
**THIS OBJECTION SEEKS TO REDUCE AND ALLOW OR DISALLOW AND
EXPUNGE CERTAIN FILED PROOFS OF CLAIM. PARTIES RECEIVING NOTICE OF
THIS OBJECTION SHOULD REVIEW THE OBJECTION TO SEE IF THEIR NAME(S)
AND/OR CLAIM(S) ARE LOCATED IN THE OBJECTION AND/OR THE ATTACHED
EXHIBIT TO DETERMINE WHETHER THIS OBJECTION AFFECTS THEIR
CLAIM(S).**

JONES DAY
Corinne Ball
Todd Geremia
Victoria Dorfman
Benjamin Rosenblum
Andrew Butler
250 Vesey Street
New York, New York 10281
Telephone: (212) 326-3939
Facsimile: (212) 755-7306

*Counsel for the Debtor
and Debtor in Possession*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	:	Chapter 11
	:	
THE ROMAN CATHOLIC DIOCESE OF	:	Case No. 20-12345 (MG)
ROCKVILLE CENTRE, NEW YORK, ¹	:	
	:	
Debtor.	:	

NOTICE OF DEBTOR'S FIFTH OMNIBUS OBJECTION

PLEASE TAKE NOTICE that on February 10, 2023, the Roman Catholic Diocese of Rockville Centre, New York as the above-captioned debtor and debtor in possession (the "Debtor") filed the *Debtor's Fifth Omnibus Objection* (the "Objection") with the United States

¹ The Debtor in this chapter 11 case is The Roman Catholic Diocese of Rockville Centre, New York, the last four digits of its federal tax identification number are 7437, and its mailing address is P.O. Box 9023, Rockville Centre, NY 11571-9023.

Bankruptcy Court for the Southern District of New York (the “Court”).

The Objection requests that the Bankruptcy Court expunge, reduce, reclassify, and/or disallow the claims listed in the Objection on the ground that the alleged abuse occurred at high schools and parishes that are not within the geographic boundaries of the Diocese and are not supervised, controlled, managed, or directed by the Diocese. **Individual claimants will receive particularized notice of this Objection. Any claim that the Bankruptcy Court expunges and disallows will be treated as if it had not been filed and you will not be entitled to any distribution on account thereof.**

PLEASE TAKE FURTHER NOTICE that if you do NOT oppose the disallowance, expungement, reduction, or reclassification of the claim(s) listed in the Objection, then you do NOT need to file a written response to the Objection and you do NOT need to appear at the hearing.

If you DO oppose the disallowance, expungement, reduction, or reclassification of your claim(s) listed in the Objection, then you MUST file with the Court and serve on the parties listed below a written response to the Objection so that it is received on or before **4:00 p.m., Prevailing Eastern Time on March 3, 2023.**

Your response, if any, must contain at a minimum the following: (i) a caption setting forth the name of the Bankruptcy Court, the name of the Debtor, the case number, and the title of the Objection to which the response is directed; (ii) the name of the claimant and description of the basis for the amount of the claim; (iii) a concise statement setting forth the reasons why the claim should not be disallowed, expunged, reduced, or reclassified for the reasons set forth in the Objection, including, but not limited to, the specific factual and legal bases upon which you will rely in opposing the Objection; (iv) all documentation or other evidence of the claim, to the

extent not included with the proof of claim previously filed with the Bankruptcy Court, upon which you will rely in opposing the Objection; (v) the address(es) to which the Debtors must return any reply to your response, if different from that presented in the proof of claim; and (vi) the name, address, and telephone number of the person (which may be you or your legal representative) possessing ultimate authority to reconcile, settle, or otherwise resolve the claim on your behalf. If you filed a Sexual Abuse Proof of Claim, your response, and any attachments, may be filed with the Bankruptcy Court under seal. If you have questions regarding the confidentiality of your response to this Objection, you should consult with an attorney.

The Bankruptcy Court will consider a response only if the response is timely filed, served, and received. A response will be deemed timely filed, served, and received only if the original response is actually received on or before the Response Deadline on or before March 3, 2023 at 4:00 p.m. (Prevailing Eastern Time) by (a) the chambers of the Honorable Chief Judge Martin Glenn, United States Bankruptcy Court, One Bowling Green, New York, New York 10004; (b) the Debtor, c/o The Roman Catholic Diocese of Rockville Centre, New York, P.O. Box 9023, Rockville Centre, NY 11571-9023; (c) counsel to the Debtor, Jones Day, 250 Vesey Street, New York, NY 10281-1047, Attn: Corinne Ball, Esq., Todd Geremia, Esq., Benjamin Rosenblum, Esq., Andrew Butler, Esq.; and (d) William K. Harrington, U.S. Department of Justice, Office of the U.S. Trustee, 201 Varick Street, Room 1006, New York, NY 10014, Attn: Greg M. Zipes, Esq. and Shara Cornell, Esq.

