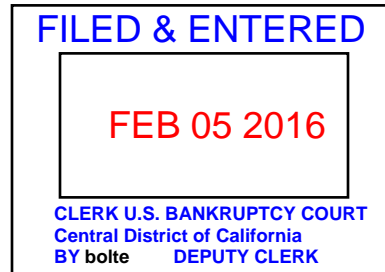


FOR PUBLICATION



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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **SANTA ANA DIVISION**
11

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13 In re:
14 North American Health Care, Inc.,
15 Debtor and Debtor in Possession.

16
17 In re:
18 Carmichael Care, Inc.,
19 Debtor and Debtor in Possession.

20
21 Affects All Debtors
22
23
24

Case No.: 8:15-bk-10610-MW

Jointly administered with:

Case No. 8:15-bk-10612-MW

Chapter 11 Cases

**MEMORANDUM DECISION AND ORDER
ON DEBTORS' TORT CLAIM RESOLUTION
PROPOSAL**

Date: January 25, 2016

Time: 2:00 p.m.

Courtroom: 6C

25 David L. Neale and Krikor J. Meshefejian, Levene Neale Bender Yoo & Brill LLP for
26 North American Health Care, Inc. and Carmichael Care, Inc.

27 David M. Stern, Robert J. Pfister, and Kathryn T. Zwicker, Klee, Tuchin, Bogdanoff &
28 Stern LLP for the Ad Hoc Group of Personal Injury Tort Claimants.

1 **WALLACE, J.**

2 Before the Court is Debtors' motion for an order approving and adopting Debtors'
3 Tort Claim Resolution Proposal, Docket No. 264, filed June 12, 2015 (the "TCRP"). The
4 TCRP provides for the mediation of each of the six¹ personal injury/wrongful death tort
5 claims subject to the TCRP, followed by this Court's estimation of any claim unresolved
6 through mediation. Should estimation be required, Debtors have asked the Court to
7 estimate the claims individually for purposes of voting and distribution. For the reasons
8 discussed below, the Court grants the motion in part and denies it in part.

9 **Jurisdiction and Venue**

10 This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and
11 General Order 13-05, filed July 1, 2013, of the United States District Court for the
12 Central District of California. Venue is proper pursuant to 28 U.S.C. § 1408. This is a
13 core proceeding under 28 U.S.C. § 157(b)(2)(A), (B).

14 **Debtors' History and Business**

15 Debtor Carmichael Care, Inc. ("CCI") operates Rosewood Post-Acute
16 Rehabilitation, a skilled nursing facility located in Sacramento, California (the
17 "Rosewood Facility"). The Rosewood Facility provides full-time care 24 hours per day/
18 7 days per week to approximately 107 patients, employing for that purpose
19 approximately 184 employees.

20 Debtor North American Health Care, Inc. ("NAHC") provides bookkeeping and
21 accounting services, social media services, payroll services, insurance procurement
22 services, information technology services, human resource services and other services
23 to the Rosewood Facility pursuant to a Services Agreement between NAHC and CCI.
24 NAHC, whose principal place of business is Dana Point, California, also provides
25 essential services to 35 other facilities generally in the skilled nursing care line of
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27 _____
28 ¹ Originally, seven tort claims were subject to the proposal. However, in view of the settlement of the
Byrne claim through mediation the number is now down to six. Debtors' Response to Statement of the
Ad Hoc Group of Personal Injury Tort Claimants Regarding the Debtors' Tort Claim Resolution Proposal,
Docket No. 284, filed July 7, 2015 ("Debtors' Response") at 4 fn. 1.

1 business.

2 NAHC and CCI are brother-sister corporations owned by the same interests.
3 NAHC is owned 44 percent by Vermillion Investment Co. LLC, 24 percent by Davey Jay
4 LLC, 28 percent by Oakleaf Holding LLC, 2 percent by Shard Holding LLC and 2
5 percent by Jay Laws. CCI's ownership structure is identical to NAHC's ownership
6 structure. A group of tort claimants subject to the TCRP has alleged that NAHC is
7 owned, operated and controlled by members of two families – the Sorensens and the
8 Lawses – with no outside investors, and that NAHC operates 36 nursing homes
9 (including the Rosewood Facility) as part of a nursing home conglomerate. Debtors
10 have not disputed these points.

