

**EXHIBIT D**

**SETTLEMENT PLAN:  
NON-MONETARY PROVISIONS RELATING TO DOCUMENTS**

## NON-MONETARY PROVISIONS RELATING TO DOCUMENTS

1. As used herein “CDOW Entities” shall mean the Diocese, all Parishes, and any school, office, association or other entity under the direct or indirect control of the Diocese including, without limitation, all such entities listed in current and future editions of the Official Catholic Directory.

2. Any Settling Party will subscribe to all non-monetary provisions set forth in the Plan of Reorganization unless expressly agreed to otherwise by the Official Committee of Unsecured Creditors (the “Committee”). As used in this term sheet, the term “Settling Parties” will mean the CDOW Entities and, to the extent that they opt in to the global plan settlement, the religious orders and any third party settling through the Plan other than abuse victim claimants. To the extent of any and all privilege waivers and ongoing compliance obligations set forth herein, “Settling Parties” shall also include any and all priests, religious, employees, agents and assigns of the Settling Parties referenced in the prior sentence who are obtaining a release under the Plan of Reorganization.

3. In connection with the production of Documents set forth herein, the Settling Parties shall waive any and all privileges and defenses, if any, associated with any Constitutional protections the Settling Parties might otherwise seek to assert. The Settling Parties agree that the only bases for withholding Documents from production are the following secular privileges (collectively, the “Stipulated Privileges”): (a) attorney-client privilege; (b) work product protection; (c) priest-penitent privilege (provided, however, that as all communications relevant in this context are presumed to be non-documentary, any privilege raised under this privilege will be specifically identified as “priest-penitent privilege asserted” in the Privilege Log (hereafter defined)); and (d) religious advisor privilege (i) as currently-existing under Delaware law, but only to the extent the relevant Document is privileged under the law of that state, or (ii) as currently-existing under Maryland law but only to the extent the relevant Document is privileged under the law of that state. The Settling Parties further agree that, although they may assert a Stipulated Privilege as to any Document subject to such a Privilege, the Stipulated Privileges shall be defined and interpreted as they now exist under applicable law, and that the Settling Parties will not seek to expand or broaden the scope or nature of the Stipulated Privileges in any venue, legislative, judicial or otherwise. The Settling Parties further agree that the failure to assert an applicable Stipulated Privilege as to any particular Document will not waive the appropriate assertion of such Stipulated Privilege as to any other Document. The Special Arbitrator<sup>1</sup> will rule on any disputes relating to the Stipulated Privileges as set forth below in paragraphs 7 through 9.

4. “Documents” shall mean the following, whether public or non-public, to the extent such Documents relate to abusive persons regarding whom there are admitted corroborated or otherwise substantiated allegations of sexual abuse of minors (individually, an

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<sup>1</sup> The Special Arbitrator will be determined by mutual agreement of the Committee and the applicable Settling Party prior to the Effective Date, and will be replaced by another mutually acceptable party to the extent he or she resigns or is otherwise incapable of serving. In the event the parties cannot agree on a mutually acceptable party to serve as Special Arbitrator, the Bankruptcy Court will, upon motion, appoint one on an expedited basis.

“Abusive Person” or collectively “Abusive Persons”):<sup>2</sup> all personnel files, all documents relating to the supervision, placement, and/or remedial steps taken with respect to any Abusive Person, including all transcripts (electronic or otherwise) and video depositions from litigation involving any Abusive Person, all exhibits and other documents of any type related to sexual abuse tort litigation; in addition, “Documents” shall also include, to the extent relating to or in any way referencing sexual abuse or alleged sexual abuse of minors, or in any other way relating to the supervision, placement, and/or remedial steps taken with respect to any Abusive Person, the following: all documents, files, and other information including, without limitation, the diaries of all deceased bishops of the Diocese of Wilmington, correspondence, “bishop’s papers,” in video and audio recordings, archives, electronic data and other media sources of any kind, whether public or non-public and all exhibits and other documents of any type filed or produced in sexual abuse tort litigation.

5. In order to continue its efforts to prevent sexual abuse from occurring in the future, the CDOW Entities will provide to designated members of the Committee and/or their State Court Counsel the Documents required to be produced, together with a privilege log (the “Privilege Log”) of any Documents withheld from production. Production will be on a rolling basis after the Effective Date, and will be completed within 120 days after the Effective Date (the “Production Deadline Date”). Subject to the limitations of paragraph 7 through 9, the Committee and its members shall have sole and exclusive authority to use such Documents in any matter that they may deem appropriate.