PLEASE TAKE FURTHER NOTICE that a hearing to consider such Objection and any responses related thereto (the “Hearing”) will be held on **March 14, 2023 at 2:00 p.m. (Prevailing Eastern Time)** before the Honorable Martin Glenn, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York,

NY 10004. Parties wishing to appear at the Hearing via Zoom for Government, whether making a “live” or “listen only” appearance before the Court, must make an electronic appearance through the Court’s website at <https://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl> on or before March 13, 2023, at 4:00 p.m. (prevailing Eastern Time). After the deadline for parties to make electronic appearances has passed, parties who have made their electronic appearance through the Court’s website will receive an invitation from the Court with a Zoom link that will allow them to attend the Hearing. Requests to receive a Zoom link should not be emailed to the Court, and the Court will not respond to late requests that are submitted on the day of the hearing. Further information on the use of Zoom for Government can be found at the Court’s website at <https://www.nysb.uscourts.gov/zoom-video-hearing-guide>.

PLEASE TAKE FURTHER NOTICE that if you file a written response to the Objection, you should plan to appear at the hearing. The Debtor, however, reserves the right to continue the hearing on the Objection with respect to your claim(s). If the Debtor does continue the hearing with respect to your claim(s), then the hearing will be held at a later date. If the Debtor does not continue the hearing with respect to your claim(s), then a hearing on the Objection will be conducted on the above date.

If the Bankruptcy Court does NOT disallow, expunge, reduce, or reclassify your claim(s) on the grounds set forth above, then the Debtor has the right to object on other grounds to the claim(s) (or to any other claims you may have filed) at a later date. You will receive a separate notice of any such objections.

PLEASE TAKE FURTHER NOTICE that if you wish to view the complete Objection, you can do so for free at <https://dm.epiq11.com/drvc>. Full copies of each pleading can be viewed or obtained by accessing the Court’s website at www.nysb.uscourts.gov or by calling (888) 490-

0633. Note that a PACER password is needed to access documents on the Court's website.

Dated: February 10, 2023
New York, New York

Respectfully submitted,

/s/ Corinne Ball

Corinne Ball

Todd Geremia

Victoria Dorfman

Benjamin Rosenblum

Andrew Butler

JONES DAY

250 Vesey Street

New York, NY 10281-1047

Telephone: (212) 326-3939

Facsimile: (212) 755-7306

Email: cball@jonesday.com

trgeremia@jonesday.com

vdorfman@jonesday.com

brosenblum@jonesday.com

abutler@jonesday.com

*Counsel for the Debtor
and Debtor in Possession*

JONES DAY
Corinne Ball
Todd Geremia
Victoria Dorfman
Benjamin Rosenblum
Andrew Butler
250 Vesey Street
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In re:	:	Chapter 11
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THE ROMAN CATHOLIC DIOCESE OF	:	Case No. 20-12345 (MG)
ROCKVILLE CENTRE, NEW YORK, ¹	:	
	:	
Debtor.	:	

THE DEBTOR'S FIFTH OMNIBUS OBJECTION

The Roman Catholic Diocese of Rockville Centre, New York (the “Debtor” or “Diocese”) that is the debtor in possession of the above-captioned chapter 11 case, hereby files this fifth omnibus claims objection (this “Fifth Omnibus Objection”) and respectfully states as follows:

¹ The Debtor in this chapter 11 case is The Roman Catholic Diocese of Rockville Centre, New York, the last four digits of its federal tax identification number are 7437, and its mailing address is P.O. Box 9023, Rockville Centre, NY 11571-9023.

Background

1. On October 1, 2020 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtor continues to operate and pursue its religious, non-profit mission and ministry, and manage its properties and affairs as a debtor in possession under sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this case.

2. The Debtor is the seat of the Roman Catholic Church on Nassau and Suffolk Counties, on Long Island, New York. The State of New York established the Debtor as a religious corporation in 1958. *See* 1958 N.Y. SESS. LAWS Ch. 70 (1958), § 1. The Debtor is one of eight Catholic dioceses in the State of New York and is the eighth-largest diocese in the United States when measured by number of baptized Catholics. The Debtor’s total Catholic population is 1.4 million, which constitutes roughly half of Long Island’s total population of 3.0 million. Pursuit of the Debtor’s mission depends upon the continuing financial support provided by the faithful in anticipation of, and in mutual support of, the Debtor’s religious and charitable mission.

3. To carry out its Catholic mission, the Debtor works closely with its 135 parishes. Parishes play a central role in the lives of Catholics by administering key aspects of the Catholic Faith, including: baptism, education, communion, Mass, confirmation, marriage, and bereavement, including last rites, funeral services, and grief support. None of the parishes are debtors herein. In addition, the Debtor supports separate charitable organizations to further its pursuit of the Catholic mission to serve the poor, the hungry, those in need, and those that cannot help themselves. None of those entities are debtors herein. The Debtor is also continuing its outreach to comfort, educate, and enlighten the faithful.