11 The Debtors filed chapter 11 petitions on February 6, 2015. They allege that
12 their bankruptcy filings were necessitated by what they describe as a “barrage” of tort
13 claim lawsuits filed against them, sounding in elder abuse, wrongful death, infliction of
14 mental distress and other causes of action. Debtors complain that despite the fact that
15 they are providing “Five Star Care” to their patients, they have been targeted by
16 plaintiffs’ counsel and have been relentlessly pursued because they are perceived to be
17 “deep pockets” for recovery. TCRP at 10. Debtors deny any liability with respect to
18 these lawsuits.

19 The tort claim plaintiffs tell a different story. For example, in the Raymond K.
20 Pierce case (included in the TCRP), the 61-year-old wheelchair-bound plaintiff alleges
21 that he needed 24-hour care for physical injuries, altered speech difficulties, GI tube
22 placement care and various other infirmities and that despite these obvious needs the
23 Rosewood Facility engaged in “patient dumping” and secretly transferred him to
24 “Maria’s Board and Care,” where he and one other patient were housed in an unheated,
25 odorous garage that was contaminated with dog feces. According to Pierce’s Third
26 Amended Complaint, his GI tube quickly became infected because of the squalid and
27 filthy living conditions, and he became septic and more gravely ill – and then was
28 refused transport to a hospital. Finally, Pierce alleges that the Rosewood Facility well

1 knew that “Maria’s Board and Care” was unlicensed and was housing elderly and
2 disabled individuals in a garage because in the past it had dumped other patients at the
3 same facility.

4 Debtors allege that despite their record of providing “Five Star Care” to patients,
5 the litigation costs of dealing with these types of lawsuits are diverting “the Debtors’
6 resources and focus away from operating their businesses.” TCRP at 10. They
7 “determined that the most prudent, proactive and responsible course of action in order
8 to protect their assets and the interests of their creditors, was to file for bankruptcy
9 protection.” *Id.*

10 **Tort Claims Subject to the TCRP**

11 Debtors propose that the following six tort claims be subject to their tort claim
12 resolution proposal: Goldman, Wilson, Chandler, Pierce, Howarth, and Kayle. The first
13 five actions are pending in Sacramento Superior Court; the last one is pending in the
14 United States District Court for the Central District of California. According to Debtors,
15 Goldman and Chandler allege damages in excess of \$10 million, Howarth in excess of
16 \$4 million and the others have not put the Debtors on notice as to the amount of
17 damages being sought. As mentioned earlier, the actions variously allege elder abuse,
18 wrongful death, fraud, negligence, abuse of a dependent adult, infliction of emotional
19 distress and violation of the patient’s bill of rights.

20 Each of the six tort claimants filed a proof of claim in an unliquidated amount.

21 Five of the six tort claimants – Goldman, Wilson, Chandler, Pierce and Howarth –
22 have constituted themselves into an Ad Hoc Group of Personal Injury Tort Claimants
23 pursuant to Federal Rule of Bankruptcy Procedure 2019 (the “Ad Hoc Group”). Kayle,
24 the sixth tort claimant, is represented by Girardi | Keese.

25 **Genesis of the TCRP**

26 In view of the unliquidated nature of the six tort claims and their unknown
27 magnitude, the Court became concerned that it would be difficult or impossible for the
28 Debtors to propose or confirm a plan within any reasonable period of time. The Court

1 also had before it evidence suggesting that it would take years to liquidate these claims
2 if relief from stay were granted and the state and federal court actions by the tort
3 claimants against the Debtors proceeded in their ordinary course. Consequently, the
4 Court ordered the Debtors to propose a framework for resolving, or, failing that, at least
5 quantifying the amount of, the tort claims. As Debtors correctly point out, “[t]he whole
6 point of the proposal is to get an understanding of the actual magnitude of the Tort
7 Claims to assist the Debtors in developing an exit strategy for these cases.” Debtors’
8 Response to the Ad Hoc Group’s Supplemental Brief on the Debtors’ Tort Claim
9 Resolution Proposal, Docket No. 504, filed January 8, 2016 (“Debtors’ Second
10 Response”) at 20.

11 **A Summary of the TCRP**

12 As mentioned earlier, the TCRP provides for a two-step process. First, there is a
13 mediation between the Debtors and each of the six tort claim plaintiffs. If mediation is
14 successful, and the parties agree upon a settlement amount, Debtors would file a
15 motion requesting approval of the settlement agreement pursuant to Federal Rule of
16 Bankruptcy Procedure 9019. As a result of a subsequent clarification by Debtors, the
17 settlement would be a fixed sum of money, not merely an allowed unsecured claim for a
18 fixed amount of money. Various provisions of the TCRP address timing considerations,
19 meet-and-confer, mediator selection and other nuts and bolts issues involving a
20 mediation.

