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James I. Stang

January 16, 2024

310-277-6910
jstang@pszjlaw.com

VIA ELECTRONIC FILING

The Honorable Martin Glenn
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, NY 10004-1408

**Re: Re: In re. The Roman Catholic Diocese of
Rockville Centre, New York Case No. 20-12345**

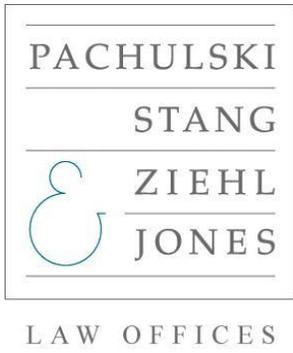
Dear Judge Glenn:

We write on behalf of the Official Committee of Unsecured Creditors (the “Committee”) to provide an update on the status of cases filed under the Child Victims Act (“CVA Cases”) and assigned to Judge Steinman in the Ninth and Tenth Judicial Districts of the New York Supreme Court.

We attach correspondence among state court counsel, counsel for the Diocese and Judge Steinman regarding a proposal from state court counsel to Judge Steinman regarding proceeding with test cases.

First (Exhibit A) is the copy on an email chain (all dated January 4, 2024) starting with an email from Patrick Stoneking to Judge Steinman requesting a status conference to discuss test cases, a response from Todd Geremia on behalf of the Diocese, and an email response from Judge Steinman. Second (Exhibit B), is a letter (with attachments) from Todd Geremia to Judge Steinman providing a more fulsome response to Mr. Stoneking’s email.

The Committee continues to support a process of litigating test cases in state court that may be representative of potential verdicts against the Diocese and related entities in the CVA Cases.



The Honorable Martin Glenn
January 16, 2024
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Respectfully Submitted,
/s/ James I. Stang
James I. Stang

EXHIBIT A

Karen B. Dine

From: Pat Stoneking <pstoneking@andersonadvocates.com>
Sent: Thursday, January 4, 2024 7:45 PM
To: James Stang; Karen B. Dine; Brittany M. Michael
Subject: Fwd: DRVC Related Cases

Sent from my iPhone

Begin forwarded message:

From: JudgeSteinmanRemote <judgesteinmanremote@nycourts.gov>
Date: January 4, 2024 at 7:09:14 PM EST
To: "Geremia, Todd R." <trgeremia@jonesday.com>, Pat Stoneking <pstoneking@andersonadvocates.com>
Cc: "Stephens, Eric P." <epstephens@jonesday.com>, "Chan, Melanie K." <melaniechan@jonesday.com>, "Orujlu, Nurlan" <norujlu@jonesday.com>, "Quaranta, William P." <wquaranta@jonesday.com>, "Zepf, Christopher" <czepf@jonesday.com>, adam@pollockcohen.com, bdavey@mmlaw.us.com, Jonathan Cantarero <jcantarero@hermanlaw.com>, Daniel Ellis <dellis@hermanlaw.com>, Kiefer Kirk <kkirk@hermanlaw.com>, Trusha Goffe <Trusha@andersonadvocates.com>, "Stephenie Bross, Esq." <sbross@sssfirm.com>, DMoran@farrellfritz.com, "Zoupaniotis, Irene A." <IZoupaniotis@farrellfritz.com>, "Schwartz, Jana A." <JSchwartz@farrellfritz.com>, cjadams@pfapc.com, jmnador@pfapc.com, jscotto@weitzlux.com, dmatthews@thematthewslawfirm.com, yfogel@p2law.com, Nathaniel Foote <nate@vca.law>, Stephen Weiss <sweiss@seegerweiss.com>, GCERTAIN@certainlaw.com, mkenny@wiggin.com, jglasser@wiggin.com, ksmith@wiggin.com, llinksy@mwe.com, Kat Thomas <Kat@tlclawllc.com>, lroys@thematthewslawfirm.com, tim@freeseandgoss.com, peter@freeseandgoss.com, pws@djd.law, "Charlie T. Glaws" <ctg@g3law.com>, Alexander Klein <aklein@barketepstein.com>, dvacco@lippes.com, sallen@lippes.com, "Louis P. Giordano" <lpg@g3law.com>, matthew.lampert@rivkin.com, ihk3esquire@gmail.com, kmulhearn@ktmlaw.net, jnorinsberg@gmail.com, philip.semprevivo@lawbhs.com, erin.cole@lawbhs.com, mcrowley@connellfoley.com, bmorrissey@connellfoley.com, sdiorio@connellfoley.com, jkristal@weitzlux.com, jlacertosa@weitzlux.com, mconnolly@hinckleyallen.com, rosemarino@hinckleyallen.com, dkwee@ingermansmith.com, Alexis Redd <alexis.redd@andersonadvocates.com>, Paul Mones <paul@paulmones.com>, Michael Dowd <michaeldowd@gmail.com>, "Jason P. Amala" <Jason@pcvalaw.com>, Jeff Anderson <Jeff@andersonadvocates.com>, Mike Finnegan <mike@andersonadvocates.com>, "Jordan K. Merson" <jmerson@mersonlaw.com>
Subject: RE: DRVC Related Cases

That is acceptable. I understand that the Diocese believes that, at the minimum, it would be most representative to test cases at the SJ stage as well. The parties should consider including cases for expedited resolution of SJ motions. In all events, soon enough, I will be trying cases and some need to be chosen to be at the front of the pack.

I have signed the proposed order concerning the Diocese's responses to the subpoenas and it will be uploaded in the morning.

Leonard D. Steinman, J.S.C.
New York State Supreme Court
100 Supreme Court Drive
Mineola, New York 11501
(516) 493-3252

From: Geremia, Todd R. <trgeremia@JonesDay.com>
Sent: Thursday, January 4, 2024 12:11 PM
To: Pat Stoneking <pstoneking@andersonadvocates.com>; JudgeSteinmanRemote <judgesteinmanremote@nycourts.gov>
Cc: Stephens, Eric P. <epstephens@jonesday.com>; Chan, Melanie K. <melaniechan@jonesday.com>; Orujlu, Nurlan <norujlu@jonesday.com>; Quaranta, William P. <wquaranta@jonesday.com>; Zepf, Christopher <czepf@jonesday.com>; adam@pollockcohen.com; bdavey@mmlaw.us.com; Jonathan Cantarero <jcantarero@hermanlaw.com>; Daniel Ellis <DEllis@hermanlaw.com>; Kiefer Kirk <kkirk@hermanlaw.com>; Trusha Goffe <Trusha@andersonadvocates.com>; Stephenie Bross, Esq. <sbross@ssfirms.com>; DMoran@farrellfritz.com; Zoupaniotis, Irene A. <IZoupaniotis@farrellfritz.com>; Schwartz, Jana A. <JSchwartz@FarrellFritz.com>; cjadams@pfapc.com; jmnador@pfapc.com; jscotto@weitzlux.com; dmatthews@thematthewslawfirm.com; yfogel@p2law.com; Nathaniel Foote <nate@vca.law>; Stephen Weiss <sweiss@seegerweiss.com>; gccertain@certainlaw.com; mkenny@wiggins.com; jglasser@wiggins.com; ksmith@wiggins.com; llinksy@mwe.com; Kat Thomas <Kat@tlclawllc.com>; lroys@thematthewslawfirm.com; tim@freeseandgoss.com; peter@freeseandgoss.com; pws@djd.law; Charlie T. Glaws <ctg@g3law.com>; Alexander Klein <aklein@barketepstein.com>; dvacco@lippes.com; sallen@lippes.com; Louis P. Giordano <lpg@g3law.com>; matthew.lampert@rivkin.com; ihk3esquire@gmail.com; kmulhearn@ktmlaw.net; jnorinsberg@gmail.com; philip.semprevivo@lawbhs.com; erin.cole@lawbhs.com; mcrowley@connellfoley.com; bmorrissey@connellfoley.com; sdiorio@connellfoley.com; jkristal@weitzlux.com; jlacertosa@weitzlux.com; mconnolly@hinckleyallen.com; srosemarino@hinckleyallen.com; dkwee@ingermansmith.com; Alexis Redd <alexis.redd@andersonadvocates.com>; Paul Mones <paul@paulmones.com>; Michael Dowd <MichaelGDowd@gmail.com>; Jason P. Amala <jason@pcvalaw.com>; Jeff Anderson <Jeff@andersonadvocates.com>; Mike Finnegan <Mike@andersonadvocates.com>; Jordan K. Merson <jmerson@mersonlaw.com>
Subject: RE: DRVC Related Cases

Judge Steinman,

The Committee's motion in the Bankruptcy Court to lift the automatic stay to litigate "test cases" was denied by Judge Glenn on December 19, 2023, on the record. Mr. Stoneking wrote an email to Your Honor about this issue today, more than two weeks later. We and counsel for the parishes would like to have an opportunity to respond in writing to plaintiffs' correspondence to the Court before any conference might occur, of course with input from our clients, as there is a lot that Mr. Stoneking is omitting and defendants also have points that they would like for the Court to consider in advance of any conference to discuss these issues further.

We respectfully ask for ten-day period, until January 15, to respond in writing to Mr. Stoneking's correspondence below.

