not receive a full recovery of the amount it is owed despite its security interest over the Pledged Accounts and Guaranty by DOCT.

54. Pursuant to the Proposed Plan, DOCT is a "Released Party," and therefore will be released from "all claims, obligations, suits, judgments, damages, demands, debts, remedies, causes of action, rights of setoff, other rights, and liabilities whatsoever."

55. Thus, even though the PNC Loan is oversecured by the Pledged Accounts, the Plan does not propose to pay PNC in full, and both the Debtor and DOCT will be released, meaning PNC will not be permitted to collect the full amount it is owed from the Pledged Accounts or based on the Guaranty.

56. Section VI.1.(b)(b)(iv) of the Proposed Plan provides that the Proposed Plan is being funded, in part, by a contribution from DOCT in the amount of "\$30,000 per year for ten (10) consecutive years for a total contribution of \$300,000. Not less than ten (10) days prior to

confirmation, the Board of [DOCT] shall approve this funding and submit proof of cash availability.”

57. The Debtor thereby guaranties approval by the Board of DOCT and does not contemplate the impact if the Board of DOCT does not approve the contribution.

58. On June 28, 2021, PNC filed a proof of claim [Claim No. 372] (the “PNC Claim”) in the amount of \$23,007,528.96 on account of amounts due and owing under the Loan. The PNC Claim was filed as a secured claim, further illustrating the confusion regarding the relationship between DOCT and the Diocese and the ownership of the Pledged Accounts.

59. The Diocese has not objected to the PNC Claim or its current status as a secured claim.

60. On August 12, 2021, the Debtor filed a *Motion for Entry of an Order Approving Settlement of Controversy by and between the Diocese and PNC Bank, National Association Pursuant to Fed. R. Bankr. P. 9019* [Dkt. 749] (the “PNC Settlement Motion”). Pursuant to the PNC Settlement Motion, the Diocese seeks to enter a settlement with PNC which, among other things, extends the maturity date of the PNC Loan and changes the primary obligor under the PNC Loan from the Diocese to DOCT.

#### **D. The Diocese Dominates and Controls DOCT and the DOCT Accounts**

61. The Diocese exercises complete control and domination over DOCT, such that DOCT is a mere instrumentality, agent, and/or alter ego of the Diocese that has no legal existence separate and distinct from the Diocese.

62. The Diocese exercises complete day to day operational and financial control and domination through the Bishop.

63. Upon information and belief, prior to the PNC Loan, DOCT provided loans to the Diocese to assist with cash flow.

64. Upon information and belief, the PNC Loan was initiated prior to the Declaration of Trust, when the sole member of DOCT was the Debtor. Currently, the Bishop is the sole member of DOCT and concurrently serves as the President of the Diocese.

65. As a result of the complete day to day operational and financial control and domination exercised by the Diocese over DOCT, the Defendants failed to observe proper corporate formalities and have not dealt with each other at arm's length.

66. The Diocese and DOCT occupy the same premises and use the same business locations.

67. Upon information and belief, the financial affairs of the Diocese and DOCT are inextricably intertwined and interdependent.

68. For instance, DOCT entered the Pledge Agreement and Guaranty whereby the Pledged Accounts become collateral for the PNC Loan to the Diocese. DOCT did not receive any consideration for the Guaranty and did not benefit from the PNC Loan.

69. Further, upon information and belief, the funds used to fund the DOCT Accounts were commingled with non-trust funds of the Diocese.

70. Further, upon information and belief, the Diocese's financial statements and consolidated audit reports have included DOCT since the fiscal year ending in June 2014. DOCT is also included in the Diocese's accounting system.

71. Additionally the Proposed Plan takes it as a foregone conclusion that the Board of DOCT will approve its contribution to fund the Proposed Plan. Thus, the Diocese guaranties the Board of DOCT's approval, illustrating the control the Diocese has over DOCT.

72. The business operations of the Diocese and DOCT are inextricably intertwined and interdependent. DOCT's sole function is to maintain investment accounts that are used to fund the Diocese's capital needs.

73. For example, upon information and belief, before guarantying the PNC Loan, DOCT considered granting a loan itself to the Diocese, or borrowing money from a bank and making a loan to the Diocese afterwards. The PNC Loan was ultimately selected because a loan from DOCT would reduce the corpus of the DOCT Accounts and therefore reduce future grants for the Diocese's operating expenses.