21 If mediation fails to result in a resolution of a tort claim, the TCRP proposes that
22 the Court estimate the claim pursuant to 11 U.S.C. § 502(c) for purposes of voting and
23 distribution (and, presumably, plan confirmation, although this is not specifically
24 mentioned). The TCRP provides the following details regarding this process: (1) Within
25 10 days after the end of the Mediation Period as defined in the TCRP, tort claimants
26 must file a statement with this Court indicating whether they consent to the entry of a
27 final order by this Court estimating their claims for purposes of voting and distribution. If
28 they do not consent, this Court would embody its determination of the estimation matter

1 in proposed findings of fact and conclusions of law and would submit the same to the
2 United States District Court, which would then consider the matter and enter a final
3 order. (2) 30 days after the conclusion of the Mediation Period, the tort claim plaintiff
4 files a brief with this Court in support of the claim together with written declarations and
5 documents. (3) 30 days after the submission of such briefs and evidence, Debtors
6 would file their brief in opposition, coupled with declarations, documents and expert
7 reports. (4) 15 days after Debtors submit the aforementioned pleadings, the tort claim
8 plaintiff may file a reply brief. (5) 15 days after the reply is filed, or as soon as the
9 Court's calendar would permit, the Court would hold a hearing, after which the Court
10 would "estimate the monetary amount of the Tort Claim on a final basis" if the tort
11 plaintiff consented to this Court's entry of a final order or would make requisite findings
12 of fact and conclusions of law and submit them to the United States District Court.
13 Debtors estimate that the entire process would take about 180 days from the entry of
14 the order approving the Tort Claim Resolution Proposal. It is envisioned that the
15 resolution of all the tort claims will run concurrently.

16 **The Court's Ruling on the Mediation Aspect of the TCRP**

17 The Ad Hoc Group supported the Debtors' mediation proposals in the TCRP
18 subject to two caveats relating to insurance information and an alleged incongruity
19 between the parties' obligations to make pre-mediation settlement offers. Each of those
20 caveats has now been eliminated, and the Ad Hoc Group has consented to mediation.
21 The Court has not heard the Kayle parties to object to mediation. Consequently, the
22 Court hereby grants that portion of the motion seeking approval and authorization of the
23 mediation portion of the TCRP, with the one adjustment that the Mediation Period (as
24 defined in the TCRP) will run for 120 days rather than 90 days following the date of
25 entry of this Memorandum Decision and Order.

26 **The Mandatory Nature of Claim Estimation in This Case**

27 The Court now turns to that portion of the TCRP seeking approval and
28 authorization of Debtors' proposal relating to estimation of the tort claims that do not

1 settle through mediation. Debtors argue, and the Court agrees, that estimation is not
2 simply optional in this case; it is required. Bankruptcy Code section 502(c) provides
3 “[t]here shall be estimated for purpose of allowance under this section . . . any
4 contingent or unliquidated claim, the fixing or liquidation of which, as the case may be,
5 would unduly delay the administration of the case.” The statute’s use of the words
6 “there shall be” makes it clear that estimation of contingent or unliquidated claims is
7 mandated and required if the claims are such that their fixing or liquidation would
8 “unduly delay” the case’s administration.

9 Whether a claim is “unliquidated” and subject to estimation does not depend on
10 whether it sounds in contract or in tort but on whether it is capable of ready
11 computation. *In re Audre, Inc.*, 216 B.R. 19, 30 (B.A.P. 9th Cir. 1997).

12 Here, the evidence shows that all six claims are unliquidated and that their
13 liquidation would unduly delay the case’s administration within the meaning of section
14 502(c). As to the unliquidated nature of the claims: all six of the proofs of claim on file
15 expressly describe the claim as unliquidated (implying that the claim holders themselves
16 cannot yet compute the amount to which they are entitled) and Debtors clearly agree
17 that all six are unliquidated. As to whether the liquidation of these claims would “unduly
18 delay” the case’s administration: the Ad Hoc Group, comprised of five of the six tort
19 claimants whose claims are covered by the TCRP (all except claimant Kayle), agreed in
20 open court at the hearing on January 25, 2016 that it would not contest the proposition
21 that such liquidation would unduly delay the case’s administration within the meaning of
22 11 U.S.C. § 502(c). Claimant Kayle has not argued that liquidation of the Kayle claim
23 would not unduly delay case administration. Evidence introduced by the Debtors shows
24 that liquidation of all the tort claims subject to the TCRP is likely to take several years.

