

**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>Chapter 11</p> <p>Case No. 13-13676-t11</p> <p>Jointly Administered with:</p> <p>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="text-align:center"><input type="checkbox"/> All Debtors</p> <p style="text-align:center"><input checked="" type="checkbox"/> Specified Debtor – RCCDG</p>	

MOTION FOR RELIEF FROM AUTOMATIC STAY

(Jane L.S. Doe v. The Roman Catholic Church of the Diocese of Gallup, et al., Case no. CV2015-00277), Superior Court of the State of Arizona (Coconino County)

Jane L. S. Doe moves this Court for an order granting relief from the automatic stay to allow *John L.S. Doe v. The Roman Catholic Church of the Diocese of Gallup, et al., Case no. CV2015-00277), Superior Court of the State of Arizona (Coconino County)* (the “Clergy Abuse Action”) to proceed to judgment on the grounds set forth below.

1. The Debtors filed petitions for relief under Chapter 11 on November 12, 2013. No Trustee yet has been appointed.
2. The Clergy Abuse Action seeks damages against the Debtors and other third parties related to clergy sexual child abuse.
3. The Clergy Abuse Action is pending in Arizona Superior Court, subject to the automatic stay. The claims set forth in the Clergy Abuse Action are unliquidated.

4. Relief from the automatic stay should be granted because cause exists as set forth in the “Official Committee of Unsecured Creditors’ Memorandum in Support of Stay Relief Motions”, filed concurrently with this Motion.

5. The Debtors’ counsel did not return under signed counsel’s phone call of July 2, 2015 or otherwise respond. Instead Debtor’s counsel requested and filed a Notice of Expedited Status Hearing (Dkt 395). Upon information and belief Debtor will oppose the Motion.

The Motion is supported by the “Official Committee of Unsecured Creditor’ Memorandum in Support of Stay Relief Motions” and any related declaration or reply pleadings and such other arguments or evidence as may be adduced at the hearing hereon.

WHEREFORE, Jane L. S. Doe prays that this Court issue an Order granting the following:

- (a) Relief as requested.
- (b) Such other relief as the Court deems just.

Dated: July 8, 2015

Respectfully submitted,

MANLY, STEWART & FINALDI

By /s/ John C. Manly
John C. Manly (admitted pro hac vice)
MANLY, STEWART & FINALDI
19100 Von Karman Ave., Suite 800
Irvine CA 92612
Tel: 949-252-9990/Fax: 949-252-9991
jmanly@manlystewart.com

Counsel for Jane L. S. Doe

Dated: July 8, 2015

Respectfully submitted,

MONTOYA, JIMENEZ & PASTOR, P.A.

By /s/ Robert Pastor
Robert Pastor (admitted pro hac vice)
3200 North Central Avenue, Ste. 2550
Phoenix, Arizona 85012
Tel: 602-279-8969/Fax: 602-256-6667
repastor@mjpattorneys.com

Counsel for Jane L. S. Doe

1 UNITED STATES BANKRUPTCY COURT
2 DISTRICT OF NEW MEXICO

3 In re:

4 ROMAN CATHOLIC CHURCH OF THE
5 DIOCESE OF GALLUP, a New Mexico
6 corporation sole,

Debtor.

Chapter 11

Case No. 13-13676-t11

Jointly Administered with:

Jointly Administered with:

7 BISHOP OF THE ROMAN CATHOLIC
8 CHURCH OF THE DIOCESE OF GALLUP,
9 an Arizona corporation sole.

Case No. 13-13677-t11

10 This pleading applies to:



All Debtors.



Specified Debtor.

12 DECLARATION OF ROBERT E. PASTOR IN SUPPORT OF MOTIONS FOR RELIEF
13 FROM THE AUTOMATIC STAY

14 I, Robert E. Pastor, hereby declare:

15 1. I am counsel of record for the plaintiffs in *Moya v. The Roman Catholic Church of the*
16 *Diocese of Gallup, et al.*, Case no. CV2010-00713, Superior Court of the State of Arizona (Coconino
17 County); *Jane L.S. Doe v. The Roman Catholic Church of the Diocese of Gallup, et al.*, Case no.
18 CV2015-00277) and *John M. H. Doe v. The Roman Catholic Church of the Diocese of Gallup, et al.*,
19 Case no. CV2013-00361), Superior Court of the State of Arizona (Coconino County) (the “Gallup
20 Actions”). In addition to these plaintiffs, I represent 17 survivors of clergy sexual abuse who filed
21 proofs of claim in the above-captioned chapter 11 cases.