74. The Diocese and DOCT hold themselves out to the public as a single, unified organization.

### **CAUSES OF ACTION**

#### **COUNT ONE**

##### **Declaratory Relief: The DOCT Accounts are property of the Debtor's estate**

75. The Committee repeats and realleges each of the allegations set forth above and below as if fully set forth herein.

76. The Diocese initially listed DOCT, and therefore the DOCT Accounts, as property of the estate on its Petition.

77. The Diocese subsequently removed DOCT from its list of assets in the Amended Schedules.

78. The Diocese operationally and financially controls DOCT and the DOCT Accounts.

79. The funds held in the DOCT Accounts are controlled by Diocese and used solely for the Diocese's benefit. The DOCT Accounts function as investment accounts of the Diocese.

80. The DOCT Accounts are property of the Diocese's estate, subject to the rights of PNC to the Pledged Accounts under the PNC Loan.

81. At the time of the PNC Loan, PNC believed that DOCT housed the bulk of the Diocese's unrestricted assets.

82. A dispute exists as to whether the DOCT Accounts constitute property of the estate.

83. Therefore, the Committee respectfully seeks an order of this Court declaring that the DOCT Accounts are property of the Debtor's estate.

**COUNT TWO**  
**Declaratory Relief: Substantive Consolidation**

84. The Committee repeats and realleges each of the allegations set forth above and below as if fully set forth herein.

85. Prior to the Petition Date, parties dealt with the Diocese and DOCT as a single institution.

86. The Diocese held DOCT out as housing the bulk of the Diocese's unrestricted assets.

87. The Defendants are mere instrumentalities of one another, and DOCT has no separate existence apart from the Diocese. The Diocese's affairs are so entangled with those of DOCT that substantive consolidation of the Diocese and DOCT will benefit all of the Debtor's creditors including, but not limited to, the survivors of sexual abuse which are the Committee's constituents (the "Survivor Claimants").

88. The separateness of the Defendants was disregarded so significantly prior to the Petition Date that creditors relied on the breakdown of entity borders and treated them as one legal entity.

89. The time and expense necessary to attempt to unscramble the entanglement of the Debtor's affairs with that of DOCT is so substantial that no accurate identification and allocation of assets is possible in the absence of substantive consolidation.

90. No harm will come to the Defendants should this Court enter an order of substantive consolidation because these entities are already so entirely entangled.

91. Substantive consolidation will allow a truly equitable distribution of assets among the Debtor's creditors by treating DOCT as a single economic unit along with the Diocese.

92. If the Defendants are not substantively consolidated, the Diocese will receive a windfall at the expense of creditors of the Diocese, including the Survivor Claimants.

93. A dispute exists as to whether DOCT has an identity separate from that of the Diocese and whether the Diocese's affairs are so entangled with those of DOCT.

94. Wherefore, the Committee respectfully seeks entry of an order of this Court ordering substantive consolidation, *nunc pro tunc*, of the Debtor's estate with DOCT effective as of October 1, 2020.

### **COUNT THREE**

#### **Declaratory Relief: Alter Ego (The Diocese and DOCT constitute a single entity)**

95. The Committee repeats and realleges each of the allegations set forth above and below as if fully set forth herein.

96. Through the Bishop and with the assistance of other high-level management personnel of the Diocese, the Diocese exercises such a high degree of domination and control over DOCT that DOCT has no separate existence but rather Defendants operate as a single entity and enterprise.

97. There is a unity of interest and ownership between the Defendants that the separate personalities of the corporation and the owners no longer exist.

98. DOCT was created and operates merely for the purpose of funding the Diocese's capital needs and shielding funds from the Diocese's creditors.

99. DOCT solely serves as a conduit for the Diocese, and the DOCT Accounts are merely investment accounts of the Diocese.

100. DOCT is a mere instrumentality, agent, and/or alter ego of the Diocese that has no legal existence or purpose separate and distinct from the Diocese.

101. The Diocese is attempting to use its bankruptcy filing to obtain a litigation advantage over its abuse survivors and to place assets it owns and controls beyond the reach of the Survivor Claimants but still within the Diocese's reach and control.

