Nos. 23-1664, 23-1665, 23-1666, 23-1667, 23-1668, 23-1669, 23-1670, 23-1671, 23-1672, 23-1673, 23-1674, 23-1675, 23-1676, 23-1677, 23-1678, 23-1780 (Cons.)

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

IN RE: BOY SCOUTS OF AMERICA
AND DELAWARE BSA, LLC,
Reorganized Debtors.

NATIONAL UNION FIRE INSURANCE CO. OF PITTSBURGH PA, ET AL.
Appellants,

v.

BOY SCOUTS OF AMERICA
AND DELAWARE BSA, LLC,
Appellees.

On Appeal from the United States District Court
for the District of Delaware
Lead Case No. 22-CV-01237 (RGA)

BRIEF FOR CERTAIN CONTRIBUTING AND PARTICIPATING CHARTERED ORGANIZATIONS AS AMICI CURIAE IN SUPPORT OF AFFIRMANCE

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CORPORATE DISCLOSURE STATEMENTS

The Church of Jesus Christ of Latter-day Saints, a Utah corporation sole ("TCJC"), has no parent corporation and is not publicly held. No publicly held corporation owns 10% or more of TCJC.

The General Commission on United Methodist Men ("GCUMM"), a Tennessee not-for-profit corporation, is an independent agency for support of United Methodist ministry and is not publicly held in whole or in any part.

The United States Conference of Catholic Bishops ("USCCB") is a nonprofit corporation that has no parent corporation and issues no stock.

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INTERESTS OF AMICI CURIAE[1]

Amici curiae or their affiliates are or were BSA Chartered Organizations.[2] They sponsored Boy Scout troops and Cub Scout packs, their youth members joined those troops and packs, and their adult members led those troops and packs in their separate roles as members of, and under the supervision of, BSA.

Amicus curiae The Church of Jesus Christ of Latter-day Saints, a Utah corporation sole ("TCJC"), became BSA's first chartered organization in 1913. Bankr. Dkt. No. 9201-1, at 7. From 1928 to 2019, BSA's Scouting program was the official activity program for TCJC boys and young men. *Id.* Thousands of TCJC congregations, known as wards and branches, chartered Boy Scout troops and Cub Scout packs. *Id.* at 8. Over the years, TCJC entrusted the Scouting program with millions of boys and young men who grew up as TCJC members, with TCJC paying the BSA dues for each. *Id.*; *see* App. 6951. In exchange for TCJC's substantial financial contributions—*e.g.*, contributing approximately $65 million in the form of

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[1] No counsel for a party authored this brief in whole or in part; and no such counsel, nor any party, nor any other person or entity—other than amici curiae and their counsel—made a monetary contribution intended to fund the preparation or submission of this brief.

[2] This brief refers to Debtors Boy Scouts of America and Delaware BSA, LLC collectively as "BSA." References to the "Plan" are to the Third Modified Fifth Amended Chapter 11 Plan of Reorganization (with Technical Modifications) for Boy Scouts of America and Delaware BSA, LLC filed on September 6, 2022. *See* App. 857-1354. Terms not specifically defined in this brief carry the meaning ascribed to them in the Plan.

annual registrations and charitable donations between 2006 and 2019 alone—and in recognition of TCJC's role as one of BSA's primary Chartered Organization sponsors, BSA provided TCJC with valuable insurance protection and otherwise covered liabilities incurred by TCJC arising from Scouting-related activities. App. 6955-57.

