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The Honorable Patricia C. Williams
Chapter 11

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8 UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
9 AT SPOKANE

10 In re

11 THE CATHOLIC BISHOP OF SPOKANE
a/k/a The Catholic Diocese of Spokane,

12 Debtor.
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Case No. 04-08822

**OBJECTION OF TORT CLAIMANTS'
COMMITTEE TO DEBTOR'S
PROPOSED SCHEDULING ORDER
RE. MOTION FOR ORDER FIXING
NEW TIME FOR FILING PROOFS OF
CLAIM; APPROVING CLAIM
FORMS; AND APPROVING
MANNER AND FORM OF NOTICE**

[ECF Docket No. 446]

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19 The Tort Claimants' Committee ("TCC") respectfully objects to the Debtor's
20 Proposed Scheduling Order for the evidentiary hearing on Debtor's Motion for Order
21 Fixing New Time for Filing Proofs of Claim; Approving Claim Forms; and Approving
22 Manner and Form of Notice ("Motion") to the extent the Proposed Scheduling Order
23 permits the Debtor or other parties to add new witnesses through October 10, and to
24 present the direct testimony of their witnesses in person instead of by use of their
25 filed declarations. Adding new witnesses and using live direct testimony is
26 unnecessary and would add further unnecessary delay and expense.

1 New witnesses should not be permitted. The Debtor filed the Motion without
2 evidentiary support on May 16, and has had more than four months to present
3 evidence in support of its motion. The TCC filed detailed expert declarations of Jon
4 R. Conte, Ph.D., and Deann Yamamoto, M.A. in support of its objection to the Motion
5 on June 15.¹ In prior status and scheduling conferences, the Debtor has referred
6 only to expert testimony on the issues of whether the Future Claims Representative
7 (“FCR”) will file claims for causal link victims, and whether the Debtor’s proposed
8 form of notices and proofs of claim are adequate. The Debtor has not suggested that
9 lay witnesses would be necessary, and has not challenged the demographic
10 evidence from official records submitted by the TCC on June 15.²

11 The Court’s September 15 Preliminary Scheduling Order (ECF Docket No.
12 690) required the Debtor to file expert declarations in support of its position by
13 September 21. The only declaration filed by the Debtor is the September 21
14 Declaration of Jeffrey Nels Younggren, Ph.D. relating to whether the FCR will file
15 claims for causal link victims, and whether the Debtor’s proposed form on notices and
16 proofs of claim are adequate. The FCR will file his expert declarations shortly. The
17 Court should not permit any party to designate any additional witnesses at this late
18 date because additional witnesses are unnecessary on the issues identified by the
19 Debtor and would add further unnecessary expense and delay.

20 The expert’s declarations should be their direct testimony. Declarations have
21 already been filed by the Debtor’s and the TCC’s experts, and declarations of the
22 FCR’s expert will be filed shortly. The TCC understood the Court’s comments in its
23 oral ruling on September 7 setting an evidentiary hearing and in its remarks in the
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25 ¹ Declaration of Jon R. Conte, Ph.D., ECF Docket No. 535, and Declaration of Deann Yamamoto,
26 M.A., ECF Docket No. 536.

² This evidence is attached to the June 15 Declaration of George Frasier, ECF Docket No. 537.

1 September 12 scheduling conference to indicate that direct testimony should be by
2 declaration with cross examination to be live or by video deposition. The Debtor has
3 had more than ample time to present the direct testimony of its expert by declaration.
4 Permitting live direct testimony would practically require the TCC and the FCR to
5 present their experts' direct testimony live or by video deposition. This might well
6 exceed the time available for the hearing on November 17 and 18, and would add
7 further unnecessary expense and delay.

8 Dated this 23rd day of September, 2005.

9 RIDDELL WILLIAMS P.S.

10 By: /s/ George E. Frasier
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