25 For these reasons, it is clear that the Court must estimate the six tort claims that
26 remain within the TCRP.

27 **The Nature and Purposes of Claim Estimation by a Bankruptcy Court**

28 Estimation is a summary procedure whereby the Court estimates the value of a

1 claim. A bankruptcy court need only reasonably estimate the probable value of a claim.
2 Such an estimate necessarily implies no certainty and is not a finding or fixing of an
3 exact amount; it is merely the court's best estimate for the purpose of permitting the
4 case to go forward. *Falk v. Falk (In re Falk)*, No. NC-12-1385-DJuPa, 2013 WL
5 5405564, at *7 (B.A.P. 9th Cir. Sept. 26, 2013).

6 This Court has wide discretion and latitude in estimating claims. *In re Corey*,
7 892 F.2d 829, 834 (9th Cir. 1989); *In re Perry*, 425 B.R. 323, 342 (Bankr. S.D. Tex.
8 2010). Importantly, the principal consideration in estimating unliquidated claims must
9 be an accommodation to the underlying purposes of the Bankruptcy Code. *Official*
10 *Comm. of Asbestos Claimants v. Asbestos Prop. Damage Comm. (In re Federal-Mogul*
11 *Global, Inc.)*, 330 B.R. 133, 155 (D. Del. 2005).

12 Estimation can take various forms and can be made for different purposes. Title
13 28 of the United States Code draws a critically important distinction between the
14 estimation of an unliquidated claim for the purpose of confirming a plan (which includes
15 estimating for voting because plan confirmation usually requires voting by creditors) and
16 estimation for purposes of distribution. The former is a core matter; the latter is
17 noncore. 28 U.S.C. § 157(b)(2)(B).

18 Unliquidated claims can be estimated individually or in the aggregate. *In re G-I*
19 *Holdings, Inc.*, 323 B.R. 583, 622 (Bankr. D.N.J. 2005) (determining that unliquidated
20 asbestos claims should be estimated in the aggregate).

21 **Selection of the Claim Estimation Mode in This Case**

22 Estimation is by its very nature a second-best method of arriving at the amount of
23 an unliquidated wrongful death/personal injury claim. The best method is either a jury
24 trial in a state court or a federal district court or a bankruptcy court determination of the
25 claim amount under 11 U.S.C. § 502(b). The comparison between estimating an
26 unliquidated wrongful death/personal injury claim, on the one hand, and, on the other
27 hand, determining the claim amount through a jury trial or a bankruptcy court's
28 allowance procedure under section 502(b) can be likened, perhaps, to estimating the

1 number of marbles in a large glass jar as compared with taking the marbles out of the
2 jar and counting them. Even if the person who makes the estimation is skilled and
3 experienced in estimating the number of marbles in a glass jar, the result of the
4 estimation is likely to be less accurate (and certainly, under no circumstances, more
5 accurate) than taking out the marbles one by one and counting them.

6 Although Congress has subordinated the goal of accuracy with respect to
7 determining the value of unliquidated claims to the overarching goal of avoiding undue
8 delay in a case's administration – because it has made such estimation mandatory
9 under section 502(c) – Congress has not precisely defined the mode or method of claim
10 estimation nor has it required a bankruptcy court to employ a particular mode or method
11 of unliquidated claim estimation. Instead, it has left the particular mode or method of
12 claim estimation to a bankruptcy court's sound discretion (and the reported cases so
13 hold).

14 Because estimation is a second-best method, the Court concludes that the scope
15 of unliquidated claim estimation in this case should be confined to the extent necessary
16 to accomplish the overarching goal of avoiding undue delay in this case's administration
17 and not expanded beyond that point. To phrase it differently, if the goal of avoiding
18 undue delay can be achieved through a limited mode or form of claim estimation, a
19 bankruptcy court ought not to expand the estimation's scope beyond this limited extent
20 absent compelling reasons to do so.

21 Applying these principles in this case, the Court determines that the tort claims
22 subject to the TCRP not settling through mediation and not otherwise resolved² should
23 be estimated for purposes of voting and plan confirmation only, and not for purposes of
24 distribution. Moreover, the claims should be estimated in the aggregate and not
25 individually, except that the Court leaves open the possibility that individual claim
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² See discussion below under the heading "Tort Claimant's Election to Have the Bankruptcy Court
Determine the Claim Amount for Purposes of Distribution."