Amicus curiae The General Commission on United Methodist Men ("GCUMM"), a religious not-for-profit corporation, was founded on January 1, 1997, through a vote of the United Methodist General Conference of 1996. Its primary responsibilities are to support men's ministry and support youth in partner organizations that are focused on character building. The relationship with BSA formally began in 1920 through the Young Peoples Department of The Methodist Episcopal Church, a predecessor denomination. The approach of Methodist entities to using the BSA program has been one of community-wide service. United Methodist-supported Scouting groups are open in membership to youth regardless of faith background or other status. The leadership of the Scouting groups comes from the community both within the church and without. This historical pattern of using Scouting in a community setting continues. Many United Methodist entities have supported youth through Scouting over the century of relationship. United Methodist organizations are currently the largest collection of sponsors of BSA troops. App. 659. GCUMM is one of the many thousands of "United Methodist

Entities" that are Contributing Chartered Organizations pursuant to the Plan and which have agreed to collectively contribute $30 million to the Settlement Trust. App. 658-59.

Amicus curiae The U.S. Conference of Catholic Bishops ("USCCB") is a nonprofit corporation whose members are the active Catholic Bishops in the United States. The USCCB provides a framework and forum for the Bishops to teach Catholic doctrine, set pastoral directions, and develop policy positions on contemporary social issues. USCCB is the representative body of the Catholic dioceses of the United States, which are Roman Catholic Entities and Participating Chartered Organizations under the Plan. For decades, Chartered Organizations in Catholic dioceses organized and led Boy Scout troops and Cub Scout packs as part of their youth ministry, and paid millions of dollars into Scouting. In recognition of this, and in accordance with executed chartering agreements, BSA provided Catholic dioceses with valuable insurance protection and otherwise covered liabilities incurred by the dioceses arising from Scouting-related activities.

Under BSA's chapter 11 Plan, amici curiae are designated "Contributing Chartered Organizations" or "Participating Chartered Organizations." App. 558-60, 813, 880, 897-98.[3] To obtain such status, amici agreed to relinquish valuable rights,

[3] References to amici include, where appropriate, affiliates that are Contributing or Participating Chartered Organizations under the Plan.

including insurance and indemnification rights, in exchange for a release of certain BSA-related claims. App. 558-60. As a result, amici may be directly impacted by the outcome of these appeals. Amici submit this brief to provide their unique perspective on how the Court should decide these appeals following the Supreme Court's recent decision in *Harrington v. Purdue Pharma L.P.*, 144 S. Ct. 2071 (2024).

INTRODUCTION AND SUMMARY OF ARGUMENT

Despite the Supreme Court's recent decision in *Purdue Pharma*, this Court can and should affirm the bankruptcy court's confirmation order in full. Although the Supreme Court held that the Bankruptcy Code does not authorize nonconsensual nondebtor releases in chapter 11 plans, it expressly declined to address whether its reading of the Code required unwinding plans, like BSA's, that "have already become effective and been substantially consummated." *Id.* at 2088. And the doctrines of equitable mootness and statutory mootness provide ample authority for this Court to uphold BSA's confirmed, effective, and substantially consummated Plan in full—including the nondebtor releases contained in it.

More importantly, though, amici urge the Court to treat the Plan as the package deal that it is. With respect to amici and other Contributing and Participating Chartered Organizations, that means recognizing that they entered into an integrated bargain under which they agreed to give up valuable insurance and

indemnification rights in exchange for nondebtor releases that afford similar protection. These aspects of the Plan must therefore go together no matter how the Court resolves these appeals.

ARGUMENT

THE CONFIRMATION ORDER SHOULD BE AFFIRMED IN FULL

In approving BSA's chapter 11 Plan, the bankruptcy court and the district court relied on precedent holding that, in extraordinary circumstances, the Bankruptcy Code authorizes nondebtor releases of civil liability, even without the consent of all affected claimants. *See* App. 99-113, 640-81. In *Harrington v. Purdue Pharma L.P.*, 144 S. Ct. 2071 (2024), the Supreme Court rejected that precedent and held that the Code "does not authorize a release and injunction that, as part of a plan of reorganization under Chapter 11, effectively seeks to discharge claims against a nondebtor without the consent of affected claimants." *Id.* at 2088.[4] Yet, despite *Purdue Pharma*, this Court can and should affirm in full.