4. Following the enactment in 2019 of the Child Victims Act (the “CVA”), which

revived what had been time-barred claims, approximately 200 lawsuits have been brought by abuse claimants against the Debtor (the “State Court Actions”). In its effort to fairly and equitably address these claims, the Debtor has undertaken a substantial effort to identify and marshal over 60 years of insurance policies, including both primary and excess coverage, with the goal of securing a valuable resource of the Debtor, its parishes, and its affiliates, so that it can be used for the care and compensation of abuse survivors. The Debtor has made such insurance policies and related information, together with historical financial information for itself and its charitable, educational, and service affiliates, available to counsel for the abuse claimants and the Debtor’s insurers.

5. Additional information regarding the Debtor, its mission and operations, and the events and circumstances preceding the Petition Date is set forth in the *Declaration of Charles Moore, Managing Director of Alvarez & Marsal North America, LLC, Proposed Restructuring Advisor to the Roman Catholic Diocese of Rockville Centre, New York, in Support of Chapter 11 Petition and First Day Pleadings* (the “First Day Declaration”) filed on the Petition Date.

Jurisdiction and Venue

6. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Claims Process

7. On October 9, 2020, the Debtor filed its schedules of assets and liabilities and statements of financial affairs [Docket Nos. 57-58], which were thereafter amended from time to time.

8. On January 27, 2021, the Court entered the *Order Establishing Deadlines for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof* [Docket No. 333]

(the “Bar Date Order”). Under the Bar Date Order, the Court set (a) March 30, 2021 at 5:00 p.m. (prevailing Eastern Time) as the deadline for each person or entity to file a proof of claim in the Debtor’s chapter 11 case (the “General Bar Date”), and (b) August 14, 2021 at 5:00 p.m. (prevailing Eastern Time) as the deadline for each individual holding a Sexual Abuse Claim² to file a proof of such claim (the “Sexual Abuse Bar Date”). By subsequent order, the Court established October 10, 2022 as a supplemental bar date for certain holders of Sexual Abuse Claims that had such claims revived pursuant to the Adult Survivors Act (the “Adult Survivors Sexual Abuse Bar Date”).

9. The claims register, prepared and maintained by Epiq Corporate Restructuring, LLC, shows that approximately 747 sexual abuse proofs of claim (collectively, the “Proofs of Claim”) have been filed in this chapter 11 case. The Debtor is actively reviewing and reconciling the Proofs of Claim.

10. On January 10, 2023, the Court entered the *Order Approving Claim Objection Procedures and Granting Related Relief* [Docket No. 1554] (the “Claim Objection Procedures Order”). That Claim Objection Procedures Order allows the Debtor to assert omnibus claim objections on the grounds set forth in Bankruptcy Rule 3007(d), which include that the claims are duplicates or have been amended, and also on the grounds that the Debtor is not liable to the claimant for the amount or claim stated.

11. In accordance with the Claim Objection Procedures Order, the Debtor sent a series of letters to claimants’ counsel starting on January 18, 2023, to notify counsel of the Debtor’s forthcoming objections to certain claims and a short description of the grounds for the Debtor’s objection. Debtor invited claimants’ counsel to discuss the Debtor’s forthcoming

² A “Sexual Abuse Claim” has the same meaning as the term is defined in the Bar Date Order.

objections. The Debtor thereafter has worked with certain claimants' counsel and unrepresented claimants to resolve the Debtor's objections, and several claims have been withdrawn as a result of counsel's efforts.

12. As to the objections that remain, the Debtor is in this fifth set of omnibus objections focusing on proofs of claims that allege abuse that occurred at Catholic high schools and parishes or parish schools that are not supervised, controlled, managed, or directed by the Diocese. The grounds for these objections are set forth in more detail below.

Relief Requested

13. By this Fifth Omnibus Objection, the Debtor seeks entry of an order granting the relief requested herein, disallowing each proof of claim identified on **Schedule 1** to the Proposed Order. A proposed form of order granting the relief requested herein is attached hereto as **Exhibit A** (the "**Proposed Order**").

Basis for Relief Requested

14. Section 101 of the Bankruptcy Code provides that a creditor holds a claim against a bankruptcy estate only to the extent that (a) it has a "right to payment" for the asserted liabilities and (b) is otherwise allowable. 11 U.S.C. §§ 101(5)(A) & 101(10).

15. The claims subject to this Fifth Omnibus Objection allege abuse that occurred at, and by individuals associated with and controlled by, high schools and parishes or parish schools that are not supervised, controlled, managed, or directed by the Diocese.