Respectfully submitted,

Todd R. Geremia

Todd R. Geremia ([bio](#))
Partner
[JONES DAY® - One Firm WorldwideSM](#)
250 Vesey Street
New York, New York 10281-1047
Office +1.212.326.3429

trgeremia@jonesday.com

From: Pat Stoneking <pstoneking@andersonadvocates.com>

Sent: Thursday, January 4, 2024 11:19 AM

To: JudgeSteinmanRemote <judgesteinmanremote@nycourts.gov>

Cc: Stephens, Eric P. <epstephens@jonesday.com>; Geremia, Todd R. <trgeremia@JonesDay.com>; Chan, Melanie K. <melaniechan@jonesday.com>; Orujlu, Nurlan <norujlu@jonesday.com>; Quaranta, William P. <wquaranta@jonesday.com>; Zepf, Christopher <czepf@jonesday.com>; adam@pollockcohen.com; bdavey@mmlaw.us.com; Jonathan Cantarero <jcantarero@hermanlaw.com>; Daniel Ellis <DEllis@hermanlaw.com>; Kiefer Kirk <kkirk@hermanlaw.com>; Trusha Goffe <Trusha@andersonadvocates.com>; Stephenie Bross, Esq. <sbross@sssfirm.com>; DMoran@farrellfritz.com; Zoupaniotis, Irene A. <IZoupaniotis@farrellfritz.com>; Schwartz, Jana A. <JSchwartz@FarrellFritz.com>; cjadams@pfapc.com; jmnador@pfapc.com; jscotto@weitzlux.com; dmatthews@thematthewslawfirm.com; yfogel@p2law.com; Nathaniel Foote <nate@vca.law>; Stephen Weiss <sweiss@seegerweiss.com>; gccertain@certainlaw.com; mkenney@wiggin.com; jglasser@wiggin.com; ksmith@wiggin.com; linsky@mwe.com; Kat Thomas <Kat@tlclawllc.com>; lroys@thematthewslawfirm.com; tim@freeseandgoss.com; peter@freeseandgoss.com; pws@djd.law; Charlie T. Glaws <ctg@g3law.com>; Alexander Klein <aklein@barketepstein.com>; dvacco@lippes.com; sallen@lippes.com; Louis P. Giordano <lpg@g3law.com>; matthew.lampert@rivkin.com; ihk3esquire@gmail.com; kmulhearn@ktmlaw.net; jnorinsberg@gmail.com; philip.semprevivo@lawbhs.com; erin.cole@lawbhs.com; mcrowley@connellfoley.com; bmorrissey@connellfoley.com; sdiorio@connellfoley.com; jkristal@weitzlux.com; jlacertosa@weitzlux.com; mconnolly@hinckleyallen.com; srosemarino@hinckleyallen.com; dkwee@ingermansmith.com; Alexis Redd <alexis.redd@andersonadvocates.com>; Paul Mones <paul@paulmones.com>; Michael Dowd <MichaelGDowd@gmail.com>; Jason P. Amala <jason@pcvalaw.com>; Jeff Anderson <Jeff@andersonadvocates.com>; Mike Finnegan <Mike@andersonadvocates.com>; Jordan K. Merson <jmerson@mersonlaw.com>

Subject: DRVC Related Cases

Dear Judge Steinman:

I write regarding the bankruptcy case. As the Court is aware, the Survivors' committee brought a motion to dismiss the bankruptcy case back in March. Judge Glenn denied the motion without prejudice on July 18 and afforded the Diocese until October 31, 2023 to file an amended plan or term sheet supported by the committee. The debtor filed a plan at that time, but it completely lacks the committee support that the diocese was ordered to have. On November 1, Judge Glenn held a hearing on the Motion to Dismiss where he referenced his conversation with Your Honor, including the possibility of test cases. [Nov.1 at 6]. He said you were open to the test case concept and would expedite such cases. *Id.* I am including the transcript of that hearing, but I believe one of the main takeaways for the survivor representatives was when Judge Glenn told the parties, "I don't want to be the first judge to dismiss one of these cases, but that sounds like where this is headed. All I'm asking is all of you try to be as creative as you can. Come up with solutions." [Nov.1 at 24]

In light of Judge Glenn's comments regarding test cases, the committee brought a motion to allow them on November 20. I believe you received a copy of that motion from Mr. Stang. Judge Glenn recently denied the motion "for reasons stated on the record," and again Your Honor's name came up at the hearing, so I am attaching that transcript as well. Specifically, Judge Glenn noted, "**In denying Mr. Stang's motion, it is in no way intended to preclude if Justice Steinman has a proposal that he is going to make to counsel in the case and they make another motion to lift the stay as to particular actions**

to the extent there is a stay. What I ruled in denying their motion is not at all intended to suggest that such a motion wouldn't be appropriately considered and ruled on." [Dec.19 at 77].

There are a number of reasons why test cases will help advance the bankruptcy. First, while there is a block of cases pending before Your Honor that were relieved from stay, many other claimants have not been allowed to proceed for one reason or another because of the bankruptcy. Second, the pending matters, with few exceptions, do not include the diocese as a party, which could give rise to "empty chair" concerns that might limit their value as test cases. Third, the third-party insurers have been sitting out the bankruptcy negotiations and the diocese's proposed plan does not include any payments whatsoever from them. Test cases that result in judgments will plainly show the intransigent insurers what their exposure is in the case and almost certainly will bring them to the table.

As a part of the motion, the attorneys for survivors set forth three cases as proposed test cases. One (*Bilello v. Holy Trinity*, 900099/2021) is currently pending before this Court, with discovery proceeding in accordance with the Court's directives. It involves a notorious abuser, Father Charles Ribaud, and abuse during a period of extremely high insurance limits from third-party insurers LMI and Interstate, who are not offering any payment as a part of the diocese's proposed bankruptcy plan. However, because the abuse took place at Holy Trinity Diocesan High School, the diocese has referenced an intent to eventually seek application of the automatic stay to halt that case. Another proposed test case (*ARK3 Doe v. Diocese*, 900010/2019) also involves abuse in the LMI/Interstate coverage period and involves a notorious perpetrator, Fr. Alfred Soave, who is the most commonly named abuser among all cases. It is only subject to a stay right not because the diocese was named as a party. A third, (*Harrison v. Uwasomba et al.*, 613879/2018), pre-dates the CVA and was the subject of substantial litigation prior to the bankruptcy filing. This is a mature case involving relatively recent abuse. Depositions and discovery are largely completed and if the stay were to be lifted, it could proceed to trial in a very efficient manner.

The response from the diocese and other defendants on the test case proposal has been a hard no and a refusal to budge. While Judge Glenn denied the test case motion, he was very clear that this is an unacceptable position after so many years without progress. In response to Mr. Geremia's suggestion that test cases are unacceptable in this context, Judge Glenn told him, "No. You would meet and confer and you would agree that we're each going to pick two, we're each going to pick three....There's a dialogue. There's a selection. They're intended to be representative in some fashion or another. But people engage in good faith in discussions. They don't just say just say no. And that's what your position is. So we'll deal with it accordingly." [Dec.19 at 80]. The diocese and its affiliates have not offered their own test cases – they merely object to the procedure and claim that it is unfair to them. We believe that if we were to get together in good faith, we could come to a fair approach that would advance the bankruptcy, and Your Honor will see in the transcript that Judge Glenn would likely endorse a test case approach that involves a procedure coming out of this Court.

We would ask that the Court conduct a conference to address the test case approach along with a procedure to advance cases that would be relieved from stay. Earlier this week, committee counsel conferred with Jones Day, who agreed that reviewing and identifying potential test cases would not itself violate the automatic stay.

Thank you for your consideration,
Pat Stoneking



Pat Stoneking

Attorney | Jeff Anderson & Associates PA | pstoneking@andersonadvocates.com

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EXHIBIT B

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January 15, 2024

BY EMAIL

The Honorable Leonard D. Steinman
Supreme Court of the State of New York, County of Nassau
100 Supreme Court Drive
Mineola, New York 11501

Re: CVA Litigation re Parties Related to the Diocese of
Rockville Centre

Dear Justice Steinman:

We represent the Diocese of Rockville Centre (“Diocese”) and also write on behalf of parishes and schools related to the Diocese who are co-defendants (hereinafter referred to as simply the “defendants”) in approximately 50 Child Victims Act (“CVA”) lawsuits pending before Your Honor. We write in response to a January 4, 2024 email from Patrick Stoneking, an attorney for several plaintiffs in these CVA actions before the Court, who wrote once again to this Court about a proposal concerning putative “test cases.”