[4] The one exception recognized by the Supreme Court, for certain asbestos bankruptcies, does not apply here. *See* 11 U.S.C. § 524(g); *Purdue Pharma*, 144 S. Ct. at 2085 & n.5.

The Supreme Court—at the urging of BSA as amicus curiae[5]—was careful not to decide a critical question that is now central to this appeal: whether the Supreme Court's interpretation of the Bankruptcy Code "would justify unwinding reorganization plans that have already become effective and been substantially consummated." *Id.* Because *Purdue Pharma* "involve[d] only a stayed reorganization plan," the Supreme Court did "not address" this question. *Id.*[6] So the question remains open.

Amici agree with BSA and the Settling Insurers that this Court need not, and should not, "unwind[]" the Plan at all. *Id.*; *see* BSA Mot. to Dismiss 6-21, Dkt. No. 124-1; Settling Insurers Mot. to Dismiss 7-19, Dkt. No. 123. But more importantly, the Court should recognize that the nondebtor releases in the Plan are an inseparable piece of a package deal, which cannot be carved up and upheld only in part.

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[5] *See* Amicus Br. for the Boy Scouts of Am. at 23-29, *Harrington v. Purdue Pharma L.P.*, 144 S. Ct. 2071 (2024) (No. 23-124), https://www.supremecourt.gov/DocketPDF/23/23-124/288257/20231027144505862_23-124%20Amicus%20Brief%20of%20the%20Boy%20Scouts%20of%20America.pdf.

[6] The Supreme Court also declined to "pass upon a plan that provides for the full satisfaction of claims against a third-party nondebtor." *Purdue Pharma*, 144 S. Ct. at 2088. Amici leave it to other parties to address whether the Plan can be upheld because, as the bankruptcy court found and the district court affirmed, it fully compensates abuse survivors for claims subject to the nondebtor releases. *See, e.g.*, App. 74-76, 582-85, 626, 653.

A. The Nondebtor Releases In BSA's Chapter 11 Plan Are Part Of A Package Deal

BSA's Plan includes nondebtor releases because, as the bankruptcy court found and the district court affirmed, they are necessary for BSA to reorganize and for the Plan to work as a whole. *See, e.g.*, App. 104-09, 664-81.

That necessity arises, in large measure, because the Scouting program operates through a unique structure. BSA is an umbrella organization that "develops and disseminates the structure and content of the Scouting program, owns and licenses intellectual property, and establishes merit badge requirements and membership qualifications." App. 50. But much of the on-the-ground programming is delivered through "a network of organizations that share a common charitable mission." *Id.* These organizations include legally independent Local Councils, each of which is responsible for a particular geographic area, and Chartered Organizations, such as churches, schools, and civic organizations, that sponsor troops and packs. App. 50-51. BSA, Local Councils, and Chartered Organizations "form part of an interconnected organizational structure that is crucial to carrying out BSA's mission." *Id.*

Because of this structure, abuse survivors may have claims against multiple entities. *See, e.g.*, App. 89-90, 646. And those entities often have overlapping claims to a limited pool of assets. *See* App. 46, 54-55, 523-29, 646-53, 677. For example, amici and other Contributing and Participating Chartered Organizations

have direct and substantial rights under BSA Insurance Policies and Local Council Insurance Policies, going back to at least the 1970s, as part of a broad insurance program to indemnify Chartered Organizations against claims arising out of their sponsorship of Scouting. App. 91-93, 523-29, 6880-81. Chartered Organizations are named as insureds or additional insureds on hundreds of liability policies issued to BSA and Local Councils during that timeframe, making their rights co-equal with the rights of BSA and Local Councils. App. 55, 91-92, 526, 6877, 6880. And, indeed, many claims against Chartered Organizations have been tendered to the insurers under those policies. App. 532-33; *see, e.g.*, App. 6944-45. Amici and other Contributing and Participating Chartered Organizations also have claims for indemnification against BSA and Local Councils. App. 83-84, 94-96, 634-37. As a result, if a plaintiff brought a covered abuse claim against one of the amici, it could seek coverage under BSA and Local Council Insurance Policies and indemnification from BSA, a Local Council, or both. Covering that claim would, in turn, impact the recovery for other claims against BSA, Local Councils, and other Chartered Organizations. *See, e.g.*, App. 92-94, 633-34.

