

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

<p>In re:</p> <p>ROMAN CATHOLIC CHURCH OF THE DIOCESE OF GALLUP, a New Mexico corporation sole,</p> <p style="text-align: center;">Debtor.</p>	<p><u>BAP# 14-41</u></p> <p>Chapter 11 Adversary No. 14-01034</p> <p>Case No. 13-13676-t11 Jointly Administered with: Case No. 13-13677-t11</p>
<p>BISHOP OF THE ROMAN CATHOLIC CHURCH OF THE DIOCESE OF GALLUP, an Arizona corporation sole.</p> <p>This pleading applies to:</p> <p style="margin-left: 40px;"> <input checked="" type="checkbox"/> All Debtors. <input type="checkbox"/> Specified Debtor. </p>	

ISSUES ON APPEAL

COMES NOW, Jennie D. Behles of the Behles Law Firm, P.C., and as and for its Statement of Issues in this Appeal on behalf of the Appellant, The Most Reverend Wm. Michael Mulvey, STL., DD, as Bishop of the Diocese of Corpus Christi and his Successors in Interest, a Corporate Sole, pursuant to Fed. R. Bankr. P. 8006, (hereinafter “Corpus Christi”) does state:

1. Whether it is appropriate to require a non-debtor, non-creditor, or non-claimant as against the debtor, nor party in interest who has not entered its appearance and participated in the Chapter 11 proceeding to produce all documents that indicate or claim that the Diocese of Gallup (hereinafter “Debtor”), is a named insured, an additional insured, or is otherwise insured under any insurance policy issued to or to be paid by “Corpus Christi” between 1945 and 2014, or all documents concerning, constituting or evidencing in whole or in part, any insurance policy

issued to or paid for by “Corpus Christi” between 1945 and 2014, pursuant to which the “Debtor” is named insured, an additional insured, or otherwise insured, or all documents concerning, constituting and communications sent or received between 1945 and 2014 concerning any claim or lawsuit of any kind against the “Debtor,” regardless of whether it is also against “Corpus Christi” defended in whole or in part, by any insurance company or companies, pursuant to an insurance policy, liability, umbrella, and excess liability insurance policy as well as any other insurance policy, in whole or in part, that provides insurance coverage for any tort claims; all documents concerning any payment made to you, or to anyone on your behalf between 1945 and 2014 for the purchase of any insurance policy on behalf of the “Debtor”; all documents that indicate or claim that of “Corpus Christi,” are named insured, or additional insured, or as otherwise insured, under any insurance policy for the period of 1945 to 2013; all documents that indicate or claim that any person ever, under the jurisdiction of “Corpus Christi” who served or worked in, or was assigned to the “Debtor,” all documents that indicate or claim that “Corpus Christi” are named insured, or additional insured, or as otherwise insured, under any insurance policy for the period of 1945 to 2013; all documents concerning, constituting or evidencing in whole or in part, any insurance policy issued to or paid for by “Corpus Christi” between 1945 and 2014, pursuant to which any person if under the jurisdiction of the Diocese, any person who served in or worked in, was assigned is a named insured, an additional insured, or is otherwise insured under any insurance policy issued to or to be paid by “Corpus Christi” “between 1945 and 2014, or all documents concerning, constituting or evidencing in whole or in part, any insurance policy issued to or paid for by “Corpus Christi” between 1945 and 2014, otherwise known as the alleged insurance coverage documents, prior to it being determined, whether or not, the Unsecured Creditors Committee (hereinafter UCC) has any standing to sue in

this Chapter 11, and whether or not there is any cause of action may exist against “Corpus Christi” and it denies exists as a matter of law.

2. As a matter of law, whether the said Order violates the Federal Rule of Bankruptcy Procedure, 2004 referencing Bankruptcy Rule, 2016, Federal Rule of Civil Procedure, 45, which simply does not provide for the production of these documents at “UCC’s” counsel’s office in California.

3. As a matter of law, such order granted under Rule 2004, while it may require production of information regarding the condition, location, and extent of Debtor’s assets to preserve the right for Debtor’s creditor’s, the scope, and the parties from whom that exam may be requested, and the parties who may be examined, or the documents which may be discovered, are limited, and this order is beyond the permissible scope, as the examiner must establish good cause for taking the exam which may be proven by showing that the exam is necessary to establish a claim, or undue hardship would result without the exam. It is impossible for “UCC” to show that a claim can be established. Though the ultimate burden on the Motion to Quash or an objection rests on the opposition, really on the Motion of the court’s balance of interest is to balance that of the examiner in obtaining the information against the burden of the witness for obtaining the exam for any economic hardship on the witness, and the witnesses right to privacy, assuming first that the request is even with the scope, which here it was not.

4. The 2004 Order cannot be entered requiring “Corpus Christi” to produce these documents when there are pending cases which the “UCC”, which presently does not have any standing to sue, wants to investigate as causes of action belonging to this estate, against third parties such as against “Corpus Christi” or if it is or was named as a Defendant. One such proceeding that was pending in state court was removed to this court, without the dismissal of

The Most Reverend Wm. Michael Mulvey. *Moya v. Diocese of Gallup et al.*, Adversary No. 14-01034. Additional state court cases were pending pre-petition. This Order violates what is commonly referred to the “Pending Proceedings Rule.” The “UCC” has not shown good cause in accord with the rule to require production of documents by anyone pursuant to this motion.

5. Movant has not sought the issuance of a subpoena for the production of documents without a subpoena, and without a subpoena documents are not required to be produced by an out of state entity who is not a party in the bankruptcy.

Respectfully submitted,

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Certificate of Service

I certify that I sent a true and correct copy of the foregoing:
ISSUES ON APPEAL in Adversary Cause of Action No. 14-01-34, to the parties listed herein below on this 28th **day of August, 2014**, either via regular mail as listed above, or through the Court's electronic noticing system, depending upon whether or not that party is subscribed to the CM/ECF system.

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