Plaintiffs continue to try to impose a “test case,” or bellwether, approach on these lawsuits to pick cases that will be resolved exclusively through expedited trials without any procedural protections for defendants. As a threshold matter, defendants object to plaintiffs’ continued attempt to try to address this contested issue by emails rather than proper motion practice. The defendants do not consent to a “test case” mechanism for several reasons, most significantly because these CVA lawsuits do not have the pertinent characteristics of the type of “mass tort” where a bellwether approach is meaningful and also because the plaintiffs have repeatedly sought to impose this process in a perfunctory, biased, and improper manner. In accordance with the bulk of the case law, the Court has already at least twice refused to impose a bellwether process on these cases without the consent of the defendants.¹ We briefly address these issues on the merits of a bellwether process at the outset below, because they are important and threshold issues that plaintiffs have continued to try to avoid. We then end this letter with a practical proposal for proceeding with the active cases before the Court that we respectfully

¹ See, e.g., *Adams v. Deva Concepts, LLC*, No. 20-cv-9717-GHW, 2023 WL 6518771, at *7 (S.D.N.Y. Oct. 4, 2023) (noting that “[p]laintiffs make th[e] request” “to force Defendant to engage in a bellwether process” “absent sufficient information that would support either the initial decision to do so, or the structure through which to implement any such trials”; “[p]laintiffs have failed to identify a single case where a court is asked by one party to force its opponent to participate in a bellwether process in these circumstances”).

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submit addresses manageability concerns that Your Honor has expressed and accommodates plaintiffs' preferred approach of picking certain lawsuits that will be the first to proceed.

1. A Bellwether Approach to These CVA Actions Is Not Appropriate

Plaintiffs have never addressed with this Court the threshold issue of whether a bellwether approach is even appropriate in these cases. It is not. A process that culminates in the conduct of bellwether trials has been used in mass tort cases addressing claims for products liability with common causation issues or other tort claims based on common exposure to a toxic substance.²

The CVA claims asserted against the defendants do not share the most critical characteristic of these mass torts where a bellwether approach has been used: exposure to a single product, drug, or other substance alleged to give rise to a *common cause of injury* among many plaintiffs. The claimants here allege that these institutional defendants were negligent in connection with the hiring, supervision, and retention of individuals who they claim sexually assaulted them. Each claimant typically alleges abuse by a single individual. Not only is the conduct at issue highly personal in nature, but the alleged cause of the injury, *i.e.*, the alleged tortfeasor at issue in each case, is case-specific. While there are some cases that allege an injury caused by the same alleged abuser, even then the question of whether defendants bear any legal responsibility for damage caused by the claimant's injury under New York tort law is determined by a claim-specific inquiry as to whether the pertinent institution had notice of the alleged abuser's propensity to commit a sexual assault before the abuse alleged in that case occurred. These are not questions that can be resolved "en masse," as this Court's own recent decisions on dispositive motions in CVA cases reflect. *See, e.g.*, NYSCEF Doc. No. 68, *Kastel v. Patchogue-Medford Union Free Sch. Dist.*, Index No. 612490/2020 (Sup. Ct. Suffolk Cty. Jan. 11, 2024); NYSCEF Doc. No. 76, *Brauner v. Locust Valley Cent. Sch. Dist.*, Index No. 900144/2020 (Sup. Ct. Nassau Cty. Jan. 11, 2024). Indeed, in an analogous context, courts have recognized that claims of sexual abuse—even when they all involve the *same* alleged abuser—are not suited for class-wide treatment. *See Geiss v. Weinstein Co. Holdings LLC*, 474 F. Supp. 3d 628, 636

² *See, e.g.*, *Silivanch v. Celebrity Cruises, Inc.*, 333 F.3d 355, 359-60 (2d Cir. 2003) (twenty-two cases involving Legionnaires' disease on a cruise ship); *In re Chevron U.S.A., Inc.*, 109 F.3d 1016, 1019 (5th Cir. 1997). (litigation over Chevron's alleged failure to properly clean up crude oil storage sites); *In re Fosamax Prods. Liab. Litig.*, 924 F. Supp. 2d 477, 483-84 (S.D.N.Y. 2013) (multi-district products liability litigation concerning the osteoporosis drug Fosamax); *In re Vioxx Prods. Liab. Litig.*, 239 F.R.D. 450, 452 n.4 (E.D. La. 2006) (products liability claims alleging failure to warn of an increased risk of heart attacks and strokes associated with the use of a prescription drug); *In re Hydroxycut Mktg. & Sales Prac. Litig.*, No. 09-md-2087-BTM-KSC, 2012 WL 2522859, at *3 (S.D. Cal. June 29, 2012) (products liability action regarding injuries related to plaintiff's consumption of Hydroxycut caplets); *Cooley v. Lincoln Elec. Co.*, 693 F. Supp. 2d 767, 773 (N.D. Ohio 2010) (failure to warn of hazards of exposure to welding fumes).

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(S.D.N.Y. 2020) (denying class certification where “[p]otential claimants were allegedly harmed in different manners, in different locations, across Weinstein’s decades-long career”).

Even the individual damages alleged in each case are personal in nature. Not only is there an array of alleged abusive conduct by the various individual, accused perpetrators—which ranges across a spectrum of alleged severity—but nearly every plaintiff in the actions pending before the Court sets out specific, highly personal allegations concerning how the alleged abuse impacted his or her life. This is not at all like conditions allegedly caused by taking the drugs Propulsid or Vioxx; damage caused by toxic chemicals released on real property; injury caused by a defective ignition device causing an automobile to lose power or suddenly brake; or any other mass tort contexts in which a bellwether approach has been used to address common causation issues or other common issues.³

For an action “[t]o be a ‘test case’ ordinarily the same facts must be in controversy.” *In re Lipitor Antitrust Litig.*, No. 12-cv-2389, 2023 WL 1997688, at *2 (D.N.J. Feb. 14, 2023). And courts abstain from consolidating cases for a bellwether process when the process goes “too far in the interests of expediency and . . . sacrifice[s] basic fairness in the process.” *In re Repetitive Stress Inj. Litig.*, 11 F.3d 368, 374 (2d Cir. 1993) (quoting *Malcolm v. Nat’l Gypsum Co.*, 995 F.2d 346, 353 (2d Cir. 1993)), *petition for reh’g granted in part on other grounds*, 35 F.3d 637 (2d Cir. 1994); *see also In re Consol. Parlodel Litig.*, 182 F.R.D. 441, 444 (D.N.J. 1998) (“[e]ven where cases involve some common issues of law or fact, consolidation may be inappropriate where individual issues predominate”); *Michael v. Wyeth, LLC*, No. 04-cv-0435, 2011 WL 1527581, at *2-3 (S.D.W. Va. Apr. 20, 2011) (denying consolidation because the claims were “highly fact-specific” due to differences in plaintiffs’ medical conditions, risk factors, prescriptions, and use of the drug). To that end, courts do *not* allow for bellwether trials when, as in these cases, there are “highly fact-specific issues requiring individualized inquiries,” and “significant legal and . . . factual differences exist” even if there may be “some potential overlaps.” *Johnson v. Gilead Scis., Inc.*, 2022 WL 225614, at *3 (E.D. Mo. Jan. 26, 2022).

³ *See In re Propulsid Prods. Liab. Litig.*, MDL No. 1355, 2000 WL 35621417, at *1 (J.P.M.L. Aug. 7, 2000) (presenting “complex common questions of fact concerning . . . the development, testing, manufacturing and marketing of Propulsid, and . . . defendants’ knowledge concerning the drug’s possible adverse effects”); *In re Vioxx Prods. Liab. Litig.*, 360 F. Supp. 2d 1352, 1353-54 (J.P.M.L. 2005) (common questions of fact regarding alleged increased health risks “when taking Vioxx, an anti-inflammatory drug, and whether Merck knew of these increased risks and failed to disclose them”); *In re Methyl Tertiary Butyl Ether (MTBE) Prods. Liab. Litig.*, 379 F. Supp. 2d 348, 361 (S.D.N.Y. 2005) (multi-district litigation arising out of defendants’ alleged contamination of groundwater); *Silivanch*, 333 F.3d at 359-60 (1994 outbreak of Legionnaires’ disease on a cruise ship); *In re Gen. Motors LLC Ignition Switch Litig.*, No. 14-md-2543-JMF, 2016 WL 1441804 (S.D.N.Y. Apr. 12, 2016); *In re Gen. Motors LLC Ignition Switch Litig.*, 26 F. Supp. 3d 1390, 1391 (J.P.M.L. 2014) (describing alleged ignition-switch defect and noting that, in that case, “[i]t is undisputed that the cases involve common questions of fact”).

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The plaintiffs completely ignore this critical, threshold inquiry, but there is simply no lawful basis here for determining that these cases should be subjected to a bellwether or “test case” process.

2. The Court Has Properly Declined to Impose a “Test Case” Approach Over Defendants’ Objection

This Court has also repeatedly declined to impose a “test case” approach over the defendants’ objection.

At the outset of when these lawsuits became active, plaintiffs made a “test case” proposal to this Court and, indeed, misrepresented to the Court in connection with that proposal that New York County Supreme Court has been proceeding with “test cases” for CVA actions. *See Ex. A* hereto (compilation of pertinent correspondence with the Court). The Court declined to proceed with that proposal—and also declined to proceed with defendants’ proposal to impose an aggregate case management plan for the active cases against defendants. That did not stop Mr. Stoneking, however. He tried again, writing another unsolicited email to the Court to suggest putative “test cases” that plaintiffs had not discussed with defendants. *See id.* Once again, the Court declined to proceed with that approach. Mr. Stoneking’s January 4, 2024 email is now the *third* time that plaintiffs are going back to the well on “test cases,” unphased by having been rejected by the Court the first two times and, once again, doing this without reaching out to defendants beforehand about their specific proposal.