The Plan untangles this Gordian knot by consolidating abuse claims, as well as funds to pay them, in a Settlement Trust. Under the Plan, amici and other Contributing and Participating Chartered Organizations receive releases from Scouting-related abuse claims, which are channeled into the Settlement Trust.

App. 59-60, 558-60. These releases provide a measure of protection similar to the protection that amici would otherwise receive through their insurance and indemnification rights. App. 558-60. Because of the protection afforded by the releases, amici can—and have agreed to—give up their indemnification rights and contribute their insurance rights under BSA and Local Council Insurance Policies to the Settlement Trust. App. 59-60, 548, 558-61. The Settling Insurers, for their part, have agreed to buy back the BSA and Local Council Insurance Policies from the Settlement Trust for about $1.7 billion. App. 583, 588-93. That amount comprises roughly two-thirds of the Settlement Trust's noncontingent funding, which the Settlement Trust will use to pay claimants for the abuse they suffered in an orderly and equitable fashion. App. 57-58, 548, 583.

Importantly, the insurance policy buyback hinges on the releases. Without the releases, amici would not have agreed to contribute their valuable insurance rights to the Settlement Trust, or waive their indemnity rights, because they would remain potentially liable for the abuse claims covered by the BSA and Local Council Insurance Policies. The Settling Insurers, then, would not be able to close the door on their own potential liability, and therefore would not make the $1.7 billion payment. App. 667-68. For those reasons, among others, the Settling Insurers "[a]bsolutely" would "not" "have made their contributions to the settlement trust without the releases of chartered organizations." App. 665; *see* App. 664-66.

The same basic framework applies to other Plan participants. The Plan provides broad releases to BSA, Local Councils, and the Settling Insurers. App. 60. And in exchange, those parties are required to make contributions to the Settlement Trust (including, for the Settling Insurers, through the insurance policy buyback). App. 583. The Plan's releases thus "unlock" substantial financial contributions, which, the bankruptcy court found, make it possible for the Settlement Trust to *fully compensate* abuse survivors, including survivors whose claims would be time-barred in the tort system. App. 644; *see* App. 46-47, 74-76, 185-86, 578-79, 582-85, 588-93, 653, 23701.

Not only that, the Plan's releases facilitate BSA's successful emergence from chapter 11 and help preserve the Scouting program. As the bankruptcy court noted, "[m]embership drives BSA's finances" and "depends on Local Councils and Chartered Organizations to both maintain and recruit Scouts." App. 666. Absent the releases, there could be "'significant' Local Council bankruptcy filings" and likely a "significant impact on membership and operations," such that "the Plan would not be feasible." App. 667. In this way, too, the releases "are the cornerstone of the Plan" and cannot be excised without jeopardizing the Plan as a whole. App. 667-68.

B. Equitable And Statutory Mootness Principles Support Affirming BSA's Chapter 11 Plan In Full

As highlighted above, the Supreme Court expressly declined to address whether its holding in *Purdue Pharma—i.e.*, that the Bankruptcy Code does not authorize nonconsensual nondebtor releases in a chapter 11 plan—"would justify unwinding reorganization plans that have already become effective and been substantially consummated." 144 S. Ct. at 2088. The Court was obviously alluding to the doctrines of equitable mootness and statutory mootness. These doctrines permit affirmance here despite *Purdue Pharma*.

