

**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>Debtor.</p> <hr/>	<p>Chapter 11</p> <p>Case No. 13-13676-t11</p> <p><b>Jointly Administered with:</b></p>
<p>Jointly Administered with:</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><input checked="" type="checkbox"/> All Debtors. <input type="checkbox"/> Specified Debtor.</p>	<p>Case No. 13-13677-t11</p>

**MOTION FOR RELIEF FROM AUTOMATIC STAY UNDER 11 USC §362**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COME NOW, Movants, who are Claimants 10, 11, 12, 13, 14, 15, 16, 18, 19, 22, 23, 24, 25, 26 and 28<sup>1</sup> in this bankruptcy, and seek an order from this Honorable Court granting them relief from the automatic stay so that they may pursue their tort claims against the Roman Catholic Church of the Diocese of Gallup, a New Mexico corporation sole, and Bishop of the Roman Catholic Church of the Diocese of Gallup, an Arizona corporation sole (collectively “Debtor”) only to the extent of the liability insurance proceeds. In support thereof, Claimants would show

---

<sup>1</sup> Movants in this matter are individuals who have tort claims for the sexual abuse they suffered due to Debtor’s negligence. Because of the sensitive nature of the claims, the Court has protected the identity of the movants from public disclosure. Therefore, Movants are identified herein by their proof of claim number, only.

unto the Court as follows:

1. Movants each were sexually abused by Debtor's priests at either the Madre De Dios and/or St. Joseph parishes in Winslow, Arizona, when they were children. Movants' claims are currently unliquidated.

2. The claims against Debtor by Claimants 11, 13, 14, 18, 19, 22, 24, 25, 26 and 28 are covered by one or more policies of insurance issued by The Catholic Mutual Relief Society of America and/or The Catholic Relief Insurance Company of America (collectively "Catholic Mutual"). The claims against Debtor by Claimants 10, 12, 15, 16, 18, 19, 23, and 25 are covered by one or more policies of insurance that are the liability of the New Mexico Property and Casualty Insurance Guaranty Fund ("NMGF").<sup>2</sup> Claimants 18, 19, and 25 have claims that may be covered by policies issued by more than one insurance company.

3. Movants notified Debtor of their claims in 2013. In an attempt to resolve the claims without the necessity of litigation, at Debtor's request, some of the Movants presented for interrogation by Debtor's counsel so that Debtor and its insurers could evaluate the claims. Shortly thereafter, and before any constructive settlement discussions were engaged, Debtor filed its petition for bankruptcy relief under Chapter 11 on November 12, 2013. Movants' claims were automatically stayed and have been stalled in this bankruptcy proceeding since then. The remaining Movants who had claims covered by Catholic Mutual were interrogated by Catholic Mutual counsel during the stay.

4. No trustee has been appointed.

5. Movants are prepared to file one or more lawsuits in courts of proper jurisdiction

---

<sup>2</sup> Home Insurance Company issued policies that would cover these claims. Home Insurance Company is insolvent. NMGF is the statutory successor to the insolvent insurer.

against the Debtor for the damages they have suffered as a result of the clergy sexual child abuse they have suffered. Because the abusive priests abused multiple Movants<sup>3</sup>, it is most likely that the lawsuits filed will combine the claims relating to each abuser, which would be an efficient way to adjudicate the claims.

6. Movants, as a condition of the requested modification to lift the automatic stay, agree to limit the extent of their recovery against Debtor to the funds available under any and all insurance policies (and any successor indemnitors), which may provide coverage for Debtor's adjudicated liability.

7. Movants seek authority from this Court, to the extent it may be necessary under 11 U.S.C. § 362, to proceed with the litigation to judgment to liquidate Claimants' claims against Debtor. Movants also seek authority, to the extent it may be necessary, to execute, levy, and collect upon such judgment as may be obtained by Claimants from Debtor's insurance carrier or carriers (and any successor indemnitors), only.

8. There is a minimal burden imposed upon the bankruptcy estate where a liability insurer is providing the defense in a personal injury action, as is the case here. The hardship imposed on Movants by preventing them from seeking compensation for severe personal injuries, should they be precluded from pursuing their claims, greatly outweighs the minimal interest of the bankruptcy estate in avoiding the inconvenience of involvement in litigation. Movants assert that lifting the automatic stay to permit the litigation of their claims poses no great prejudice to the bankruptcy estate, given that the cost of defense would be covered by the insurers and Movants' recovery would be limited to the proceeds of the insurance policies (and any successor

---

<sup>3</sup> Fr. James Burns sexually abused Claimants 11, 13, 14 and 24; Fr. John Boland abused Claimants 18, 19, 22, 25, 26 and 28; and, Fr. Clement Hageman sexually abused Claimants 10, 12, 15, 16, 19 and 23.

indemnitors).