102. Under these circumstances, it would be unfair and inequitable to treat DOCT as a separate entity from the Debtor.

103. To adhere to the doctrine of the corporate entity would promise injustice and/or protect fraud.

104. Wherefore, the Committee respectfully seeks entry of an order declaring that DOCT is a mere instrumentality, agent, and/or alter ego of the Diocese and that the Diocese and DOCT are a single legal entity.

#### **COUNT FOUR**

##### **Declaratory Relief: No valid trust exists with respect to the DOCT Accounts**

105. The Committee repeats and realleges each of the allegations set forth above and below as if fully set forth herein.

106. The Diocese contends that the funds in the DOCT Accounts are held by the Diocese for the benefit of DOCT.

107. The Diocese further contends that the funds allegedly held in the DOCT Accounts do not constitute property of the Diocese's estate.

108. The Committee, on the other hand, contends that no valid trust exists with respect to any of the assets held by the Diocese in the DOCT Accounts.

109. The Committee contends that neither the Diocese nor DOCT intended that any funds in the DOCT Accounts were to be held in trust by the Diocese for the benefit of DOCT but rather for the benefit of the Diocese.

110. The Committee further contends that both the legal and beneficial interest in the DOCT Accounts, and all of the funds and assets therein, are property of the Diocese's estate, subject to the liens of PNC on the Pledged Accounts.

111. An actual, justiciable controversy exists as to whether the DOCT Accounts, and all of the funds therein, are (as the Diocese contends) held in trust by the Diocese for the benefit of DOCT or are (as the Committee contends) owned by the Diocese and constitute property of the Diocese's estate.

112. Wherefore, the Committee respectfully seeks entry of an order declaring that the funds in the DOCT Accounts are not held in trust by the Diocese for the benefit of DOCT, and that the DOCT Accounts, and all of the funds therein, constitute property of the Diocese's estate.

#### **COUNT FIVE**

#### **Declaratory Relief: Diocese owns all legal and equitable interest in the DOCT Accounts and therefore a valid trust does not exist**

113. The Committee repeats and realleges each of the allegations set forth in the preceding paragraphs with the same force and effect as if fully set forth herein.

114. Under the doctrine of merger, a valid trust cannot exist where the legal interest in the alleged trust assets and the beneficial interest in the alleged trust assets are held by the same entity.



115. As set forth above, the Committee alleges that the Diocese and DOCT constitute a single legal entity.

116. Therefore, the legal interest in the alleged trust assets (purportedly held by the Diocese) and the beneficial interest in the alleged trust assets (purportedly held by DOCT) are identical and held by the same legal entity.

117. As a result, no express or resulting trust as alleged by the Diocese can exist with respect to the assets in the DOCT Accounts.

118. The Diocese contends that DOCT is separate from the Diocese, and that the Diocese holds the assets in the DOCT Accounts in trust for DOCT.

119. An actual, justiciable controversy exists as to whether the legal and beneficial interest in the alleged trust is held by the same legal entity, such that the alleged trust is void.

120. Wherefore, the Committee respectfully seeks entry of an order declaring that the assets in the DOCT Accounts are not held in trust by the Diocese for the benefit of DOCT, and that the DOCT Accounts, and all of the funds therein, constitute property of the Diocese's estate.

**COUNT SIX**  
**Avoidance of Declaration of Trust §§ 548(e)(1) & 550**

121. The Committee repeats and realleges each of the allegations set forth in the preceding paragraphs with the same force and effect as if fully set forth herein.

122. Pursuant to the Declaration of Trust, the Debtor transferred an interest of the Debtor in property, specifically the DOCT Accounts, to a purported trust (the "Alleged Trust").

123. The Declaration of Trust was executed and approved by the Board of DOCT within ten years before the Petition Date.

124. The Diocese is the settlor of the Alleged Trust created under the Declaration of Trust. The Alleged Trust, to the extent it is a valid trust, is a self-settled trust.

125. The Debtor is the sole beneficiary of the Alleged Trust.

126. The Debtor transferred the DOCT Accounts to the self-settled Alleged Trust with the intent to hinder, delay, or defraud current and future creditors.