16. This is a threshold issue that has been addressed at the pleading stage by New York State courts in litigation brought pursuant to the Child Victims Act ("**CVA**"). The Supreme Court, New York County, for example, has dismissed a series of claims against the Archdiocese of New York on the ground that the Archdiocese did not supervise or control certain high schools, retreat centers, residential homes, and other Catholic entities where abuse

was alleged to have occurred. *See* cases cited *infra* ¶¶ 26, 28-31 & n.8; *see also, e.g., ARK263 Doe v. Archdiocese of New York*, No. 950294/2020, 2022 WL 2916781, at *2 (Sup. Ct. New York Cty. July 18, 2022); *ARK251 v. Archdiocese of New York*, No. 950334/2020, 2022 WL 2343215, at *3 (Sup. Ct. N.Y. Cty. May 31, 2022); *ARK270 v. Archdiocese of New York*, No. 950302/2020, 2022 WL 2316695, at *2 (Sup. Ct. N.Y. Cty. June 28, 2022); *Barilla v. Archdiocese of New York*, No. 950552/2020, 2022 WL 3010199, at *2 (Sup. Ct. N.Y. Cty. July 27, 2022); *Curran v. Archdiocese of New York*, No. 950367/2020, 2022 WL 2954153, at *2 (Sup. Ct. N.Y. Cty. July 25, 2022); *Filardi v. Roman Catholic Archdiocese of New York*, No. 950398/2020, 2022 WL 1552275, at *1-2 (Sup. Ct. N.Y. Cty. May 9, 2022); *Springer v. Archdiocese of New York*, No. 950137/2019, 2021 WL 1054553 (Sup. Ct. New York Cty. Mar. 18, 2021).

17. Here, the eleven Proofs of Claim at issue on this Objection allege abuse that occurred at, and by individuals associated with, entities that are not supervised, controlled, managed, or directed by the Diocese. They are (i) three parishes that are within the Diocese of Brooklyn, where the alleged abuser was a member of religious order named the Franciscan Brothers of Brooklyn and separately incorporated or doing business as the Franciscan Brothers, Inc., Brooklyn, New York (St. Brigid, St. Teresa of Avila, and St. Francis Xavier); and (ii) two high schools in Brooklyn, Bishop Ford High School and St. Francis Preparatory School, that are alleged to be administered by that same religious order, *i.e.*, the Franciscan Brothers, Inc., Brooklyn, New York; and (iii) another parish in the Archdiocese of New York.

18. Under straightforward principles of New York law, these claims may not properly be asserted against the Diocese and should be disallowed.

19. It is well-established under New York law that, for the Diocese to be liable for

torts of alleged abusers, the Diocese must have had a duty to control them. The duty to control arises only when “the relationship between the defendant and the person who threatens the harm to the third person . . . require[s] the defendant to attempt to control the other’s conduct”—for instance, in an employment relationship—or when the “relationship between the defendant and the person exposed to harm. . . requires the defendant to afford protection from certain dangers including the conduct of others.” *Pulka v Edelman*, 40 N.Y.2d 781, 783-84 (1976). A defendant, such as the Diocese here, cannot be held liable for tortious conduct by individuals who are outside its control. *See Bautista v. Archdiocese of New York*, 84 N.Y.S.3d 47, 49 (1st Dep’t 2018) (no legal liability because defendant did not have “the authority to supervise or control” individual); *Farrulla v. Happy Care Ambulette Inc.*, 5 N.Y.S.3d 12, 12 (1st Dep’t 2015) (defendant “did not cause plaintiff’s alleged injuries and was not legally responsible for the person who did”).

20. An organization may, accordingly, be held liable for a person’s sexual misconduct only when the alleged perpetrator’s conduct is connected to the organization. *See Sheila C. v. Povich*, 781 N.Y.S.2d 342, 349 (1st Dep’t 2004) (defendant could not be held liable for sexual assault that occurred after she “had left defendants’ physical custody and control”); *K.I. v. New York Cty. Bd. of Educ.*, 683 N.Y.S.2d 228, 230 (1st Dep’t 1998) (school not responsible for sexual assault which “was severed by time, distance and [perpetrator’s] intervening independent actions”).

21. The Proofs of Claim at issue on this Fifth Omnibus Objection may not properly be asserted against the Diocese under these principles. As set out in the table attached as Schedule 1, the Proofs of Claim at issue on this Fifth Omnibus Objection assert claims based on abuse allegedly occurring at Catholic schools and parishes that are not alleged to be associated with or

controlled by the Diocese of Rockville Centre. These claims assert that the abuse allegedly occurred at the hands of individuals directed and controlled by the Diocese of Brooklyn and Bishop Ford High School, St. Francis Xavier Church and School, St. Brigid's Church and School, and St. Teresa of Avila Church and School, all in Brooklyn, New York; St. Francis Preparatory School, formerly located in Brooklyn, New York, and now Fresh Meadows, Queens; and St. Catherine of Genoa, in Manhattan. All of these entities are not directed or controlled by the Diocese of Rockville Centre.