22 I am a partner at the law firm of Montoya, Jimenez & Pastor, P.A. We focus our practice
23 representing individuals and families who have been injured by the intentional and negligent acts of
24 others. I earned a Bachelor of Arts degree in Psychology from Boston College in May 1997. I
25 earned my Juris Doctor degree from Arizona State University in May 2002. I was admitted to the
26 State Bar of Arizona in October 2002. I served as a Deputy Maricopa County Attorney from
27 November 2002 through September 2005. Some of the criminal cases I prosecuted included multi-
28 defendant drug sales, car-theft rings, kidnapping, stabbings, and armed robberies. I eventually

1 moved into a specialized crime unit where I prosecuted child abuse crimes. In September 2005, I
2 joined a plaintiff's personal injury law firm. I became a shareholder partner in that firm. During
3 my career I represented individuals in lawsuits involving medical negligence, crashworthiness, tire
4 tread-belt separation, motor vehicle collisions, sexual abuse, insurance coverage and insurance bad
5 faith cases. In the area of sexual abuse, I have prosecuted civil claims against a variety of entities
6 who have a duty to protect others from sexual abuse or who could have prevented the sexual abuse
7 from occurring. Those entities include, but are not limited to, the Roman Catholic Church of the
8 Diocese of Phoenix, The Roman Catholic Church of the Diocese of Tucson, Child Protective
9 Services, group homes, youth-sports organizations, homeowners, private schools, public schools,
10 after-school-care programs, law enforcement, summer youth camps, and county probation
11 departments. Throughout my career, I have focused my practice on litigation and trial practice. In
12 my career, I have tried more than 40 jury trials to verdict.

13 I attended the Court-ordered mediation on June 15, 2105 on behalf of my clients, three of
14 whom are members of the Official Committee of Unsecured Creditors. I have personal knowledge
15 of the facts set forth herein and can competently testify thereto.

16 2. The following summarizes the prepetition status of the Gallup Actions:

17 a. *Moya v. The Roman Catholic Church of the Diocese of Gallup, et al.*, Case no.
18 CV2010-00713, Superior Court of the State of Arizona (Coconino County). Mr. Moya is a survivor
19 of abuse by Fr. Clement Hageman (deceased). The Debtor admits that Hageman is a credibly
20 accused abuser. Hageman is the named perpetrator in 18 of the 57 abuse claims filed in the
21 bankruptcy case and the abuser who may expose the Diocese of Corpus Christi to claims by the
22 Debtor for contribution and indemnity. To the best of my knowledge, the Debtor does not have
23 liability insurance for Hageman claims. Of all the prepetition abuse suits, Mr. Moya's suit is the
24 closest to being ready for trial. The remaining discovery is the Debtor's independent medical exam
25 of Mr. Moya (which had been scheduled prior to the bankruptcy), Moya's deposition of the
26 examining physician and the deposition of Mr. Moya's expert psychologist. One of the witnesses is
27 the survivor who filed abuse claim no. 39. A jury, in effect, will hear two abuse stories in one trial.
28

1 Upon completing this discovery, the case is ready for trial.¹ A true and correct copy of Mr. Moya's
2 filed proof of claim and the Superior Court complaint are attached as Exhibits 1 and 2, respectively.

3 b. *Jane L.S. Doe v. The Roman Catholic Church of the Diocese of Gallup, et al.*, Case
4 no. CV2015-00277), Superior Court of the State of Arizona (Coconino County): Ms. Doe is a
5 survivor of abuse by Br. Mark Schornack (deceased), a member of the Franciscans. Schornack is the
6 named perpetrator in two of the abuse claims filed in the bankruptcy case. I believe that Schornack
7 is a "credibly accused" abuser as that term is used by Catholic bishops. Ms. Doe's suit is against the
8 Debtor and the Franciscans, one of 5 claims filed in the bankruptcy cases that implicate the
9 Franciscans. I believe that the Debtor has insurance coverage for this claim from Catholic Mutual
10 and the NMGF and that the Franciscans have liability insurance for this claim and one other claim
11 for abuse by Schornack. Prior to the mediation, Ms. Doe was deposed by defense counsel for the
12 Debtor (under Catholic Mutual's defense obligations), and the Franciscans for approximately five
13 (5) hours.² I am informed by counsel for the Official Committee of Unsecured Creditors that the
14 Franciscans have disclosed Brother Schornack's priest file but refuse to disclose that file to the
15 general public. No other discovery has been conducted by the defendants. A true and correct copy
16 of Jane Doe's filed proof of claim and her Superior Court complaint are attached as Exhibits 3 and 4,
17 respectively.