Plaintiffs’ rationale for trying a third time with this proposal is that the Diocese should have negotiated in the Diocese’s bankruptcy case with the Official Committee of Unsecured Creditors (the “Committee”) concerning the Committee’s “test case” proposal—which was a blatantly biased approach, summarily rejected by the Bankruptcy Court, whereby the Committee sought to have the authority to pick all the “test cases” itself, with input from claimants’ counsel but not the Diocese. Mr. Stoneking bemoans in his email that defendants “have not offered their own test cases” and “merely object to the procedure and claim that it is unfair to them.” That is all correct though: defendants *do* object to the procedure, it *is* unfair to them, and that is precisely why they have *not* “offered their own test cases.” What plaintiffs still do not seem to grasp is that these are all threshold reasons *not to proceed with test cases* and why, if they were to be imposed here over defendants’ objection, there would have to be contested motion practice on the issue—not litigation by email—and, if necessary, appellate practice.

Plaintiffs complain that the Diocese’s position has been a “hard no and a refusal to budge.” But what Mr. Stoneking left out of his email to this Court—and what the Committee also did not tell the Bankruptcy Court—is that the Committee’s approach to “test cases” was to *add* its self-selected “test cases” to the *already-existing, active docket* of approximately 50

The Honorable Leonard D. Steinman
January 15, 2024
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actions against defendants before this Court. Contrary to plaintiffs' notion in Mr. Stoneking's email and the Committee's representation to the Bankruptcy Court, the Diocese did confer with the Committee over its "test case" proposal, but once the Committee made clear to the Diocese's counsel that the Committee's approach would necessarily lead to *more* litigation in state court the Diocese entirely reasonably informed the Committee that the Committee's approach was a non-starter. *See* Ex. B hereto. There would be no point to *adding* putative "test cases" on top of the already-active 50 cases (and counting) before this Court, which would pile on to the administrative burden and cost incurred by the bankruptcy estate and parishes while imposing substantially more burden on the Court as well. The Court should also know that the Committee has previously represented to the Bankruptcy Court both that it has all it needs to comprehensively address valuation of the claims in the bankruptcy case—which includes a claims-valuation expert retained by the Committee whose work has cost the estate more than \$1.2 million to date⁴—and, in addition, that litigation of the currently unstayed cases before Your Honor would be effective to ascribe value to plaintiffs' claims and "advance the settlement process" in the bankruptcy case.⁵ There is thus no reason to add even more cases to this already-considerable docket of active cases before Your Honor, by the Committee's own admissions.

Plaintiffs also do not address that, just two days before Mr. Stoneking wrote his email to Your Honor, the Diocese informed the Committee in writing that, while reiterating the Diocese's objection to the concept of "test cases," the Diocese would consider engaging with plaintiffs' counsel and parish counsel to discuss a process for determining which of the already-active cases in this Court should move forward to complete pre-trial proceedings and, as warranted, any trial. The Diocese made clear to the Committee, once again, that there would be no point in doing this unless the parties stop litigating the cases that are not selected to move forward pursuant to any such process. *See* Ex. C hereto. Mr. Stoneking was well aware of this correspondence—he refers to it in his email to the Court—but rather than reach out to counsel for the Diocese and the

⁴ *See Committee's Reply on its Motion to Dismiss the Chapter 11 Case* ¶ 20 ("The Diocese and the Committee have made their own assessments of the claims and their values."), Doc. No. 2230, *In re Roman Catholic Diocese of Rockville Centre*, No. 20-12345 (Bankr. S.D.N.Y.); *see also Debtor's Objection to Committee's "Test Cases" Motion*, Doc. No. 2710 ¶ 21 n.6 (quoting statements from the Committee's counsel to the Bankruptcy Court: "[W]e've done a lot of valuation of claims; we've done a lot of valuation of the assets. We think we know what the picture size is, we think we know what the frame size is."); *id.* (Committee counsel: "So, your Honor, my view of it is we know what the values are, we know the difficulties associated with the insurance."); *id.* ¶ 22 n.8 (describing the work done on, and cost to the estate for, valuation of the claims by the Committee's retained expert).

⁵ *See Committee's Reply on Debtor's Motion for a Preliminary Injunction* ¶ 11 ("[A]llowing these State Court Actions to proceed may break the impasse and foster progress toward a consensual plan."), ¶ 105 (where Committee stated that prosecution of the State Court Actions—*i.e.*, some of the very cases now active before this Court—will "establish the strength and value of the [plaintiffs'] claims" and "advance the settlement process" in the bankruptcy case), Doc. No. 172, *Roman Catholic Diocese of Rockville Centre v. ARK 320 Doe (In re Roman Catholic Diocese of Rockville Centre)*, Adv. No. 20-01226 (Bankr. S.D.N.Y.).

The Honorable Leonard D. Steinman
January 15, 2024
Page 6

parishes in response to it, he wrote yet another email to the Court that is trying to impose “test cases” on defendants over their objection. In light of the way Mr. Stoneking chose to proceed, we make our proposal directly below.

3. A Proposal For How To Manage The Active Cases Before The Court

Defendants have heard Your Honor’s concerns about managing the active cases. We understand that, although all of the cases are moving through pre-trial proceedings in tandem, they cannot proceed entirely in lockstep as a matter of practicality. Defendants do not agree that it is appropriate to impose a bellwether or “test case” approach on these CVA cases asserted against them. But, to manage the docket of cases before Your Honor, defendants propose the following approach to the currently active cases in this Court against these defendants:

- Step 1: Defendants collectively choose 4 currently active actions and plaintiffs collectively choose 4 currently active actions.
- Step 2: Defendants strike 2 of plaintiffs’ choices and plaintiffs strike 2 of defendants’ choices.⁶
- Step 3: The 4 currently active actions that remain after the parties’ respective strikes will proceed through all pre-trial proceedings and mandatory, individual mediation of each case. Mediations should be held in-person with insurance representatives and clients in attendance.
- Step 4: No action to proceed to trial until orders are issued as to any dispositive motions in all of the 4 cases—or any lesser number of the 4 cases that remain after mediation and other pre-trial proceedings are complete.
- All of the other active cases on this docket would not be litigated further or proceed to any trial until final resolution of the 4 cases that are to be selected to proceed in the above-described manner.

We respectfully submit that this proposal addresses concerns about managing the active caseload before Your Honor; is a reasonable response to plaintiffs’ notion that each side should pick cases to proceed; and addresses defendants’ concern (of which the Court has taken note in response to Mr. Stoneking’s email) that any proposal for how to manage the cases going forward should account for disposition of actions, as appropriate, by summary judgment. It is important,

⁶ Cf. *In re Gen. Motors LLC Ignition Switch Litig.*, 2016 WL 1441804, at *3 (discussing the process for choosing bellwether cases to be tried that included “exercise of two strikes by each party on the other’s list”).

JONES DAY

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January 15, 2024
Page 7

and only fair, that any proposal to proceed with cases in stages or batches not be structured so as to impose a bias for selecting cases that are resolved solely through trial, because as the Court is well aware many CVA lawsuits are properly subject to a dispositive resolution by summary judgment or other pre-trial procedures.

We thank the Court for its consideration.

Respectfully submitted,

A handwritten signature in cursive script that reads "Todd R. Geremia". The signature is written in dark ink and is positioned above the printed name.

Todd R. Geremia

cc. All counsel copied on Mr. Stoneking's January 4, 2024 email

EXHIBIT A

Geremia, Todd R.

From: Geremia, Todd R.
Sent: Wednesday, November 22, 2023 3:45 PM
To: Pat Stoneking; JudgeSteinmanRemote; Stephens, Eric P.
Cc: DiPompeo, Christopher; cjadams@pfapc.com; Zepf, Christopher; DMoran@farrellfritz.com; James R. Marsh; Hoyt, Joshua T.; jmerson@mersonlaw.com; Michael Dowd; Orujlu, Nurlan; Paul Mones; Steven L. Alter; Quaranta, William P.; jmnador@pfapc.com; Brian R. Davey; Gianna Dano; Kiefer Kirk; Jonathan Cantarero; Ashley Francois; Stephenie Bross, Esq.; Jason P. Amala; Vincent Nappo; Daniel Ellis; Kiefer Kirk
Subject: RE: Rockville Centre Diocese "Related" Cases

Judge Steinman,

Mr. Stoneking's correspondence is in open defiance of Your Honor's prior directives that the Court would not adopt either the "test case" approach favored by some of the plaintiffs' counsel or the aggregated, case-management approach favored by the defendants. Instead, the Court determined at the July and August conferences that the cases would all proceed as individual matters, with some cases disposed of through pre-trial motions and other cases advancing as warranted. That same concept, which the Court encapsulated by analogy to "Squid Game," was discussed at the start and conclusion of the latest conference before the Court just last week on November 14.

Then just today, Your Honor further directed counsel in all of the cases to appear for conferences next week. Defendants will appear as directed. But Mr. Stoneking is expressing plaintiffs' collective resistance to that directive as well.