22. Ten of these Proofs of Claim, on their face and in civil complaints appended to them, expressly assert that the Diocese of Brooklyn and a separately incorporated religious order that is not associated with the Diocese of Rockville Centre—the Franciscan Brothers, Inc., Brooklyn, New York—directed and controlled the entities at issue. For example, for the Proofs of Claim asserting abuse at Bishop Ford High School, which was located directly across the street from the Diocese of Brooklyn's office in Brooklyn, the appended complaints allege that

At all times material, Defendant Bishop Ford High School was under the direct authority, control, and province of Defendant Diocese [of Brooklyn], the Bishop of Defendant Diocese, and the Franciscan Brothers. At all times material, Defendants Bishop Ford High School, Diocese and the Franciscan Brothers owned, operated, managed, maintained, and controlled Bishop Ford High School.³

The alleged abusers, in turn, are alleged to have been under the “direct supervision, employ, and control” of the Diocese of Brooklyn, Bishop Ford High School, and the Franciscan Brothers of Brooklyn.⁴ The Diocese of Rockville Centre, on the other hand, is not and cannot properly be

³ See, e.g., Compl. ¶ 11, *Ark35 Doe v. Diocese of Brooklyn*, Index No. 517890/2019 (Sup. Ct. Kings Cty.) (filed Aug. 14, 2019); see also Compl. ¶ 11, *Ark114 Doe v. Diocese of Brooklyn*, Index No. 519801/2019 (Sup. Ct. Kings Cty.) (filed Sept. 9, 2019); Compl. ¶ 13, *Ark303 Doe v. Diocese of Brooklyn*, Index No. 512971/2019 (Sup. Ct. Kings Cty.) (filed July 21, 2020).

⁴ See Compl. ¶ 19, *Ark35 Doe v. Diocese of Brooklyn*, Index No. 517890/2019 (Sup. Ct. Kings Cty.) (filed Aug. 14, 2019); see also Compl. ¶ 18, *Ark114 Doe v. Diocese of Brooklyn*, Index No. 519801/2019 (Sup. Ct. Kings Cty.)

alleged to have had any responsibility for the alleged abusers at Bishop Ford High School.

23. Likewise, the Proofs of Claim alleging abuse of students at St. Francis Preparatory School, formerly located in Brooklyn and now in Queens, allege that “St. Francis Prep was and continues to be under the direct authority, control, and province of Defendant Diocese [of Brooklyn], the Bishop of Defendant Diocese and the Franciscan Brothers” of Brooklyn.⁵ And the same type of allegation of control by the Diocese of Brooklyn and the Franciscan Brothers of Brooklyn is made in complaints attached to Proofs of Claim alleging abuse at St. Francis Xavier Catholic Academy, in Brooklyn,⁶ and in complaints attached to a Proof of Claim alleging abuse at a Catholic parish and schools in Brooklyn.⁷

24. Another claim at issue on this Fifth Omnibus Objection asserts abuse allegedly occurring at a parish (Church of St. Catherine of Genoa) that is either in Manhattan or Brooklyn, by a priest associated with that parish who is not alleged to be directed or controlled by the Diocese of Rockville Centre.

(filed Sept. 9, 2019); Compl. ¶ 17, *Ark303 Doe v. Diocese of Brooklyn*, Index No. 512971/2019 (Sup. Ct. Kings Cty.) (filed July 21, 2020).

⁵ See Compl. ¶ 13, *Ark302 Doe v. Diocese of Brooklyn*, Index No. 512967/2020 (Sup. Ct. Kings Cty.) (filed July 21, 2020); see also Compl. ¶ 13, *Ark675 Doe v. Diocese of Brooklyn*, Index No. 520706/2021 (Sup. Ct. Kings Cty.) (filed Aug. 13, 2021); Compl. ¶ 13, *Ark653 Doe v. Diocese of Brooklyn*, Index No. 520489/2021 (Sup. Ct. Kings Cty.) (filed Aug. 12, 2021).

⁶ See Compl. ¶ 12, *Ark414 Doe v. Diocese of Brooklyn*, Index No. 515616/2021 (Sup. Ct. Kings Cty.) (filed June 25, 2021) (“At all times material, Defendant St. Francis Xavier was and continues to be under the direct authority, control, and province of Defendant Diocese [of Brooklyn], the Bishop of Defendant Diocese, and the Franciscan Brothers” of Brooklyn); Compl. ¶ 15, *Ark625 Doe v. Diocese of Brooklyn*, Index No. 520096/2021 (Sup. Ct. Kings Cty.) (filed Aug. 9, 2021) (“At all times material, Defendant St. Francis Xavier and St. Francis Xavier Catholic Academy (collectively ‘St. Francis Xavier’) were and continues [sic] to be under the direct authority, control, and province of Defendant Diocese [of Brooklyn], the Bishop of Defendant Diocese, the Sisters of St. Joseph, and the Franciscan Brothers” of Brooklyn).