Equitable and statutory mootness may limit appellate review of consummated reorganization plans and transactions. A court may find an appeal *equitably* moot if granting the relief sought by the appellant would "fatally scramble" a substantially consummated reorganization plan, "significantly harm third parties who have justifiably relied on plan confirmation," or both. *In re Millennium Lab Holdings II, LLC*, 945 F.3d 126, 140 (3d Cir. 2019). A court may find an appeal *statutorily* moot if it would "affect the validity" of an unstayed free and clear sale of property to a good faith purchaser under § 363(b) or (c) of the Bankruptcy Code. 11 U.S.C. § 363(m); *see, e.g.*, *In re Energy Future Holdings Corp.*, 949 F.3d 806, 820-21 (3d Cir. 2020).

BSA and the Settling Insurers rely on both doctrines. BSA relies on equitable mootness because the Plan has been confirmed and "substantially consummated,"

with billions of dollars transferred and tens of thousands of abuse survivors relying on it. BSA Mot. to Dismiss 6; *see id.* at 6-19. BSA and the Settling Insurers rely on statutory mootness because the Settling Insurers' buyback of insurance policies—which was part of the Plan, and was approved as part of the Plan, but was structured as a free and clear sale under § 363—was ostensibly completed as of the Plan's effective date. BSA Mot. to Dismiss 20-21; Settling Insurers Mot. to Dismiss 7-19; *see* App. 120-37, 585-626, 949-50.

There is a strong case for upholding the nondebtor releases in the Plan on the basis of equitable mootness alone. *See* BSA Mot. to Dismiss 6-19. The nondebtor releases were "a central issue in the formulation of a plan of reorganization"; as discussed above, they make the Plan work. *In re Tribune Media Co.*, 799 F.3d 272, 281 (3d Cir. 2015) (citation omitted); *see supra* at 7-10. "[S]triking the release provisions . . . would certainly undermine the [P]lan" because, among other things, "the settlement payment" at the heart of the Plan "could not be compelled absent full and complete releases." *Millennium Lab Holdings II*, 945 F.3d at 143. Indeed, striking the releases would make the Plan "com[e] apart" and "recall the entire Plan for a redo" where claimants would likely receive far less, and BSA would be imperiled. *Tribune Media*, 799 F.3d at 279, 281; *see id.* at 280-82 (a challenge to a settlement of claims that were settled in the plan, on which every subsequent transaction depended, was equitably moot); *cf.* App. 669-70 (recognizing that a

backup plan without nonconsensual nondebtor releases was anticipated to provide "as little as 1% of . . . Claims" and "would leave . . . BSA in shambles"). Whether or not the nondebtor releases were authorized by the Bankruptcy Code, this Court can and should find challenges to them equitably moot. *See, e.g.*, *In re Metromedia Fiber Network, Inc.*, 416 F.3d 136, 143-45 (2d Cir. 2005) (the bankruptcy court's findings were insufficient to support nondebtor releases in a reorganization plan, but a challenge to those releases was equitably moot).

Any application of statutory mootness to the Settling Insurers' insurance policy buyback requires upholding the nondebtor releases in the Plan as well. The Plan calls for *both* the releases *and* the buyback as a package deal. *See, e.g.*, App. 586; *supra* at 7-10. For example, amici agreed to contribute their valuable insurance rights to the Settlement Trust and relinquish their indemnification rights only because the nondebtor releases provide protection from liability and costs they could face in the tort system. *See supra* at 8-9. Amici's agreement to relinquish these rights is a meaningful contribution to the Plan that enables full payment for abuse claims by lowering the costs of the proceedings and making more of the funding available to survivors. And the Settling Insurers agreed to pay the Settlement Trust only because their buyback of the BSA and Local Council Insurance Policies—under which amici and other Contributing and Participating Chartered Organizations have rights as co-insureds—facilitates the resolution of

their own potential insurance liability. As the bankruptcy court put it: "A resolution with Chartered Organizations was required by . . . the Settling Insurers . . . . The Settling Insurers are seeking to buy complete relief; they do not want to pay more than once for Abuse Claims by a given claimant." App. 673. In these circumstances, the releases and the insurance policy buyback are "formally and practically bound up with" each other, so the former cannot be invalidated without affecting the latter. *Energy Future Holdings*, 949 F.3d at 820.