9. Movants respectfully request relief from the automatic stay pursuant to 11 U.S.C.A. § 362(d)(1) because their recovery is limited to debtor's insurance coverage (and any successor indemnitor proceeds) and they will be substantially prejudiced if they are not permitted to prosecute their claims against Debtor.

WHEREFORE, PREMISES CONSIDERED, Claimants 10, 11, 12, 13, 14, 15, 16, 18, 19, 22, 23, 24, 25, 26 and 28 respectfully pray for an order modifying the Automatic Stay to permit them to proceed to judgment in the one or more lawsuits yet to be styled and numbered, and to execute, levy, and collect upon such judgment as be obtained by Claimants to the extent of the proceeds available under policies of insurance which provide coverage in such matters (and any successor indemnitor), and for any and all other such relief to which the Court finds Claimants are justly entitled.

Respectfully submitted,

**PERDUE & KIDD**



By: \_\_\_\_\_

Donald H. Kidd  
State Bar of Texas No. 11383100  
Richard T. Fass  
State Bar of Texas No. 06849400  
510 Bering Drive, Suite 550  
Houston, Texas 77057  
Tel: (713) 520-2500  
Fax: (713) 520-2525  
[dkidd@perdueandkidd.com](mailto:dkidd@perdueandkidd.com)  
[rfass@perdueandkidd.com](mailto:rfass@perdueandkidd.com)

ATTORNEYS FOR MOVANTS

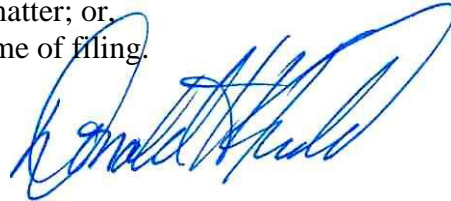
**NOTICE OF OPPORTUNITY FOR HEARING**

**NO HEARING WILL BE CONDUCTED ON THIS MOTION FOR RELIEF UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FIFTEEN (15) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH REQUESTS FOR HEARING. IF NO RESPONSE IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. THE COURT RESERVES THE RIGHT TO SET ANY MATTER FOR HEARING.**

**CERTIFICATE OF CONFERENCE**

I do hereby certify that I, Donald H. Kidd, Attorney for Movants, conferred with Susan Boswell, attorney for Debtor about the substance of this motion and she indicated that she:

- 1. was in agreement with said motion and did not oppose the relief requested;
- 2. was opposed to the motion and the relief requested;
- 3. could not be reached for comment on this matter; or,
- 4. could not take a position on the matter at time of filing.

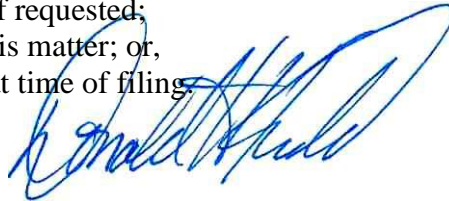


\_\_\_\_\_  
DONALD H. KIDD

**CERTIFICATE OF CONFERENCE**

I do hereby certify that I, Donald H. Kidd, Attorney for Movants, conferred with David Spector, attorney for Catholic Mutual, about the substance of this motion and he indicated that he:

- 1. was in agreement with said motion and did not oppose the relief requested;
- 2. was opposed to the motion and the relief requested;
- 3. could not be reached for comment on this matter; or,
- 4. could not take a position on the matter at time of filing.

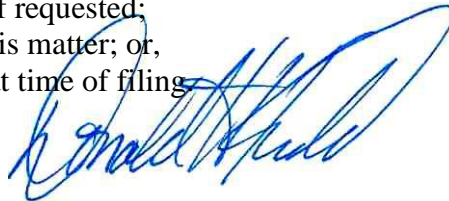


\_\_\_\_\_  
DONALD H. KIDD

**CERTIFICATE OF CONFERENCE**

I do hereby certify that I, Donald H. Kidd, Attorney for Movants, conferred with James Stang and/or Ilan Sharf, attorneys for the Unsecured Creditor’s Committee, about the substance of this motion and were told that the committee:

- 1. in agreement with said motion and did not oppose the relief requested;
- 2. was opposed to the motion and the relief requested;
- 3. could not be reached for comment on this matter; or,
- 4. could not take a position on the matter at time of filing.