⁷ See Compl. ¶ 11, *Ark108 Doe v. Diocese of Brooklyn*, Index No. 519794/2019 (Sup. Ct. Kings Cty.) (filed Sept. 9, 2019) (“At all times material, St. Brigid’s was and continues to be under the direct authority, control, and province of Defendant Diocese [of Brooklyn], the Bishop of Defendant Diocese, and the Franciscan Brothers” of Brooklyn); Compl. ¶ 17, *Ark631 Doe v. Diocese of Brooklyn*, Index No. 520168/2021 (Sup. Ct. Kings Cty.) (filed Aug. 10, 2021) (“At all times material, Defendant St. Teresa was and continues to be under the direct authority, control, and province of Defendant Diocese [of Brooklyn], the Bishop of Defendant Diocese, and the Franciscan Brothers” of Brooklyn).

25. In none of these Proofs of Claim, or in the appended civil complaints, is the Diocese of Rockville Centre properly alleged to be responsible for the alleged abuse, while other, distinct entities are alleged to be responsible. These claims do not, on their face, assert a plausible basis for imposing a “right to payment” from the Diocese, 11 U.S.C. §§ 101(5)(A). *See Vaughn v. Phoenix House New York Inc.*, 957 F.3d 141, 145 (2d Cir. 2020) (party seeking relief “must plead ‘enough facts to state a claim to relief that is plausible on its face’”) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)); *Trump v. Vance*, 977 F.3d 198, 207 (2d Cir. 2020) (party “must allege sufficient facts to make it plausible that relief can be granted”); *see also In re Residential Cap., LLC*, 531 B.R. 1, 12 (Bankr. S.D.N.Y.) (“Federal pleading standards apply when assessing the validity of a proof of claim.”), *on reconsideration in part*, 537 B.R. 161 (Bankr. S.D.N.Y. 2015); *In re MF Glob. Inc.*, No. 11-2790 (MG) SIPA, 2015 WL 1239102, at *3 (Bankr. S.D.N.Y. Mar. 16, 2015) (same).

26. Courts have also held repeatedly, including in the context of claims asserted under the CVA, that where the record shows that a diocese does not control the entity with which the alleged abuser is associated, the diocese is not responsible for that individual’s misconduct as a matter of law. *See, e.g., Walker v. Archdiocese of New York*, 706 N.Y.S.2d 307, 307 (1st Dep’t 2000); *M.R. v. City of New York*, No. 950027/2020, 2021 WL 3700718 (Sup. Ct. New York Cty. Aug. 16, 2021) (granting motion to dismiss where evidence established that entity “was not an agent of the Archdiocese or Catholic Charities at any time relevant to the allegations in the complaint”); *R.D. v. Archdiocese of New York et al.*, No. 519339/2020, 2021 WL 4307231 (Sup. Ct. Kings Cty. Sep. 22, 2021) (granting motion to dismiss where documentary evidence established that “contrary to plaintiff’s claims, [religious organization] did not oversee St. Agnes and St. Francis, and had no custody, control, or supervision over either entity’s residents or

employees”); *E.G. v. Archdiocese of New York*, No. 950115/2020, 2021 WL 4553664, at *2 (Sup. Ct. New York Cty. Oct. 4, 2021) (granting motion to dismiss where documentary evidence established “no affiliation with the Maryknoll Residence nor any of its employees, including the alleged abuser, Father Alan J. Ryan”); *Springer v. Archdiocese of New York*, No. 950137/2019, 2021 WL 1054553, at *1 (Sup. Ct. New York Cty. Mar. 18, 2021) (dismissing defendant where school charters and “affidavits demonstrate that the Notre Dame School and defendant Notre Dame School of Manhattan are completely separate entities”).

27. Indeed, not only do the Proofs of Claim at issue on this Objection and civil complaints appended to them show that there is no right of recovery as against the Diocese, but publicly available certificates of incorporation and property deeds, submitted along with this Objection, show that the Diocese is not in any way associated with the schools and parishes where the abuse alleged in these Proofs of Claim is alleged to have occurred: Bishop Ford High School, St. Francis Preparatory, St. Brigid’s Church, St. Francis Xavier Church and School, St. Teresa of Avila Church and School, and Church of St. Catherine of Genoa. *See* Declaration of Thomas G. Renker Exs. 1-12 (accompanying this Objection).

