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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

PRETIUM PACKAGING, L.L.C., *et al.*,

Debtors.¹

Chapter 11

Case No. 26-10896 (CMG)

(Jointly Administered)

**AD HOC GROUP'S (A) REPLY TO OBJECTION OF THE
UNITED STATES TRUSTEE TO CONFIRMATION OF THE JOINT PREPACKAGED
PLAN OF REORGANIZATION OF PRETIUM PACKAGING L.L.C. AND ITS DEBTOR
AFFILIATES AND (B) JOINDER IN THE DEBTORS' REPLY TO SAME**

The Ad Hoc Group,² through its undersigned counsel, hereby (a) replies to the *Objection of the United States Trustee to Confirmation of the Joint Prepackaged Plan of Reorganization of Pretium Packaging L.L.C. and Its Debtor Affiliates* [Docket No. 136] (the "UST Objection") and (b) joins in the Debtors' reply thereto.

¹ The last four digits of Debtor Pretium Packaging, L.L.C.'s tax identification number are 7802. A complete list of each of the Debtors in the Chapter 11 Cases may be obtained on the website of the Debtors' claims and noticing agent at <https://cases.stretto.com/Pretium>. The location of the Debtors' service address in the Chapter 11 Cases is: 2560 White Oak Circle, Suite 120, Aurora, IL 60502.

² Capitalized terms not otherwise defined have the meanings ascribed to them in the *Joint Prepackaged Chapter 11 Plan of Reorganization of Pretium Packaging, L.L.C. and Its Debtor Affiliates* [Docket No. 6].

PRELIMINARY STATEMENT

1. The Plan represents a major achievement in the Debtors' restructuring efforts. After more than six months of intensive, arm's-length negotiations with key stakeholders, the Debtors have charted a path to accomplish what many overleveraged companies have tried—but failed—to do: use chapter 11 to significantly deleverage their balance sheet and establish a trajectory toward long-term success in a challenging economic environment.

2. The Plan is the product of extensive, hard-fought, and good faith negotiations among the Debtors and their key economic stakeholders and represents a value-maximizing transaction that enjoys widespread support across the Debtors' capital structure. Specifically, the Plan:

- **Eliminates approximately \$900 million of funded debt** from the Debtors' balance sheet, providing the Reorganized Debtors with the financial flexibility necessary to invest in automation, innovation, and sustainable packaging solutions;
- **Provides substantial new capital**, including \$50 million of equity capital from the New Money Investor and up to \$633.5 of exit financing upon conversion of the \$533.5 million of DIP Term Loans and \$100 million of DIP ABL Loans, ensuring the Reorganized Debtors are well-capitalized on the Effective Date;
- **Pays all general unsecured claims in full**, ensuring that trade creditors, vendors, and employees are unimpaired by the restructuring;
- **Enjoys overwhelming creditor support**, without a single rejecting vote from any creditor;
- **Preserves the Debtors' business as a going concern**, protecting jobs and maintaining the Company's ability to serve its customers and vendors without disruption; and
- **Positions the Reorganized Debtors for future growth**, with a deleveraged balance sheet and ample go-forward liquidity to execute their business plan and achieve long-term success.

3. Against the backdrop of this consensual and value maximizing restructuring, the UST Objection stands alone. No creditor—secured or unsecured—has objected to the transactions

contemplated by the Plan.³ No party that actually holds an economic stake in these cases has challenged the Third-Party Releases or the negotiated compromises that made this restructuring possible. Indeed, every impaired class entitled to vote has voted unanimously in favor of the Plan.

REPLY AND JOINDER

4. The Ad Hoc Group joins in the arguments set forth in the *Debtors' Memorandum of Law in Support of an Order Approving the Disclosure Statement for, and Confirming, the Joint Prepackaged Chapter 11 Plan Of Reorganization Of Pretium Packaging, L.L.C. and its Debtor Affiliates Pursuant to Chapter 11 of The Bankruptcy Code* (the "Debtors' Reply"). However, it also wishes to address that portion of the UST Objection that pertains to the third-party releases set forth in Article VIII.D of the Plan (the "Third-Party Releases").