C. Affirming The Insurance Policy Buyback But Not The Releases Would Rewrite The Terms Of An Integrated Bargain

The Settling Insurers agree that the nondebtor releases and the buyback are intertwined and that any challenge to both should be dismissed as moot. *See, e.g.*, Settling Insurers Mot. to Dismiss 7-19. But in the alternative, the Settling Insurers argue that this Court should uphold the buyback *even if* other aspects of the confirmation order, including the releases, are reversed. *See* Settling Insurers Reply Supp. Mot. to Dismiss 3, Dkt. No. 157. They suggest, for example, that in the event of a reversal, they should get to keep the BSA and Local Council Insurance Policies—while *also* getting back roughly $1.5 billion of their payment for those policies (about 90% of their total payment) that remains in escrow pending the outcome of these appeals. *Id.* Amici strenuously oppose such a result, which would fundamentally alter the bargain that amici entered into and run counter to law and equity.

The claims and rights that amici and other Contributing and Participating Chartered Organizations agreed to relinquish are extremely valuable. For example, an expert's analysis found that BSA and Local Council Insurance Policies with the Settling Insurers potentially offered $1.8 billion to $2.7 billion of coverage—or around 75% of the value of modeled abuse claims. *See* App. 594, 6891-6904. Through the Plan, amici and other Contributing and Participating Chartered Organizations have clear rights to seek recovery under those policies—and agreed to contribute those rights to the Settlement Trust. App. 559. They also agreed to give up their claims against BSA and Local Councils, certain insurance-related causes of action, and rights to recover from the Settling Insurers for abuse claims under insurance policies other than the BSA and Local Council Insurance Policies. *See* App. 559-60, 586-87, 898-99. The nondebtor releases go hand in hand with the valuable rights that amici and other Contributing and Participating Chartered Organizations agreed to give up. *See supra* at 7-10. Amici certainly would not have agreed to the Plan's treatment of these claims and rights without the releases.

A partial reversal of the sort the Settling Insurers envision, however, would deprive amici and other Contributing and Participating Chartered Organizations of protection from abuse claims and possibly their rights to the insurance proceeds. Amici and other Contributing and Participating Chartered Organizations would no longer be protected by releases. Yet, because the policies would still be bought back,

a Contributing or Participating Chartered Organization's ability to exercise its rights as co-insureds under those policies would be uncertain and, at a minimum, embroil all Plan participants in substantial litigation over rights to coverage, which would harm BSA and threaten its ongoing existence and may harm recoveries for survivors. The ability to recover against the funds that the Settling Insurers agreed to pay under the Plan, in part to resolve Contributing and Participating Chartered Organizations' insurance rights, would be similarly uncertain. Notably, this outcome would be *worse* for amici and other Contributing and Participating Chartered Organizations than if the Court reversed the Plan in full, including the buyback embedded in it. In a full reversal, amici and other Contributing and Participating Chartered Organizations would no longer be protected by releases—but their right to recover from the Settling Insurers would unquestionably be restored.

The Plan is, in short, integrated by nature. Undoing a single piece of the Plan while leaving other pieces intact would be contrary to the bargain struck by amici and other Plan participants. A partial unwinding of the Plan is simply not a viable or equitable solution here.