28. Courts have routinely relied on such publicly available materials in dismissing claims, including CVA claims, against a diocese. For instance, in *E.G. v. Archdiocese of New York*, the defendant submitted a “certified copy of a deed” establishing that another entity owned the property where the alleged abuse occurred, and certificates of incorporation evidencing that the entity was wholly independent from and neither controlled nor operated by the Archdiocese of New York. 2021 WL 4553664, at *2 (Sup. Ct. New York Cty. Oct. 4, 2021). The Archdiocese of New York also submitted an affidavit by its counsel, stating that “the Maryknoll Residence and the Maryknoll Fathers and Brothers are wholly independent from the Archdiocese

and the Archdiocese had no supervisory control over the Maryknoll Residence and Father Alan J. Ryan, the alleged abuser.” *Id.* at *2. On the basis of this submission, the Court dismissed the claims against the Archdiocese.

29. Likewise, in *J.D. v. Archdiocese of New York*, the Archdiocese of New York, a defendant in the lawsuit, submitted a public deed for the location where the abuse occurred “evinc[ing] the transfer of the property . . . from Fordham University to the Jesuits of Fordham, Inc.” and then later “to Fordham Preparatory School.” 2021 WL 4307226, at *2 (Sup. Ct. New York Cty. Sep. 21, 2021). The Archdiocese also submitted an affidavit from its Associate General Counsel, stating that “the Archdiocese did not own the property where the alleged abuse occurred . . . Fordham Preparatory School and the Jesuits are wholly independent from the Archdiocese and . . . the Archdiocese had no supervisory control over Fordham Preparatory School and Father Eugene O’Brien, the alleged abuser.” *Id.*

30. In accordance with this and other authority, the Court should similarly disallow the Proofs of Claim asserted against the Diocese where the deeds and articles of incorporation for the entities at issue show that the Diocese has no supervisory control or authority to direct the entities where the abuse allegedly occurred or the individuals alleged to have engaged in the abuse. *See also, e.g., ARK263*, 2022 WL 2916781, at *4 (“Based upon the Certificate of Incorporation, the property deed for Rice High School and the accompanying [affidavit of the Archdiocese of New York’s Associate General Counsel], the Archdiocese has demonstrated that it did not own or operate [Rice] High School and that it did not supervise the students or employees of the school.”); *ARK270*, 2022 WL 2316696, at *2 (“The submitted documents of articles of incorporation and deeds establish that there was no oversight from Archdiocese to Salesian High School.”); *Filardi*, 2022 WL 1552275, at *2 (“[T]he unrebutted documentary

evidence established that the subject property is not owned by the Archdiocese and that the Marist Brothers are an independent religious order that is separate and distinct from the Archdiocese.”).

31. Finally, in the specific context presented by ten of the Proofs of Claim at issue on this Objection, courts have dismissed claims against a diocese where it does not have supervisory authority over a separate religious order with whom an alleged abuser is associated.⁸ Here, the Diocese did not and does not have any supervisory authority over the religious order—the Franciscan Brothers of Brooklyn—with which the alleged abusers were affiliated, for the proofs of claim alleging abuse by Franciscans at Brooklyn-based schools operated or controlled by the Franciscan Brothers of Brooklyn. *See Renker Decl.* ¶ 7.

Reservation of Rights

32. In accordance with the Claim Objection Procedures Order, the Debtor reserves the right to file subsequent objections to any claims subject hereto on any ground. The Debtor also

⁸ *See, e.g., C.S. v. Archdiocese of New York*, No. 951299/2021, 2022 WL 16636682, at *1 (Sup. Ct. New York Cty. Oct. 31, 2022) (granting Archdiocese’s motion to dismiss where affidavit of Archdiocese’s counsel stated that the Archdiocese did not hire, retain, or employ Franciscan Friars, did not have an agency relationship with Franciscan Friars, and did not play a role in assigning, maintaining and/or appointing Franciscan Friars to a position with access to minors or plaintiff); *Turner v. Roman Catholic Archdiocese of New York*, No. 950131/2021, 2022 WL 17067548, at *1 (Sup. Ct. New York Cty. Nov. 17, 2022) (granting Archdiocese’s motion to dismiss based on affirmation that the property where abuse was occurred was owned by Franciscan Friars, who were a religious order independent of the Archdiocese and a separate legal and corporate entity, and the alleged abuser was a member of Franciscan Friars); *J.D. v. Archdiocese of New York*, No. 950231/2019, 2021 WL 4307226, at *2 (Sup. Ct. New York Cty. Sep. 21, 2021) (granting motion to dismiss where documentary evidence established that defendant “had no affiliation with Fordham Preparatory School nor any of its employees, including the alleged abuser, Father Eugene O’Brien” and emphasizing that “the Jesuits are an independent religious order that is separate and distinct from the Archdiocese”); *Wright v. Roman Catholic Archdiocese of New York*, 2022 WL 4118473 (Sup. Ct. New York Cty. Sept. 7, 2022) (dismissing claims against the Archdiocese because alleged events occurred at an institution run by the Dominicans, an order “independent from the Archdiocese [with] autonomy in life and governance”); *Tracey v. Archdiocese of New York*, 2022 WL 3016423 (Sup. Ct. New York Cty. July 26, 2022) (dismissing claims against the Archdiocese where alleged events occurred at an institution ran by the Jesuits, “an independent religious order that is separate and distinct from the Archdiocese”); *Dominguez v. Roman Catholic Archdiocese of New York*, No. 161123/2021, 2022 WL 10626285, at *2 (Sup. Ct. New York Cty. Oct. 18, 2022) (dismissing complaint where “documentary evidence establishe[d] that the Augustinian Order is an autonomous religious order that the Archdiocese exercises no control or supervision over, and Tagaste Monastery, where the abuse allegedly took place, was under the complete control of the Augustinian Order”).