18 c. *John M. H. Doe v. The Roman Catholic Church of the Diocese of Gallup, et al.*, Case
19 no. CV2013-00361), Superior Court of the State of Arizona (Coconino County): Mr. Doe is a
20 survivor of abuse by Fr. Raul Sanchez, a former Chancellor of the Diocese of Gallup and a fugitive
21 in Mexico. The Debtor admits that Sanchez is a credibly accused abuser. He is the named abuser in
22 2 of the abuse claims filed in the bankruptcy case. The Committee believes that the Debtor has
23 insurance coverage for this claim from NMGF. NMGF had the opportunity to depose Mr. Doe prior
24 to the mediation but did not do so. Mr. Doe is prepared to disclose an expert report from forensic
25 psychologist Daniel Brown, Ph.D. if and when the state court litigation resumes. Witnesses in the
26 underlying state court case will also include a whistle blower who alerted the diocese that Father

27
28 ¹ Mr. Moya's outstanding discovery request regarding the Debtor's financial condition, related to a claim for punitive damages, may be moot in light of the subordination of punitive damage claims for "best interest test" purposes.

² These parties also deposed the other Schornack survivor prior to the mediation.

1 Sanchez was engaged in clergy sexual misconduct. A true and correct copy of John Doe's filed
2 proof of claim and the Superior Court complaint are attached as Exhibits 5 and 6, respectively.

3 3. The Debtor, Committee, Catholic Mutual, NMGF, St. Bonaventure Indian School and
4 Mission, representatives of certain parishes, the Franciscans and other parties failed to reach a
5 mediated settlement of this case. I believe that the mediation failed because the Debtor and its
6 insurance carriers, despite sworn depositions of individual Survivors, did not conduct a fair,
7 independent, and reasonable claims evaluation.

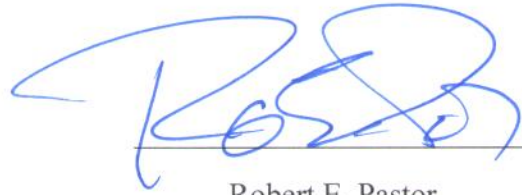
8 4. The Committee worked closely with me and other state court counsel representing
9 childhood sex abuse survivors to value the filed proofs of claims of represented and *pro se* survivors.

10 5. To insure the Debtor, its insurance carriers and the Franciscans had the information
11 needed to conduct a fair and reasonable evaluation of the claims, I and the other state court counsel
12 representing Survivors with filed proofs of claim made themselves and their respective clients
13 available for questioning before mediation. I am informed and believe that Catholic Mutual
14 completed interviews and depositions of all of the survivors with claims within its policy periods and
15 the Franciscans deposed two of my clients whose claims are covered by their insurance. I am also
16 informed and believe that the Debtor provided documents regarding abuse claims to Catholic Mutual
17 and NMGF.

18 6. All of the claims against Debtor arise out of Arizona state law. The Gallup Actions
19 were filed in Coconino County and included jury trial demands. The Debtor is defended in the
20 Gallup Actions by firms other than its reorganization counsel.

21 7. Claimant 54's case is assigned to Presiding Judge Mark Moran of the Coconino
22 County Superior Court, who could consolidate the Gallup Actions for pretrial proceedings to ensure
23 there is uniformity in all pretrial proceedings. The Gallup Action plaintiffs agree that they will file
24 a motion to consolidate pretrial proceedings if this Court makes that a condition of stay relief. The
25 stay relief the Gallup Action plaintiffs seek is limited to the entry of a judgment, if any, and does not
26 include collection actions against the Debtor or its insurers.

1 I declare under penalty of perjury that the foregoing is true and correct. Executed this 8th
2 day of July 2015.

A handwritten signature in blue ink, appearing to read 'R. Pastor', is written over a horizontal line.

Robert E. Pastor