The Settling Insurers rely in part on *In re Fieldwood Energy LLC*, 93 F.4th 817 (5th Cir. 2024), but that case does not support a partial unwinding of the Plan. *See* Settling Insurers Ltr. 1-2, Dkt. No. 184. First and foremost, the case did not involve any such partial unwinding. In *Fieldwood Energy*, sureties sought to

challenge the stripping of their subrogation rights in the debtors' assets, which were sold in a free and clear sale under § 363. *See* 93 F.4th at 820-21. But the stripping of the subrogation rights was envisioned all along as part of an integrated plan of reorganization: The bankruptcy court found that the rights needed to be stripped to facilitate the sale, determined that the sale was necessary to secure the approval of the debtors' reorganization plan, and expressly stripped the rights in the confirmation order. *Id.* at 821. In finding the appeal statutorily moot, the Fifth Circuit upheld the plan as a whole—exactly what amici urge the Court to do here. *See id.* at 825. Nothing in *Fieldwood Energy* supports using statutory mootness to retain only part of the global resolution effectuated through the Plan (the insurance buyback) while repudiating the rest. *Cf. Millennium Lab Holdings II*, 945 F.3d at 143 (rejecting creditor's effort to obtain "all of the value of the restructuring and none of the pain").

In addition, this Court and the Fifth Circuit have adopted different rules for statutory (and equitable) mootness. The Fifth Circuit has adopted "a *per se* rule, mooting appeals absent a stay of the sale or lease at issue." *Krebs Chrysler-Plymouth, Inc. v. Valley Motors, Inc.*, 141 F.3d 490, 498 (3d Cir. 1998); *see, e.g.*, *In re Walker Cnty. Hosp. Corp.*, 3 F.4th 229, 234-36 (5th Cir. 2021). This Court, by contrast, takes a more flexible approach. *See, e.g.*, *In re ICL Holding Co.*, 802 F.3d 547, 554 (3d Cir. 2015) (denying statutory mootness with respect to distribution of escrowed funds). This Court also takes a similarly flexible approach for equitable

mootness. *See, e.g.*, *Tribune Media*, 799 F.3d at 278. This flexibility permits the Court to find appeals statutorily or equitably moot, or both, if the relief sought would prejudice other parties—or, on the flip side, to ensure that any relief found potentially available on appeal does not prejudice any other party.

Amici therefore respectfully urge that, if the Court applies equitable and statutory mootness principles, it do so in a manner that preserves Contributing and Participating Chartered Organizations' releases, restores the claims and rights they agreed to relinquish as part of the Plan, or otherwise puts Contributing and Participating Chartered Organizations in a position similar to where they were before the Plan was negotiated and confirmed.

CONCLUSION

The Court should affirm the district court's judgment, which affirmed the bankruptcy court's confirmation order, or, in the alternative, should ensure that the rights of amici and other Contributing and Participating Chartered Organizations are appropriately protected.

Dated: August 7, 2024

Respectfully submitted,

s/ *Gregory G. Garre*

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COMBINED CERTIFICATIONS

I. CERTIFICATE OF BAR MEMBERSHIP

I hereby certify pursuant to Third Circuit Rule 28.3(d) that I am a member in good standing of the bar of the United States Court of Appeals for the Third Circuit.

II. CERTIFICATE OF WORD COUNT

I hereby certify that the foregoing brief complies with the word limit in Federal Rule of Appellate Procedure 29(a)(5) because it contains fewer than one-half the maximum number of words for supplemental briefs, as provided in this Court's July 8, 2024 order. This brief contains 4,172 words as counted using the word-count feature in Microsoft Word, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 365 and 14-point Times New Roman font.

III. CERTIFICATE CONCERNING IDENTICAL BRIEFS

Pursuant to this Court's July 8, 2024 order, no hard copies of this brief are required unless requested by the merits panel. Should hard copies be requested, the text of the electronic and hard copy forms of this brief will be identical.

IV. CERTIFICATE OF VIRUS CHECK

Pursuant to Third Circuit Rule 31.1(c), I certify that a virus check of the electronic PDF version of this brief was performed using Microsoft Defender Antivirus, security intelligence version 1.417.8.0 (last updated August 7, 2024), and according to that program no virus was detected.

Dated: August 7, 2024

Respectfully submitted,

s/ *Gregory G. Garre*
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