Mr. Stoneking has also refused to comply with other orders of the Court. He says that "Jones Day is interpreting your Honor's Order to preclude third-party subpoenas of these types of records in its possession regarding these offenders." What Mr. Stoneking does not mention in that odd statement is that the Court expressly ordered, on August 31, 2023, that "Plaintiffs [were] to serve any document demands by September 29, 2023." Far from being "ready to immediately hit the ground running," Mr. Stoneking's law firm has *still not served a document demand on the Diocese for a single case* that his law firm has commenced that involves a parish or other entity associated with the Diocese. And he failed even to reach out to the Diocese's counsel with respect to this issue until November 20, 2023, nearly two months after the Court's deadline for serving document demands. Mr. Stoneking is not alone. *Not a single plaintiff's counsel served the Diocese with a subpoena within the deadline set by Your Honor.*

These plaintiffs should not be permitted to continually reargue issues that the Court has already addressed or be allowed to "pick" their own cases to be afforded special status as a way of evading deadlines and process that the Court has ordered will apply to all of the cases against Diocesan affiliates that are no longer subject to a stay. Indeed, the notion that plaintiffs would get to "pick," on their own, what could plausibly be viewed as meaningful or fair "test" cases is outrageously biased and frankly ludicrous.

Plaintiffs' counsel should show up for the conferences that the Court has ordered will occur, and they should be subject to the deadlines and other directives that the Court has previously ordered in all of the cases that are now active on the Court's docket.

Respectfully submitted,

Todd R. Geremia

Todd R. Geremia ([bio](#))
Partner
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From: Pat Stoneking <pstoneking@andersonadvocates.com>
Sent: Wednesday, November 22, 2023 2:07 PM
To: JudgeSteinmanRemote <judgesteinmanremote@nycourts.gov>; Stephens, Eric P. <epstephens@jonesday.com>
Cc: DiPompeo, Christopher <cdipompeo@jonesday.com>; cjadams@pfapc.com; Zepf, Christopher <czepf@jonesday.com>; DMoran@farrellfritz.com; James R. Marsh <jamesmarsh@marsh.law>; Hoyt, Joshua T. <jhoyt@jonesday.com>; jmerson@mersonlaw.com; Michael Dowd <MichaelGDowd@gmail.com>; Orujlu, Nurlan <norujlu@jonesday.com>; Paul Mones <paul@paulmones.com>; Steven L. Alter <salter@sssfirm.com>; Geremia, Todd R. <trgeremia@JonesDay.com>; Quaranta, William P. <wquaranta@jonesday.com>; jmnador@pfapc.com; Brian R. Davey <bdavey@mmlaw.us.com>; Gianna Dano <gdano@hermanlaw.com>; Kiefer Kirk <kkirk@hermanlaw.com>; Jonathan Cantarero <jcantarero@hermanlaw.com>; Ashley Francois <afrancois@hermanlaw.com>; Stephenie Bross, Esq. <sbross@sssfirm.com>; Jason P. Amala <jason@pcvalaw.com>; Vincent Nappo <vnappo@pcvalaw.com>; Daniel Ellis <DEllis@hermanlaw.com>; Kiefer Kirk <kkirk@hermanlaw.com>
Subject: RE: Rockville Centre Diocese "Related" Cases

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Dear Judge Steinman:

At the last conference with plaintiffs' and a group of defense counsel, the Court proposed various scenarios to set certain remanded, non-Arrowood cases for trial in February. Following that conference, plaintiffs' counsel conferred, and concluded that the best way to move forward was to pick several test cases as opposed to throwing all the cases into the Supreme Court docket. Though the Court has required all counsels' appearances next week in order to begin setting these matters for trial, we believe that choosing these test cases will be an effective way of prioritizing the cases. Furthermore, these test cases will help develop case law guidance on discovery issues and establish valuations that can significantly assist the settlement of the remaining cases. To this end, plaintiffs recommend that the following cases be first out of the box for trial. This is similar to the cases groupings utilized in New York City.

ARK453 Doe v. Holy Trinity Catholic Church Index # 900095/2021 (Nassau County) – Abuse by Fr. Charles “Bud” Ribaldo – Plaintiff’s counsel Jeff Anderson & Associates

ARK562 Doe v. St. Thomas the Apostle Catholic Church, Index # 900222/2021 (Nassau County)– Abuse by Fr. Eugene Vollmer - Plaintiff’s counsel Jeff Anderson & Associates

Bilello v Holy Trinity Diocesan High School, Index # 900099/2021 (Nassau County) – Abuse by Fr. Charles “Bud” Ribaldo – Plaintiff’s counsel – Slater Slater Schulman LLP

Richard Meyer v. Our Lady of Lourdes Catholic Church, Index # 610849/2021 (Suffolk County) – Abuse by Fr. Eugene Vollmer - Plaintiff counsel: Herman Law

Plaintiffs' counsel in these matters are ready to immediately hit the ground running. If Ordered, EBTs can start in December with trials to begin in February.

Finally, we are attaching an email sent by Jones Day this afternoon regarding third-party subpoenas to the Diocese. As you may know, the Diocese maintains almost all of the employment records for these perpetrators including correspondence with these defendants. Jones Day is interpreting your Honor's Order to preclude third-party subpoenas of these types of records in its possession regarding these offenders. Many (but not all) of these documents have already been produced in the bankruptcy proceeding, and the Diocese is actively working to prevent their use as a part of this litigation. If the Diocese intends to withhold production of documents pursuant to subpoenas it will cause major unnecessary delays in these cases.

Thank you for the Court's attention to, and consideration of, these matters.

Sincerely,

Pat Stoneking



Pat Stoneking

Attorney | Jeff Anderson & Associates PA | pstoneking@andersonadvocates.com

MSBA Certified Specialist in Civil Trial Law

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Geremia, Todd R.

From: JudgeSteinmanRemote <judgetsteinmanremote@nycourts.gov>
Sent: Friday, August 25, 2023 5:18 PM
To: Stephens, Eric P.; JudgeSteinmanRemote; Brian R. Davey; cjadams@pfapc.com; 'Pat Stoneking'; 'James R. Marsh'; jmerson@mersonlaw.com; 'Michael Dowd'; asilvershein@hermanlaw.com; 'Paul Mones'; sbross@sssfirm.com; 'Alter, Steven L.'; Zepf, Christopher; DiPompeo, Christopher; Geremia, Todd R.; Hoyt, Joshua T.; Orujlu, Nurlan; Quaranta, William P.
Subject: RE: Rockville Centre Diocese "Related" Cases MM#924-6974

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The parties should feel free to forward the conference information to all plaintiffs' and defendants' counsel. I am not convinced the City's Case Management Order advanced the cases. I suspect it just turned document production into a two-phase procedure. But I will hear from everyone and determine a path forward.

From: Stephens, Eric P. <epstephens@jonesday.com>
Sent: Friday, August 25, 2023 3:52 PM
To: JudgeSteinmanRemote <judgetsteinmanremote@nycourts.gov>; Brian R. Davey <bdavey@mmlaw.us.com>; cjadams@pfapc.com; 'Pat Stoneking' <pstoneking@andersonadvocates.com>; 'James R. Marsh' <jamesmarsh@marsh.law>; jmerson@mersonlaw.com; 'Michael Dowd' <michaeldowd@gmail.com>; asilvershein@hermanlaw.com; 'Paul Mones' <paul@paulmones.com>; sbross@sssfirm.com; 'Alter, Steven L.' <salter@sssfirm.com>; Zepf, Christopher <czepf@jonesday.com>; DiPompeo, Christopher <cdipompeo@jonesday.com>; Geremia, Todd R. <trgeremia@JonesDay.com>; Hoyt, Joshua T. <jhoyt@jonesday.com>; Orujlu, Nurlan <norujlu@jonesday.com>; Quaranta, William P. <wquaranta@jonesday.com>
Subject: RE: Rockville Centre Diocese "Related" Cases MM#924-6974

Dear Judge Steinman,

Following our meet and confer with counsel for CVA plaintiffs and in response to Your Honor's August 14 question concerning whether it is "feasible/desirable to coordinate discovery in any of the cases" that have been remanded to Your Honor's Part, we convened a call with counsel for defendants in the remanded cases earlier today. Following that call, the defendant group has asked us to relay the following comments to the Court:

1. Defendants in the remanded cases do not support a bellwether, "test case," or "super-expedited" approach for a subset of the remanded cases;
2. Defendants believe it is feasible and desirable to coordinate discovery in the remanded cases, particularly with respect to documents and depositions and certain pre-trial motion practice, so that what can be coordinated is not done approximately 110 times; and
3. Counsel for other defendants in the remanded actions would like an opportunity to voice their concerns on these matters and are willing to appear at the Court conference scheduled for Monday August 28.

With the Court's permission, counsel for the Diocese is prepared to forward Monday's conference information to the other defense counsel. Please advise if the Court approves sharing Monday's conference information with other defendant counsel.