5. The US Trustee's objection to the Third-Party Releases is not grounded in the facts of these cases or the interests of any economic stakeholder; rather, it reflects a broader institutional campaign against third-party releases, prioritizing policy considerations over the economic realities facing these Debtors and their creditors.

6. The U.S. Trustee's arguments do not withstand scrutiny. The Third-Party Releases are appropriate and entirely consensual because all Releasing Parties received clear notice and an opportunity to opt out. Opt-out mechanisms have long been recognized as a valid means of obtaining consent to third-party releases. Federal law—not state law—governs the question of consent in bankruptcy.

³ The only creditor objections filed were cure objections. *See* Docket Nos. 131, 138, 139.

A. The Third-Party Releases Are Appropriate, and the UST Objection Should Be Overruled.

7. The threshold question is whether the Third-Party Releases are consensual. They plainly are. As set forth below, the Third-Party Releases satisfy all requirements established in this Circuit for consensual opt-out releases.

8. Courts in the Third Circuit have long recognized that a chapter 11 plan may include a release of non-debtors by other non-debtors when the release is consensual. *See, e.g., In re Indianapolis Downs*, 486 B.R. 286, 306 (Bankr. D. Del. 2013) (noting that consensual third-party releases are permissible).

9. In the Third Circuit, a third-party release is consensual where the releasing parties have received conspicuous and detailed notice of the release (including an explanation of the consequences of granting the release), had the opportunity to opt out of the release, and failed to do so. *See id.* at 306 (approving third party releases by “impaired creditors who abstained from voting on the Plan, or who voted to reject the Plan and did not otherwise opt out of the releases” and who “were provided detailed instructions on how to opt out, and had the opportunity to do so by marking their ballots” as consensual). Since *Purdue*, courts have continued to approve third-party releases in chapter 11 plans where consent was obtained through an opt-out mechanism.⁴

⁴ *See, e.g.,* Order, *In re Powin, LLC*, No. 25-16137 (MBK) (Bankr. D.N.J. Dec. 1, 2025) [Dkt. No. 1165] (approving opt-out releases as consensual); Order, *In re New Rite Aid, LLC*, No. 25-14861 (MBK) (Bankr. D.N.J. Nov. 26, 2025) [Dkt. No. 3445] (same); *In re Spirit Airlines, Inc.*, 668 B.R. 689, 721 (Bankr. S.D.N.Y. 2025) (same); Order, *In re Bowflex Inc.*, No. 24-12364 (ABA) (Bankr. D.N.J. Aug. 19, 2024) [Dkt. No. 614] (same); Hr’g Tr. 14:10–16, *In re Invitae Corp.*, No. 24-11362 (MBK) (Bankr. D.N.J. Jul. 23, 2024) [Dkt. No. 869] (same; overruling objections to the opt-out mechanism, among other things); Hr’g Tr. 64:19–22, Hr’g Tr. 27:20–28:13, *In re Wheel Pros, LLC*, No. 24-11939 (JTD) (Bankr. D. Del. Oct. 15, 2024) [Dkt. No. 257] (approving opt-out releases); Hr’g Tr. 52:6–9, *In re Thrasio Holdings, Inc.*, No. 24-11840 (CMG) (Bankr. D.N.J. June 10, 2024) [Dkt. No. 1153] (same); Order, *In re Careismatic Brands, LLC*, No. 24-10561 (VFP) (Bankr. D.N.J. May 31, 2024) [Dkt. No. 775] (same); Order, *In re WeWork, Inc.*, No. 23-19865 (JKS) (Bankr. D.N.J. May 30, 2024) [Dkt. No. 2060] (same); Hr’g Tr. 60:9–16, *In re Cyxtera Techs., Inc.*, No. 23-14853 (JKS) (Bankr. D.N.J. Feb. 2, 2024) [Dkt. No. 905] (same); Hr’g Tr. 109:4–16, *In re BlockFi Inc.*, No. 22-19361 (MBK) (Bankr. D.N.J. Sept. 9, 2023) [Dkt. No. 1621] (same); Order, *In re Bed Bath & Beyond Inc.*, No. 23-13359 (VFP) (Bankr. D.N.J. Sept. 14, 2023) [Dkt. No. 2172] (same).