reserves its rights to (i) amend, modify, or supplement this Objection including, without limitation, the filing of objections to further amended or newly filed claims; (ii) seek to expunge or reduce any claim to the extent all or a portion of such claim has been paid; (iii) object on any basis to any claim, in whole or in part; and (iv) settle for any claim for less than the asserted amount, are fully reserved. Separate notice and a hearing will be provided in connection with any additional objections.

Notice

33. Notice has been provided of this Objection in accordance with the Claim Objection Procedures Order.

No Prior Request

34. No prior request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtor respectfully requests that the Court enter an order substantially in the form attached hereto as **Exhibit A**, granting: (a) the relief requested herein; and (b) such other and further relief to the Debtor as the Court may deem proper.

Dated: February 10, 2023
New York, New York

Respectfully submitted,

/s/ Corinne Ball

Corinne Ball

Todd Geremia

Victoria Dorfman

Benjamin Rosenblum

Andrew Butler

JONES DAY

250 Vesey Street

New York, New York 10281-1047

Telephone: (212) 326-3939

Facsimile: (212) 755-7306

Email: cball@jonesday.com

trgeremia@jonesday.com

vdorfman@jonesday.com

broosenblum@jonesday.com

abutler@jonesday.com

*Counsel for the Debtor
and Debtor-in-Possession*

EXHIBIT A

(Proposed Order)

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	:	Chapter 11
	:	
THE ROMAN CATHOLIC DIOCESE OF	:	Case No. 20-12345 (MG)
ROCKVILLE CENTRE, NEW YORK, ¹	:	
	:	
Debtor.	:	

ORDER GRANTING DEBTOR'S FIFTH OMNIBUS OBJECTION

Upon the *Debtor's Fifth Omnibus Objection* (the "Objection"),² pursuant to Federal Rule of Bankruptcy Procedure ("Bankruptcy Rule") 3007; the Court having reviewed the Objection and having considered the statements of counsel and the evidence adduced with respect to the Objection at a hearing before the Court (the "Hearing"); the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (c) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and (d) notice of the Objection and the Hearing was sufficient under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Objection is granted to the extent set forth herein.

¹ The Debtor in this chapter 11 case is The Roman Catholic Diocese of Rockville Centre, New York, the last four digits of its federal tax identification number are 7437, and its mailing address is P.O. Box 9023, Rockville Centre, NY 11571-9023.

² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Objection.

2. Each Claim identified in **Schedule 1** hereto is disallowed and expunged in its entirety.

3. The Objection and the schedules hereto constitutes a separate contested matter with respect to each such claim, as contemplated by Bankruptcy Rule 9014. This Order shall be deemed a separate Order with respect to each Claim identified in Schedule 1.

4. The rights of the Debtor to assert further objections to any Proof of Claim that is the subject of the Objections but that has not been disallowed or expunged, in whole or part, are fully preserved.

5. The Debtor, Epiq Corporate Restructuring, LLC, and the Clerk of this Bankruptcy Court are authorized to take all reasonable actions necessary or appropriate to give effect to this Order.

6. Notice of the Objection as provided therein is deemed good and sufficient notice of such Objection, and the requirements of the Bankruptcy Rules and the Local Rules of the Bankruptcy Court for the Southern District of New York are satisfied by such notice.

7. This Order shall be immediately effective and enforceable upon its entry.

8. This Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation, interpretation or enforcement of this Order.

Dated: _____, 2023
New York, New York

UNITED STATES BANKRUPTCY COURT

**FIFTH OMNIBUS OBJECTION
SCHEDULE 1**

CLAIMS TO BE DISALLOWED

	Claim Number	Subject Parishes and Schools (as defined in the Renker Declaration)
1.	90469	Bishop Ford High School
2.	90470	St. Brigid's Church
3.	90471	St. Francis Xavier Church and School
4.	90474	St. Francis Preparatory School
5.	90475	St. Teresa of Avila Church and School
6.	90476	Bishop Ford High School
7.	90477	St. Francis Xavier Church and School
8.	90478	Bishop Ford High School
9.	90518	St. Francis Preparatory School
10.	90528	St. Francis Preparatory Academy
11.	90535	Church of St. Catherine of Genoa