In addition, during Monday's conference, counsel for the Diocese will be prepared to discuss its suggestions for a case management order in the remanded cases coordinating: (i) a standard protective order; (ii) standard written discovery directed to the Diocese; (iii) a process for coordinating depositions; and (iv) a process for plaintiffs to cover the "reasonable production expenses" of third-party discovery of the Diocese pursuant to CPLR 3122(d).

With so many parties who may be impacted by such a case management order, formal submissions to the Court on this issue may be beneficial so that the many parties whose rights would be impacted by such an order have an opportunity to be properly heard and the Court has an opportunity to consider the issues as part of a deliberative process. That is how the process unfolded for coordination before the Diocese filed for bankruptcy protection, and it is how the case management process unfolded for cases against the Archdiocese of New York and the Diocese of Brooklyn, and other CVA defendants, in the Regional CVA part for the city.

We look forward to Monday's call with the Court.

Respectfully submitted,

Eric P. Stephens ([bio](#))
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New York, NY 10281
Phone: (212) 326-3916
Fax: (212) 755-7306
epstephens@jonesday.com

From: JudgeSteinmanRemote <judgesteinmanremote@nycourts.gov>
Sent: Wednesday, August 23, 2023 6:22 PM
To: Stephens, Eric P. <epstephens@jonesday.com>; Brian R. Davey <bdavey@mmlaw.us.com>; JudgeSteinmanRemote <judgesteinmanremote@nycourts.gov>; cjadams@pfapc.com; 'Pat Stoneking' <pstoneking@andersonadvocates.com>; 'James R. Marsh' <jamesmarsh@marsh.law>; jmerson@mersonlaw.com; 'Michael Dowd' <michaeldowd@gmail.com>; asilvershein@hermanlaw.com; 'Paul Mones' <paul@paulmones.com>; sbross@sssfirm.com; 'Alter, Steven L.' <salter@sssfirm.com>; Zepf, Christopher <czepf@jonesday.com>; DiPompeo, Christopher <cdipompeo@jonesday.com>; Geremia, Todd R. <trgeremia@JonesDay.com>; Hoyt, Joshua T. <jhoyt@jonesday.com>; Orujlu, Nurlan <norujlu@jonesday.com>; Quaranta, William P. <wquaranta@jonesday.com>
Subject: RE: Rockville Centre Diocese "Related" Cases MM#924-6974

Thank you. If anyone disagrees with the provided list please let me know. Mr. Stephens, is it possible for you to let me know which remanded cases on the list are not in my Part? I think I can guess from looking at the Index Numbers, but if you know for certain that would be helpful.

I note you have more cases than Mr. Merson listed. Is this because your list includes cases that were not removed following the dissolution of the injunction?

I am going to have to learn a little bit more about the "success" in NYC cases that Mr. Merson refers to. I am not opposed to the concept of bellwether trials. But discovery in all of these cases must move along on an expedited track (I am amenable to a super-expedited schedule in some cases). As previously stated, if a plaintiff has not filed a complaint in any of the actions that should be done expeditiously. If RJJ's have not been filed that should be done immediately (conference request). Authorizations to obtain relevant records should also be obtained and served. And defendants should be searching for relevant documents and identifying witnesses. We can discuss deposition scheduling. I would like tom have a conference on Monday to discuss the path forward.

Leonard D. Steinman, J.S.C.

New York State Supreme Court
100 Supreme Court Drive
Mineola, New York 11501
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From: Stephens, Eric P. <epstephens@jonesday.com>
Sent: Wednesday, August 23, 2023 5:31 PM
To: Brian R. Davey <bdavey@mmlaw.us.com>; JudgeSteinmanRemote <judgesteinmanremote@nycourts.gov>; cjadams@pfapc.com; 'Pat Stoneking' <pstoneking@andersonadvocates.com>; 'James R. Marsh' <jamesmarsh@marsh.law>; jmerson@mersonlaw.com; 'Michael Dowd' <michaelgdowd@gmail.com>; asilvershein@hermanlaw.com; 'Paul Mones' <paul@paulmones.com>; sbross@sssfirm.com; 'Alter, Steven L.' <salter@sssfirm.com>; Zepf, Christopher <czepf@jonesday.com>; DiPompeo, Christopher <cdipompeo@jonesday.com>; Geremia, Todd R. <trgeremia@JonesDay.com>; Hoyt, Joshua T. <jhoyt@jonesday.com>; Orujlu, Nurlan <norujlu@jonesday.com>; Quaranta, William P. <wquaranta@jonesday.com>
Subject: RE: Rockville Centre Diocese "Related" Cases MM#924-6974

Dear Judge Steinman, following up on Mr. Davey's email below, counsel for the Diocese has compiled the attached list of remanded cases that were previously subject to the preliminary injunction in connection with the Diocese's bankruptcy. As of this afternoon, we are aware of 121 such cases with most, but not all, originating from and remanded to the Regional CVA Part for the 9th and 10th Judicial Districts.

A table listing these cases by caption and index number, as well as counsel, is attached for the Court's reference.

Respectfully submitted,

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From: Brian R. Davey <bdavey@mmlaw.us.com>
Sent: Tuesday, August 22, 2023 3:29 PM
To: 'JudgeSteinmanRemote' <judgesteinmanremote@nycourts.gov>; cjadams@pfapc.com; 'Pat Stoneking' <pstoneking@andersonadvocates.com>; 'James R. Marsh' <jamesmarsh@marsh.law>; jmerson@mersonlaw.com; 'Michael Dowd' <michaelgdowd@gmail.com>; asilvershein@hermanlaw.com; 'Paul Mones' <paul@paulmones.com>; sbross@sssfirm.com; 'Alter, Steven L.' <salter@sssfirm.com>; Zepf, Christopher <czepf@jonesday.com>; DiPompeo, Christopher <cdipompeo@jonesday.com>; Geremia, Todd R. <trgeremia@JonesDay.com>; Hoyt, Joshua T. <jhoyt@jonesday.com>; Orujlu, Nurlan <norujlu@jonesday.com>; Quaranta, William P. <wquaranta@jonesday.com>; Stephens, Eric P. <epstephens@jonesday.com>
Subject: RE: Rockville Centre Diocese "Related" Cases MM#924-6974

Judge Steinman:

Hope all is well. We held a meet and confer with many if not all counsel representing plaintiffs in DRVC related entities lawsuits which have been remanded to state court.

Defendants are preparing for the Court an up-to-date list of the remanded cases, together with a list of counsel for all the parties in those cases. We expect to have that complete by tomorrow, as directed, and will transmit it to the Court.

In response to the Court's question, the defendant parishes in the Diocese of Rockville Centre believe that pre-trial coordination is feasible and desirable, for what is currently approximately 120 cases with further remand motions still pending. Coordinating pre-trial discovery and motion practice will be efficient and conserve time and resources for all parties and the Court. Charlie Adams and I, and counsel for the Diocese, have proposed to a group of plaintiffs' counsel a Case Management Order along the lines of the one that Justice Jaeger previously entered for all cases in which the Diocese of Rockville Centre was named as a defendant, and in which parishes in the Diocese were named as co-defendants. Several parties opposed entering that Order previously, and it was entered by Justice Jaeger only after a motion made on notice. If we are able to get consensus on this or a similar CMO for the remanded cases, or on the proposal made by certain plaintiffs' counsel during our call with them today, motion practice regarding pre-trial coordination may not be necessary or may be narrowed to only a few issues.

Defendants are considering a "test case" proposal made by plaintiff's counsel, which we have heard for the first time during today's meet and confer with plaintiffs' counsel today, and are reaching out to counsel for all of the co-defendants in the remanded cases to discuss this proposed approach. We understand plaintiffs' counsel are similarly reaching out to all plaintiffs' counsel in these cases, to get their feedback. We have then agreed with plaintiffs' counsel to re-convene next week and will report back to the Court.

To all plaintiffs' counsel here, if I left anyone off this email please forward this to the other counsel.

Thank you,

Brian R. Davey
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Williston Park, NY 11596
516-248-1200

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From: JudgeSteinmanRemote <judgesteinmanremote@nycourts.gov>
Sent: Monday, August 14, 2023 10:57 AM
To: Brian R. Davey <bdavey@mmlaw.us.com>; cjadams@pfapc.com; 'Pat Stoneking' <pstoneking@andersonadvocates.com>; 'James R. Marsh' <jamesmarsh@marsh.law>; jmerson@mersonlaw.com; 'Michael Dowd' <michaelgdowd@gmail.com>; asilvershein@hermanlaw.com; 'Paul Mones' <paul@paulmones.com>; sbross@sssfirm.com; 'Alter, Steven L.' <salter@sssfirm.com>
Subject: RE: Rockville Centre Diocese "Related" Cases

I have reviewed Judge Brown's decision. It would be helpful to me to receive a list of the remanded cases with N.Y. State Index Numbers and appearing counsel. I do not know if all counsel who have appeared in the remanded cases are on this email. If not, this email should be forwarded to appearing counsel. The parties should arrange to speak with each other this week and report back with a plan of action by 8/23 if it is feasible/desirable to coordinate discovery in any of the cases. If a plaintiff has not filed a complaint in any of the actions that should be done expeditiously. Authorizations to obtain relevant records should also be obtained and served. It will come as no surprise to anyone that I intend to ensure that discovery is completed very quickly in these actions.