1 estimation may be appropriate for voting purposes only.³

2 Debtors need an estimate of the aggregate amount of the unsettled, unliquidated
3 tort claims so that they can craft a plan of reorganization calculated to satisfy the all-
4 important plan feasibility requirement, but they do not need an estimate for plan
5 confirmation purposes of the individual claim makeup of the aggregate amount. If the
6 aggregate estimate of the six claims is \$120x, it is hard to see how Debtors' plan would
7 be any different if the claims were five claims of \$10x apiece and one claim of \$70x than
8 if each of the six claims were \$20x apiece. It is also hard to see how satisfaction of the
9 plan feasibility requirement would be different under these two hypothetical scenarios.

10 The estimated aggregate amount will not be any kind of a cap on eventual
11 distributions by the Debtors to the tort claimants. The Court envisions that any order
12 confirming a plan of reorganization will contain a provision whereby the tort claims that
13 have not previously been resolved (through mediation or otherwise) are not discharged
14 under 11 U.S.C. § 1141(d) but instead will be liquidated in amount through trials in state
15 court or federal district court (or settled in such courts).

16 Estimation of the claims on an individual (as opposed to an aggregate) basis for
17 purposes of distribution, proposed by Debtors in the TCRP, is problematic for a number
18 of reasons. It would slow down the reorganization process because the Court would be
19 limited to issuing proposed findings of fact and conclusions of law to the District Court,
20 thus necessitating two levels of judicial review which almost by definition would require
21 more time to reach resolution than the estimation-in-the-aggregate process described
22 above. This runs directly counter to section 502(c)'s purpose of avoiding unnecessary
23 delay in the case's administration. Whether or not a jury trial would occur in state court
24 or federal court following plan confirmation is difficult to predict because it will depend
25 upon the chapter 11 plan's structure and provisions. Debtors vigorously contend that
26 they have no intention of capping tort claims under their plan through the use of the
27

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³ For the avoidance of doubt, the Court wishes to make it clear that it has not decided whether individual estimation for voting purposes only will or should be permitted.

1 estimation process. Nevertheless, if the plan somehow made it uneconomic for a jury
2 trial to go forward (although stopping short of outright elimination of the possibility of a
3 jury trial through a section 1141(d) discharge), the tort claimants effectively would be
4 deprived of their Seventh Amendment right to a jury trial, which this Court views as
5 unfair, prejudicial and an outcome to be avoided. Such an outcome would seem to be
6 inconsistent with at least the spirit of 28 U.S.C. § 1411(a), that section providing as it
7 does that “this chapter and title 11 do not affect any right to trial by jury that an individual
8 has under applicable nonbankruptcy law with regard to a personal injury or wrongful
9 death claim.”

10 The Court’s aggregate estimation of the tort claims for voting and plan
11 confirmation purposes only is a core matter under 28 U.S.C. § 157(b)(2)(B). The
12 aggregate estimation motion will be heard and determined by this Court without a jury.
13 None of the parties has cited to the Court any authority holding that a creditor who files
14 a proof of claim in a bankruptcy court is entitled to a jury trial with respect to the Court’s
15 estimation of such claim for voting and plan confirmation purposes, nor has the Court
16 found any such authority. Indeed, it would appear that when a party files a claim in a
17 bankruptcy case, such party is deemed to submit to the bankruptcy court’s equitable
18 jurisdiction and loses any Seventh Amendment right to a jury trial in connection with the
19 bankruptcy court’s determination of the amount of such claim under 11 U.S.C. § 502(b).
20 *Langenkamp v. Culp*, 498 U.S. 42, 44-45, 111 S. Ct. 330, 348 (1990). If there is no
21 Seventh Amendment right to a jury with respect to a determination of the claim, it
22 follows *a fortiori* that there is no Seventh Amendment right to an estimation of such
23 claim for purposes of voting and plan confirmation only. It can be noted in this regard
24 that since at least the eighteenth century disputed claims in bankruptcy cases were
25 resolved by bankruptcy judges or their predecessors (i.e., referees and commissioners)
26 without a jury. 2 WILLIAM BLACKSTONE, COMMENTARIES *480-81 (18th century
27 practice whereby creditors proved their debts to the satisfaction of the bankruptcy
28 commissioners appointed by the Lord Chancellor).