127. Entry into the Declaration of Trust is an avoidable transaction pursuant to 11 U.S.C. § 548(e)(1). Additionally, any subsequent transfer of the Debtor's property into the Alleged Trust constitutes a fraudulent transfer. In accordance with Section 550 of the Bankruptcy Code, the Committee may recover the transfer of the DOCT Accounts to the Alleged Trust for the benefit of the estate and its creditors.

#### **COUNT SEVEN**

#### **Declaratory Relief: Funds deposited into the DOCT Accounts are untraceable**

128. The Committee repeats and realleges each of the allegations set forth in the preceding paragraphs with the same force and effect as if fully set forth herein.

129. The Diocese contends that funds deposited into the DOCT Accounts are readily identifiable.

130. The Committee contends that DOCT's funds are comingled with other alleged funds of the Diocese, the Parishes, and other non-debtor affiliates and cannot be adequately traced.

131. Therefore, even if an express or resulting trust is found to exist, the DOCT Accounts, and all of the funds therein, constitute property of the Diocese's estate.

132. An actual, justiciable controversy exists as to whether the Diocese can meet its burden to prove that the funds deposited into the DOCT Accounts, and comingled with the other alleged funds of the Diocese, can be traced to the assets in the DOCT Accounts.

133. Wherefore, the Committee respectfully seeks entry of an order declaring that that the DOCT Accounts, and all of the funds and assets therein, constitute property of the Diocese's estate.

Dated: October 12, 2021

**LOWENSTEIN SANDLER LLP**

/s/ Jeffrey D. Prol

Jeffrey D. Prol, Esq.

Michael A. Kaplan, Esq.

Colleen Maker, Esq.

One Lowenstein Drive

Roseland, NJ 07068

Telephone: (973) 597-2500

Facsimile: (973) 597-2400

Email: [jprol@lowenstein.com](mailto:jprol@lowenstein.com)

Email: [mkaplan@lowenstein.com](mailto:mkaplan@lowenstein.com)

Email: [cmaker@lowenstein.com](mailto:cmaker@lowenstein.com)

*Counsel to the Official Committee of Tort  
Claimant Creditors*

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

In the matter of:

THE DIOCESE OF CAMDEN, NEW JERSEY,  
Debtor

Case No. 20-21257 (JNP)

OFFICIAL COMMITTEE OF TORT CLAIMANT  
CREDITORS OF THE DIOCESE OF CAMDEN,  
NEW JERSEY

Adversary No. 21-

Plaintiff(s)

Judge: Jerrold N. Poslusny

v.

THE DIOCESE OF CAMDEN, NEW JERSEY,  
THE DIOCESE OF CAMDEN TRUSTS, INC.

Defendant(s)

**SUMMONS AND NOTICE OF PRETRIAL CONFERENCE  
IN AN ADVERSARY PROCEEDING**

YOU ARE SUMMONED and required to submit a motion or answer to the complaint which is attached to this summons to the clerk of the bankruptcy court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall file a motion or answer to the complaint within 35 days.

Address of Clerk	U.S. Bankruptcy Court Mitchell H. Cohen U.S. Courthouse 400 Cooper Street Camden, NJ 08101
------------------	---

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorneys.

Name and Address of Plaintiff's Attorneys: Jeffrey D. Prol, Esq., Michael A. Kaplan, Esq., Colleen Maker, Esq. Lowenstein Sandler LLP One Lowenstein Drive, Roseland, NJ 07068
---

If you make a motion, your time to answer is governed by Fed.R.Bankr.P. 7012.

YOU ARE NOTIFIED that a pretrial conference of the proceeding commenced by the filing of the complaint will be held at the following time and place.

Address: U.S. Bankruptcy Court Mitchell H. Cohen U.S. Courthouse 400 Cooper Street, 4 <sup>th</sup> Floor Camden, NJ 08101	Courtroom: 4C
	Date and Time:

**IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR  
CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY  
DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.**

Jeanne A. Naughton, Clerk

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Clerk

rev. 1/4/17

**Pursuant to D.N.J. LBR 9019-2, Mediation: Procedures, there is a presumption of mediation in all adversary proceedings. For more information regarding the mediation program see the related Local Rules and forms on the Court's web site: [njb.uscourts.gov/mediation](http://njb.uscourts.gov/mediation).**