Leonard D. Steinman, J.S.C.

New York State Supreme Court
100 Supreme Court Drive
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Geremia, Todd R.

From: Jordan Merson <jmerson@mersonlaw.com>
Sent: Thursday, August 24, 2023 5:03 PM
To: Stephens, Eric P.
Cc: JudgeSteinmanRemote; Brian R. Davey; cjadams@pfapc.com; Pat Stoneking; James R. Marsh; Michael Dowd; asilvershein@hermanlaw.com; Paul Mones; sbross@sssfirm.com; Alter, Steven L.; Zepf, Christopher; DiPompeo, Christopher; Geremia, Todd R.; Hoyt, Joshua T.; Orujlu, Nurlan; Quaranta, William P.; Jason P. Amala; Michael T. Pfau
Subject: Re: Rockville Centre Diocese "Related" Cases MM#924-6974

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Good afternoon Judge Steinman:

As a follow up and in accord with Your Honor's discovery schedules in other cases, plaintiffs propose the following:

For each super-expedited case:

Paper discovery completed in 30 days from today;
Plaintiff's deposition complete oob 60 days from today;
Defendant's depositions complete oob 75 days from today;
NOI to be filed oob 90 days from today.

For every other case:

Paper discovery completed in 60 days from today;
Plaintiff's deposition complete oob 90 days from today;
Defendant's depositions complete oob 120 days from today;
NOI to be filed oob 120 days from today.

Thank you for the Court's consideration of the above.

Respectfully,

Jordan K. Merson
Merson Law, PLLC
950 Third Avenue
18th Floor
New York, New York 10022
(212) 603-9100 Main
(212) 390-1712
(347) 441-4171 Facsimile
jmerson@mersonlaw.com
mersonlaw.com

On Thu, Aug 24, 2023 at 10:16 AM Jordan Merson <jmerson@mersonlaw.com> wrote:

Good morning Judge Steinman:

Yes, as Mr. Stephens indicated, it is timing as more cases keep getting remanded.

Mr. Stephens, in accord with Judge Steinman's email, when will you be ready to discuss deposition deadlines and a "super expedited schedule" for test/bellweather cases?

Respectfully,

Jordan K. Merson
Merson Law, PLLC
950 Third Avenue
18th Floor
New York, New York 10022
(212) 603-9100 Main
(212) 390-1712
(347) 441-4171 Facsimile
jmerson@mersonlaw.com
mersonlaw.com

On Thu, Aug 24, 2023 at 10:05 AM Stephens, Eric P. <epstephens@jonesday.com> wrote:

Good morning Your Honor, as requested, a revised chart is attached. There are eight remanded cases that are not in Your Honor's Part and we have highlighted those in the attached in a light red color.

I'm not familiar with the process Mr. Merson used to generate his list of remanded cases, but I believe it's largely a timing issue. A number of additional cases were remanded shortly before and since the time Mr. Merson circulated his list. We have included those more recently remanded cases on our list (and are not aware of any additional cases that have been remanded since yesterday afternoon).

Eric P. Stephens ([bio](#))

JONES DAY® - One Firm WorldwideSM
250 Vesey Street
New York, NY 10281
Phone: (212) 326-3916
Fax: (212) 755-7306
epstephens@jonesday.com

From: JudgeSteinmanRemote <judgesteinmanremote@nycourts.gov>

Sent: Wednesday, August 23, 2023 6:22 PM

To: Stephens, Eric P. <epstephens@jonesday.com>; Brian R. Davey <bdavey@mmlaw.us.com>; JudgeSteinmanRemote <judgesteinmanremote@nycourts.gov>; cjadams@pfapc.com; 'Pat Stoneking' <pstoneking@andersonadvocates.com>; 'James R. Marsh' <jamesmarsh@marsh.law>; jmerson@mersonlaw.com; 'Michael Dowd' <michaeldowd@gmail.com>; asilvershein@hermanlaw.com; 'Paul Mones' <paul@paulmones.com>; sbross@sssfirm.com; 'Alter, Steven L.' <salter@sssfirm.com>; Zepf, Christopher <czepf@jonesday.com>; DiPompeo, Christopher <cdipompeo@jonesday.com>; Geremia, Todd R. <trgeremia@JonesDay.com>; Hoyt, Joshua T. <jhoyt@jonesday.com>; Orujlu, Nurlan <norujlu@jonesday.com>; Quaranta, William P. <wquaranta@jonesday.com>

Subject: RE: Rockville Centre Diocese "Related" Cases MM#924-6974

Thank you. If anyone disagrees with the provided list please let me know. Mr. Stephens, is it possible for you to let me know which remanded cases on the list are not in my Part? I think I can guess from looking at the Index Numbers, but if you know for certain that would be helpful.

I note you have more cases than Mr. Merson listed. Is this because your list includes cases that were not removed following the dissolution of the injunction?

I am going to have to learn a little bit more about the "success" in NYC cases that Mr. Merson refers to. I am not opposed to the concept of bellwether trials. But discovery in all of these cases must move along on an expedited track (I am amenable to a super-expedited schedule in some cases). As previously stated, if a plaintiff has not filed a complaint in any of the actions that should be done expeditiously. If RJJ's have not been filed that should be done immediately (conference request). Authorizations to obtain relevant records should also be obtained and served. And defendants should be searching for relevant documents and identifying witnesses. We can discuss deposition scheduling. I would like tom have a conference on Monday to discuss the path forward.

Leonard D. Steinman, J.S.C.

New York State Supreme Court

100 Supreme Court Drive

Mineola, New York 11501

(516) 493-3252

From: Stephens, Eric P. <epstephens@jonesday.com>

Sent: Wednesday, August 23, 2023 5:31 PM

To: Brian R. Davey <bdavey@mmlaw.us.com>; JudgeSteinmanRemote <judgesteinmanremote@nycourts.gov>; cjadams@pfapc.com; 'Pat Stoneking' <pstoneking@andersonadvocates.com>; 'James R. Marsh' <jamesmarsh@marsh.law>; jmerson@mersonlaw.com; 'Michael Dowd' <michaelgdowd@gmail.com>; asilvershein@hermanlaw.com; 'Paul Mones' <paul@paulmones.com>; sbross@sssfirm.com; 'Alter, Steven L.' <salter@sssfirm.com>; Zepf, Christopher <czepf@jonesday.com>; DiPompeo, Christopher <cdipompeo@jonesday.com>; Geremia, Todd R. <trgeremia@JonesDay.com>; Hoyt, Joshua T. <jhoyt@jonesday.com>; Orujlu, Nurlan <norujlu@jonesday.com>; Quaranta, William P. <wquaranta@jonesday.com>

Subject: RE: Rockville Centre Diocese "Related" Cases MM#924-6974

Dear Judge Steinman, following up on Mr. Davey's email below, counsel for the Diocese has compiled the attached list of remanded cases that were previously subject to the preliminary injunction in connection with the Diocese's bankruptcy. As of this afternoon, we are aware of 121 such cases with most, but not all, originating from and remanded to the Regional CVA Part for the 9th and 10th Judicial Districts.

A table listing these cases by caption and index number, as well as counsel, is attached for the Court's reference.

Respectfully submitted,

Eric P. Stephens ([bio](#))

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epstephens@jonesday.com

From: Brian R. Davey <bdavey@mmlaw.us.com>

Sent: Tuesday, August 22, 2023 3:29 PM

To: 'JudgeSteinmanRemote' <judgesteinmanremote@nycourts.gov>; cjadams@pfapc.com; 'Pat Stoneking' <pstoneking@andersonadvocates.com>; 'James R. Marsh' <jamesmarsh@marsh.law>; jmerson@mersonlaw.com; 'Michael Dowd' <michaelgdowd@gmail.com>; asilvershein@hermanlaw.com; 'Paul Mones' <paul@paulmones.com>; sbross@sssfirm.com; 'Alter, Steven L.' <salter@sssfirm.com>; Zepf, Christopher <czepf@jonesday.com>; DiPompeo, Christopher <cdipompeo@jonesday.com>; Geremia, Todd R. <trgeremia@JonesDay.com>; Hoyt, Joshua T. <jhoyt@jonesday.com>; Orujlu, Nurlan <norujlu@jonesday.com>; Quaranta, William P. <wquaranta@jonesday.com>; Stephens, Eric P. <epstephens@jonesday.com>

Subject: RE: Rockville Centre Diocese "Related" Cases MM#924-6974

Judge Steinman:

Hope all is well. We held a meet and confer with many if not all counsel representing plaintiffs in DRVC related entities lawsuits which have been remanded to state court.

Defendants are preparing for the Court an up-to-date list of the remanded cases, together with a list of counsel for all the parties in those cases. We expect to have that complete by tomorrow, as directed, and will transmit it to the Court.