Harrington v. Purdue Pharma L.P., 603 U.S. 204 (2024). This is consistent with the majority view that an opt-out mechanism is sufficient to garner consent for third-party releases, where the releasing parties are informed clearly of both the substance of the releases and of the fact that the failure to act will have clearly defined consequences.⁵

10. Here, creditors who had the right to vote on the Plan were provided with Ballots that gave them the option to check a box to opt out from granting the Third-Party Releases, regardless of whether they voted to accept or reject the Plan. *See* Scheduling Order, Exs. 4-5.⁶ Similarly, the members of the Non-Voting Classes were given an opportunity to opt out of the Third-Party Releases by checking a box on a form attached to the Notices of Non-Voting Status. *See id.*, Ex. 6. The full text of the Third-Party Releases was printed in bold type in the Disclosure Statement, the Plan, the Ballots, and the Notices of Non-Voting Status. Thus, all parties from whom Third-Party Releases were sought received appropriate, conspicuous, and adequate notice of the Third-Party Releases, including the explanation that such parties would be granting such releases if they failed to opt out by checking the opt-out box and the consequences of such failure. *See id.*, Exs. 4-6.

11. Moreover, the Third-Party Releases are an integral and necessary part of the Plan. Members of the Ad Hoc Group provided significant financial consideration for the Third-Party

⁵ *See, e.g., In re LaVie Care Ctrs., LLC*, No. 24-55507 (PMB), 2024 WL 4988600, at *15 (Bankr. N.D. Ga. Dec. 5, 2024) (“[I]f a creditor gets materials in a bankruptcy case, and the materials say if you do not take an action, you will be bound by the consensual release, you must do something. You cannot simply ignore it. If you do, you may be ‘deemed’ to consent to the release. Or you may have waived those rights. Or you may be estopped from enforcing them.”).

⁶ *Order (I) Scheduling a Combined Disclosure Statement Approval and Plan Confirmation Hearing, (II) Approving Related Dates, Deadlines, Notices, and Procedures, (III) Approving the Solicitation Procedures and Related Dates, Deadlines, and Notes, (IV) Conditionally Waiving the Requirement That (A) the U.S. Trustee Convene a Meeting of Creditors and (B) the Debtors File Schedule of Assets and Liabilities, Statements of Financial Affairs, and Rule 2015.3 Financial Reports, (V) Shortening the Notice Requirements Related Thereto, and (VI) Granting Related Relief* [Docket No. 57] (the “Scheduling Order”).

Releases. Specifically, they agreed to allow payment in full of general unsecured claims and extended \$533.5 million in DIP-to-exit financing to assure the success of the Chapter 11 Cases. They further agreed to concessions with respect to the treatment of their Allowed Claims that made the consensual Plan possible.

12. Crucially, the Third-Party Releases are narrowly tailored and do not provide a blanket immunity, containing an appropriate carve-out for acts or omissions that constitute actual fraud or willful misconduct. *See* Plan, Art. VIII.D. Accordingly, the Third-Party Releases are fully consensual and consistent with the law in this Circuit and elsewhere.

B. Federal Law Governs the Question of Consent.

13. The U.S. Trustee's insistence on the inappropriateness of opt-out third-party releases stems from the mistaken belief that such releases are governed by state law. That is not the case.