1 In reaching these determinations, the Court has considered the financial burden
2 on Debtors of litigating the six tort claims in state or federal court (assuming for this
3 purpose that none of the six settles through mediation or otherwise). Debtors have
4 estimated that it would cost approximately \$2.5 million to litigate all six claims. The
5 Monthly Operating Reports (“MORs”) from the inception of the case in early February
6 2015 through November 30, 2015 show that NAHC has 10-month profits of about \$1.3
7 million and CCI has 10-month profits of about \$1.1 million. Annualizing such profits and
8 grossing them up for a three-year period of litigation, Debtors would have well over \$7
9 million in profits to cover \$2.5 million in costs. Additionally, the MORs show that
10 Debtors’ cash balances have increased by over \$6 million in the 10-month period.
11 Although an increase in a cash balance is certainly not equivalent to a profit, the large
12 cash balance increase lends added confidence to the conclusion that the profits of
13 NAHC and CCI for the 10-month period really are in the range of \$2.4 million and are
14 not some kind of accounting mirage. Consequently, it seems likely that Debtors will be
15 able to fund the litigation costs as they come due.

16 The Debtors’ plan will need to make some provision for the tort claims estimated
17 in the aggregate by this Court. For purposes of illustration only, the Debtors’ plan might
18 create a sinking fund for the payment of judgments entered upon state or federal court
19 jury verdicts with respect to the tort claim actions to the extent not covered by existing
20 and applicable insurance, with provisions for depositing additional funds or withdrawing
21 existing funds should such judgments exceed or fall short of the aggregate amount
22 estimated by this Court. (The Court in no way requires a sinking fund; this is merely an
23 example of how the claims might be dealt with under a plan).

24 For these reasons, the Court denies that portion of the TCRP motion asking this
25 Court to estimate the tort claims individually for purposes of distribution but grants in a
26 modified form that portion of the motion asking the Court to estimate the claims for
27 purposes of voting – the modification being that the Court will estimate the claims in the
28 aggregate (not individually) and for purposes of plan confirmation as well as voting.

1 **Tort Claimant's Election to Have the Bankruptcy Court Determine the Claim**
2 **Amount for Purposes of Distribution**

3 It is true that aggregate estimation of the tort claims will make it impossible for
4 the Debtors to immediately commence distributions to the tort claimants or for the tort
5 claimants to receive such distributions. In order to avoid prejudice to the tort claimants,
6 the Court will permit, but not require, a tort claimant whose claim did not settle through
7 mediation to elect to have this Court determine the amount of his or her claim under 11
8 U.S.C. § 502(b) for all purposes, including but not limited to distribution, to the extent
9 permitted by 11 U.S.C. § 157(b)(2)(B) and 11 U.S.C. § 157(b)(5). Such election shall
10 be made no later than 10 days after the end of the Mediation Period (as defined in the
11 TCRP and as extended by this Court from 90 days to 120 days, i.e., a total of 130 days
12 from the date of entry of this Memorandum Decision and Order) by filing a pleading to
13 that effect with the Court and by serving such pleading on the Debtors.

14 **Conclusion**

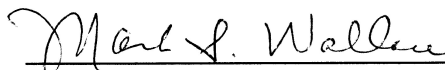
15 Based on the foregoing and in conclusion, the Court approves Debtors' Tort
16 Claim Resolution Proposal in part and disapproves it in part. The Court approves the
17 mediation component of the TCRP with the modification that the Mediation Period (as
18 defined in the TCRP) shall run for 120 days following the date of entry of this
19 Memorandum Decision and Order. The Court disapproves that portion of the TCRP
20 that estimates the tort claims individually for purposes of distribution and instead
21 modifies the purpose and procedure for estimating the tort claims subject to the TCRP
22 that have not settled through mediation and with respect to which no timely tort claimant
23 election has been made (the "Remaining Tort Claims") as follows: (1) The Remaining
24 Tort Claims will be estimated in the aggregate for purposes of voting and plan
25 confirmation only. (2) Within 60 days after the tort claimants' election period (10 days
26 after the end of the Mediation Period), Debtors shall file a motion to estimate the
27 Remaining Tort Claims in the aggregate. (3) The Ad Hoc Group shall have 60 days
28 after Debtors filed their estimation motion to file an opposition thereto. (4) Debtors shall

1 have 15 days to file a reply. (5) 15 days after expiration of the time for filing a reply,
2 and as the Court's calendar would permit, a hearing shall be held on Debtors'
3 estimation motion after which the Court will estimate the monetary amount of the
4 Remaining Tort Claims in the aggregate.

5 IT IS SO ORDERED.

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25 Date: February 5, 2016


Mark S. Wallace
United States Bankruptcy Judge