In response to the Court's question, the defendant parishes in the Diocese of Rockville Centre believe that pre-trial coordination is feasible and desirable, for what is currently approximately 120 cases with further remand motions still pending. Coordinating pre-trial discovery and motion practice will be efficient and conserve time and resources for all parties and the Court. Charlie Adams and I, and counsel for the Diocese, have proposed to a group of plaintiffs' counsel a Case Management Order along the lines of the one that Justice Jaeger previously entered for all cases in which the Diocese of Rockville Centre was named as a defendant, and in which parishes in the Diocese were named as co-defendants. Several parties opposed entering that Order previously, and it was entered by Justice Jaeger only after a motion made on notice. If we are able to get consensus on this or a similar CMO for the remanded cases, or on the proposal made by certain plaintiffs' counsel during our call with them today, motion practice regarding pre-trial coordination may not be necessary or may be narrowed to only a few issues.

Defendants are considering a "test case" proposal made by plaintiff's counsel, which we have heard for the first time during today's meet and confer with plaintiffs' counsel today, and are reaching out to counsel for all of the co-defendants in the remanded cases to discuss this proposed approach. We understand plaintiffs' counsel are similarly reaching out to all plaintiffs' counsel in these cases, to get their feedback. We have then agreed with plaintiffs' counsel to re-convene next week and will report back to the Court.

To all plaintiffs' counsel here, if I left anyone off this email please forward this to the other counsel.

Thank you,

Brian R. Davey

Mulholland Minion Davey McNiff & Beyrer

374 Hillside Ave

Williston Park, NY 11596

516-248-1200

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From: JudgeSteinmanRemote <judgesteinmanremote@nycourts.gov>

Sent: Monday, August 14, 2023 10:57 AM

To: Brian R. Davey <bdavey@mmlaw.us.com>; cjadams@pfapc.com; 'Pat Stoneking' <pstoneking@andersonadvocates.com>; 'James R. Marsh' <jamesmarsh@marsh.law>; jmerson@mersonlaw.com; 'Michael Dowd' <michaeldowd@gmail.com>; asilvershein@hermanlaw.com; 'Paul Mones' <paul@paulmones.com>; sbross@sssfirm.com; 'Alter, Steven L.' <salter@sssfirm.com>

Subject: RE: Rockville Centre Diocese "Related" Cases

I have reviewed Judge Brown's decision. It would be helpful to me to receive a list of the remanded cases with N.Y. State Index Numbers and appearing counsel. I do not know if all counsel who have appeared in the remanded cases are on this email. If not, this email should be forwarded to appearing counsel. The parties should arrange to speak with each other this week and report back with a plan of action by 8/23 if it is feasible/desirable to coordinate discovery in any of the cases. If a plaintiff has not filed a complaint in any of the actions that should be done expeditiously. Authorizations to obtain relevant records should also be obtained and served. It will come as no surprise to anyone that I intend to ensure that discovery is completed very quickly in these actions.

Leonard D. Steinman, J.S.C.

New York State Supreme Court

100 Supreme Court Drive

Mineola, New York 11501

(516) 493-3252

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EXHIBIT B

Geremia, Todd R.

From: Geremia, Todd R.
Sent: Friday, December 15, 2023 9:02 AM
To: 'Karen B. Dine'; 'Kramer, Ann V.'; 'Law, Timothy P.'; Ball, Corinne; Stephens, Eric P.; Rosenblum, Benjamin; Butler, Andrew M.
Cc: 'James Stang'; 'Brittany M. Michael'; 'Iain Nasatir'; 'Jesse Bair 2'; 'Timothy Burns'
Subject: RE: DRVC Test Case Proposal

As a follow-up to this correspondence, the Committee informed us during our call on Wednesday (December 13) that it has in mind to do any “test cases” in addition to the litigation that is already occurring and ongoing in the CVA-R Part for the Ninth and Tenth Judicial Districts, which currently involves the Diocese and parishes and schools. As we discussed, that is not acceptable to the Debtor, due to the substantial additional litigation costs and litigation distraction that this would cause, and a further reason why “test cases” cannot work.

Todd R. Geremia ([bio](#))
Partner
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250 Vesey Street
New York, New York 10281-1047
Office +1.212.326.3429
trgeremia@jonesday.com

From: Geremia, Todd R.
Sent: Wednesday, December 13, 2023 10:39 AM
To: Karen B. Dine <kdine@pszjlaw.com>; Kramer, Ann V. <AKramer@ReedSmith.com>; Law, Timothy P. <TLaw@ReedSmith.com>; Ball, Corinne <cball@jonesday.com>; Stephens, Eric P. <epstephens@jonesday.com>; Rosenblum, Benjamin <brosenblum@jonesday.com>; Butler, Andrew M. <abutler@jonesday.com>
Cc: James Stang <jstang@pszjlaw.com>; Brittany M. Michael <bmichael@pszjlaw.com>; Iain Nasatir <inasatir@pszjlaw.com>; Jesse Bair 2 <jbair@burnsbair.com>; Timothy Burns <tburns@burnsbair.com>
Subject: RE: DRVC Test Case Proposal

Ms. Dine,

The Diocese has explained, in its objection filed the day after you sent the note below, its opposition to the Committee’s motion to lift the automatic stay to conduct trials of “test cases” and also its opposition to the Committee’s notion that it should be permitted to pick the “test cases” that would move forward to trial. The proposal you make below is unacceptable for the same reasons expressed in our objection.

Todd Geremia

From: Karen B. Dine <kdine@pszjlaw.com>
Sent: Thursday, December 7, 2023 2:20 PM
To: Kramer, Ann V. <AKramer@ReedSmith.com>; Law, Timothy P. <TLaw@ReedSmith.com>; Ball, Corinne

<cball@JonesDay.com>; Geremia, Todd R. <trgeremia@JonesDay.com>; Stephens, Eric P. <epstephens@jonesday.com>;
Rosenblum, Benjamin <brosenblum@JonesDay.com>; Butler, Andrew M. <abutler@jonesday.com>
Cc: James Stang <jstang@pszjlaw.com>; Brittany M. Michael <bmichael@pszjlaw.com>; Iain Nasatir
<inasatir@pszjlaw.com>; Jesse Bair 2 <jbair@burnsbair.com>; Timothy Burns <tburns@burnsbair.com>
Subject: DRVC Test Case Proposal

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Jones Day and Reed Smith teams,

In connection with the Committee's motion to proceed with Test Cases, the Committee has identified three initial cases with which it would like to have move forward. These are:

- 1) POC 90322, Index No. 613879/2018
- 2) POC 90350, Index No. 900010/2019
- 3) POC 90060, Index No. 900099/2021

The Committee is continuing its review and anticipates identifying additional proposed Test Cases. As we stated in our phone conversation last week, the Committee is open to discussion with the Diocese with respect to the process for the selection of Test Cases and remains available to discuss that with the Diocese.

Karen B. Dine

Pachulski Stang Ziehl & Jones LLP

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Tel: 212.561.7700 | Cell: 917.279.7047 | Fax: 212.561.7777

KDine@pszjlaw.com

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Los Angeles | San Francisco | Wilmington, DE | New York | Houston

EXHIBIT C

JONES DAY

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TELEPHONE: +1.212.326.3939 • JONESDAY.COM

DIRECT NUMBER: (212) 326-3429

TRGEREMIA@JONESDAY.COM

January 2, 2024

BY E-MAIL

James I. Stang
Pachulski, Stang, Ziehl & Jones
10100 Santa Monica Boulevard, 13th Floor
Los Angeles, California 9006

Re: *In re Diocese of Rockville Centre, No. 20-12345*
(Bankr. S.D.N.Y.)

Dear Mr. Stang:

We write in response to your December 29, 2023 letter.

The Committee has already made clear to us, when we met and conferred with you on December 13, 2023 in connection with the Committee's then-pending "test cases" motion, that the Committee has no ability to control the more than 40 cases against parishes and other parties related to the Diocese that are already active before Justice Steinman. This was one of several reasons why the Committee's previous "test cases" approach would not work, as we made clear to the Committee on that December 13 call. The Diocese still does not support adding what you keep referring to as "test cases" to the already-existing caseload before Justice Steinman. While simply reviewing and identifying what somebody may want to call "test cases" would not, without more, violate the automatic stay, of course any attempt to go forward and litigate cases that are stayed would. In any event, adding more civil actions to those that are already active before Justice Steinman will only delay matters, impose a significant administrative burden and cost on the Diocese, and provide no added benefit to the estate.

We will consider engaging with plaintiffs' counsel and parish counsel to discuss a process for determining before Justice Steinman which of the already-active cases should move forward to complete pre-trial proceedings and, as warranted, any trial. That would have to include an agreement among the pertinent parties to the state court actions to stop litigating the cases that are not selected to move forward pursuant to any such process, because otherwise there would be no point to doing this. We can reach out to our client, counsel for the Diocese's pertinent insurance companies, and counsel for the parishes to discuss this approach, and then arrange to confer with plaintiffs' counsel. You should be able to appreciate that we were not able to do all of that by this morning, in response to a Committee letter that was sent to us after the close of business on Friday, December 29, 2023, and unreasonably asked for a response before noon of the next business day, January 2, 2024.

JONES DAY

James I. Stang
January 2, 2024
Page 2

Sincerely,

A handwritten signature in cursive script that reads "Todd R. Geremia". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Todd R. Geremia

cc: Corinne Ball, Esq.
Eric P. Stephens, Esq.