6. *No victim’s or innocent third party’s identity may be released or revealed without his or her express permission.*

7. For the period of 60 days following the Production Deadline Date (the “Document Discussion Period”), the Settling Parties and the designated members of the Committee and/or their State Court Counsel will meet and confer with the Special Arbitrator and each other in order to establish that all Documents not subject to one or more of the Stipulated Privileges have been produced. Any concerns regarding the completeness of the Document production shall be raised with the Special Arbitrator and all parties in this meet and confer process, including any good faith challenges to entries on the Privilege Log, and any good faith requests for *in camera* inspection by the Special Arbitrator of specified Documents withheld from production. At the conclusion of the Document Discussion Period, the Special Arbitrator will issue a final report indicating whether or not the Settling Parties are in compliance with the provisions hereof and, if not, directing them to comply immediately. All fees, costs and expenses of the Special Arbitrator incurred through to the conclusion of the Document Discussion Period will be paid by the Debtor (or, as applicable, the appropriate Non-CDOW Settling Party).

8. All parties and the Special Arbitrator shall stipulate from the outset of the Document production process that the primary goal of the process will be to have all relevant Documents not subject to the Stipulated Privileges produced by the conclusion of the Document Discussion Period. However, if at the conclusion of the Document Discussion Period (a) there

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<sup>2</sup> Such Documents to include, without limitation, all correspondence and other communications by, between, among, addressed to, or received by any Bishop of the Diocese, any other Diocesan official including, but not limited to, any vicar general, vicar for clergy, chancellor, pastor, priest, lay employee, volunteer, or provincial and/or other member of any religious congregation.

remain any good faith challenges or disputes relating to the production made by the Settling Parties (as the case may be, a “Documentary Dispute”); (b) the Special Arbitrator determines that the refusal to produce is made in good faith; **and** (c) the Special Arbitrator certifies that he/she requires further briefing or argument relating to such Documentary Dispute otherwise unavailable to him/her during the Document Discussion Period, the party claiming such Documentary Dispute will submit a letter outlining such Documentary Dispute to the Special Arbitrator copied to counsel to the CDOW Entities and/or counsel to any non-CDOW Settling Party, as applicable. Any response by or on behalf of the CDOW Entities regarding a Documentary Dispute shall be made by letter to the Special Arbitrator and copied to counsel for the party who submitted the challenge or dispute within 20 days following the submission. By letter to counsel for the CDOW Entities (or any non-CDOW Settling Party, as applicable) and counsel to the Committee, the Special Arbitrator will rule on any Documentary Dispute within 60 days following the submission the Documentary Dispute to the Special Arbitrator. The fees, costs and expenses of the Special Arbitrator incurred in the context of resolving any Documentary Dispute shall be paid equally between the party bringing such Documentary Dispute and the Diocese (or, as applicable, the appropriate Non-CDOW Settling Party).

9. The Special Arbitrator’s determination with respect to the production of any Documents, whether at the conclusion of the Document Discussion Period or in connection with any Documentary Dispute, will be binding on all parties and final and non-reviewable by any court or other tribunal or authority.

10. Regarding Documents that are medical records, the Settling Parties will comply with applicable laws and regulations to the extent that such laws and regulations have not been waived by the party to whom such Documents relate<sup>3</sup>, but, with the exception of Catholic Charities, the Settling Parties agree not to oppose a court order requiring the production of such Documents. Catholic Charities shall produce Documents that are medical records only to the extent (a) such Documents relate to a Settling Party who is also an Abusive Person who received treatment by or through Catholic Charities; or (b) an appropriate records release authorization has been executed by a person who received counseling or other treatment services by or through Catholic Charities. No Settling Party will retain counsel for itself to contest the production of any Document, except to the extent such production is contested on the basis of applicable privilege or required non-disclosure. No Settling Party will retain counsel for any third party to contest production of any Document, on any basis, or otherwise support, such a third party challenge. To the extent any Documents required to be produced have been placed under seal, the Settling Parties agree that, if requested, they will support an application to the pertinent court to unseal such Documents.

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<sup>3</sup> For the avoidance of doubt, it is expressly intended that except for the Stipulated Privileges and disclosure of identities of victims or innocent third parties, any party receiving a release under the Plan as a “Settling Party” will have waived all privileges and disclosure protections, including privileges and disclosure protections associated with HIPPA.

11. The Settling Parties shall allow the Special Arbitrator to have complete access to inspect Diocesan files and archives to ensure that all Documents have been produced. The Special Arbitrator, at his or her sole discretion, may consult with any person to assist with carrying out his or her duties, but only the Special Arbitrator will have access to inspect Diocesan files and archives. The purpose of this inspection right is to verify that all Documents have been released, which verification shall be final and non-reviewable by any court or other tribunal or authority.