14. Both before and after *Purdue*, bankruptcy courts have evaluated third-party releases under federal, not state, law and grounded approval of same on due process considerations. *See, e.g.,* Hr'g Tr. 105:4-12, *In re Wesco Aircraft Holdings, Inc.*, No. 23-90611 (MI) (Bankr. S.D. Tex. Dec. 16, 2024) [Dkt. No. 2502] ("A sues B. B gets served. B doesn't respond. B is ordered to pay money to A. That's what courts do. Here the obligation to opt out . . . was sent out to everybody. Those that it didn't get sent to appropriately will be excluded because [of] the [federal] due process clause. . . . There's no requirement we comply with state law. Federal law can allow for consequences as a result of default."). Furthermore, federal law governs every aspect of confirmation of a chapter 11 plan, and nothing excludes release provisions in such plan from evaluation under federal law as well.

15. Reliance on a uniform federal standard is necessary in the bankruptcy setting, where both the U.S. Constitution and judicial policy demand uniform treatment of creditors. *See, e.g.,*

U.S. Const., art. I, § 8, cl. 4 (authorizing Congress to establish “uniform Laws on the subject of Bankruptcies”); *In re Orexigen Therapeutics, Inc.*, 990 F.3d 748, 754 (3d Cir. 2021) (stating that “equality among creditors” is “a fundamental policy of bankruptcy”) (quoting *In re Bevill, Bresler & Schulman Asset Mgmt. Corp.*, 896 F.2d 54, 57 (3d Cir. 1990)); Hr’g Tr. 58:12–14, *In re New Rite Aid, LLC*, No. 25-14861 (MBK) (Bankr. D.N.J. Nov. 24, 2025) [Dkt. No. 3409] (citing the Bankruptcy Clause and observing that “[t]his power displaces state law where state law interferes with uniformity or federal law directly governs . . .”).⁷

16. It is true that some courts have regarded a voluntary third-party release to be a species of “contract” and thereby strayed into nuances of state contract law. But a release is a different creature than a contract. *See* Hr’g Tr. 58:25-59:1, *In re New Rite Aid, LLC* (“A Chapter 11 plan is a final federal judgment, not a contract.”); *In re LaVie Care Ctrs.*, 2024 WL 4988600, at *14 (“[T]he basis for the enforcement of consensual releases has not . . . been described anywhere as a ‘contract’ for them.”).

17. Even if state law were to apply to the question of whether the Third-Party Releases are consensual, the result would be the same. The Restatement of Contracts, which New York⁸ and New Jersey both apply, recognizes that “silence and/or inaction may constitute consent in certain circumstances.” *In re Azul S.A.*, No. 25-11176 (SHL), 2026 WL 40912, at *10 (Bankr. S.D.N.Y. Jan. 6, 2026). These circumstances include where parties “have been given reason to understand that assent may be manifested by silence or inaction, and that in remaining silent and inactive they intend to accept the offer.” *Id.* That is precisely the case here. Parties received,

⁷ While it is undeniable that “state law governs the substance of claims” (UST Objection at para. 25), a third-party release does not deal with the substance of any claim and, thus, all of the citations in the UST Objection demonstrating this unremarkable observation are inapposite.

⁸ The Plan’s forum selection clause applies New York law. *See* Plan, Art. I.D.

through the Ballots or Notices of Non-Voting Status, clear and prominent notice of the Third-Party Releases, their ability to opt out of granting them, and the consequences of their choice to opt out or not. Their silence in declining to opt out accordingly constitutes consent, even under the state-law standard the U.S. Trustee advocates.

* * *

18. In sum, the Court should find the Third-Party Releases to be consensual; they satisfy all applicable requirements; the Releasing Parties received clear and unambiguous notice and an opportunity to opt out; an opt-out mechanism remains a well-recognized and legally sufficient means of obtaining consent to third-party releases; and federal law—not state law—governs the analysis. The UST Objection should be overruled, and the Plan should be confirmed.

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CONCLUSION

For the reasons set forth above, as well as the reasons set forth in the Debtors' Reply, the Ad Hoc Group respectfully requests that the Court overrule the UST Objection and confirm the Plan.

Dated: February 19, 2026

/s/ Thomas M. Walsh

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