\_\_\_\_\_  
DONALD H. KIDD

**CERTIFICATE OF CONFERENCE**

I do hereby certify that I, Donald H. Kidd, Attorney for Movants, conferred with Ed Mazel, attorney for the New Mexico Property and Casualty Insurance Guaranty Fund, about the substance of this motion and he indicated that he:

- 1. was in agreement with said motion and did not oppose the relief requested;
- 2. was opposed to the motion and the relief requested;
- 3. could not be reached for comment on this matter; or,
- 4. could not take a position on the matter at time of filing.

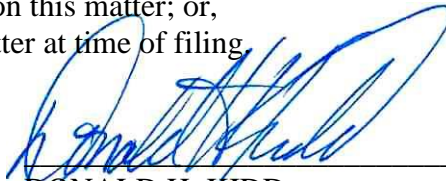


\_\_\_\_\_  
DONALD H. KIDD

**CERTIFICATE OF CONFERENCE**

I do hereby certify that I, Donald H. Kidd, Attorney for Movants, conferred with John Manly and/or Robert Pastor, attorneys for various other claimants, about the substance of this motion and they indicated that they:

- 1. were in agreement with said motion and did not oppose the relief requested;
- 2. were opposed to the motion and the relief requested;
- 3. could not be reached for comment on this matter; or,
- 4. could not take a position on the matter at time of filing.



\_\_\_\_\_  
DONALD H. KIDD

## CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing has been served by PACER, facsimile, email and/or Regular Mail to the following on this 23rd day of October, 2015.

Ronald E. Andazola  
Leonard Martinez-Metzgar  
Office of the U.S. Trustee  
P.O. Box 608  
Albuquerque, NM 87103  
[Ustpregion20.aq.ecf@usdoj.gov](mailto:Ustpregion20.aq.ecf@usdoj.gov)  
[Ronald.Andazola@usdoj.gov](mailto:Ronald.Andazola@usdoj.gov)  
[Leonard.martinez-metzgar@usdoj.gov](mailto:Leonard.martinez-metzgar@usdoj.gov)

Susan G. Boswell  
Lori L. Winkelman  
Elizabeth S. Fella  
Quarles & Brady LLP  
One S. Church Ave., Suite 1700  
Tucson, AZ 85701  
[Susan.boswell@quarles.com](mailto:Susan.boswell@quarles.com)  
[Lori.winkelman@quarles.com](mailto:Lori.winkelman@quarles.com)  
[Elizabeth.fella@quarles.com](mailto:Elizabeth.fella@quarles.com)  
*Counsel for Debtor*

Thomas D. Walker  
Stephanie L. Schaeffer  
Walker & Associates, PC  
500 Marquette N.W., Suite 650  
Albuquerque, NM 87102  
[twalker@walkerlawpc.com](mailto:twalker@walkerlawpc.com)  
[sschaeffer@walkerlawpc.com](mailto:sschaeffer@walkerlawpc.com)  
*Local Counsel for Debtor and Debtor-in-Possession*

Rodney L. Schlagel  
James H. Johansen  
Butt Thornton & Baehr, P.C.  
P.O. Box 3170  
Albuquerque, NM 87190  
[rlschlagel@btblaw.com](mailto:rlschlagel@btblaw.com)  
[jhjohansen@btblaw.com](mailto:jhjohansen@btblaw.com)  
*Counsel for the Roman Catholic Diocese Of Corpus Christi*

Alyson M. Fiedler  
Schiff Hardin LLP  
666 Fifth Avenue, 17<sup>th</sup> Floor  
New York, NY 10103  
[afiedler@schiffhardin.com](mailto:afiedler@schiffhardin.com)  
[ldelucia@schiffhardin.com](mailto:ldelucia@schiffhardin.com)  
*Counsel for Catholic Mutual Relief Society*

Kenneth H. Brown  
Pachulski Stang Ziehl & Jones  
150 California Street, 15<sup>th</sup> Floor  
San Francisco, CA 94111  
[Kbrown@pszjlaw.com](mailto:Kbrown@pszjlaw.com)  
*Counsel for the Official Committee Of Unsecured Creditors*

Francis H. LoCoco  
Bruce G. Arnold  
Whyte Hirschbeck Dudek S.C.  
555 E. Wells St., Suite 1900  
Milwaukee, WI 53202  
[flococo@whdlaw.com](mailto:flococo@whdlaw.com)  
[barnold@whdlaw.com](mailto:barnold@whdlaw.com)  
*Counsel for Roman Catholic Diocese Of Corpus Christi*



Dennis Jontz  
Lewis Roca Rothgerber  
201 Third Street, NW, Suite 190  
Albuquerque, NM 87102  
[djontz@lrrlaw.com](mailto:djontz@lrrlaw.com)  
*Local Counsel for Catholic Peoples  
Foundation and Parish Steering Committee  
Of Roman Catholic Church of the Diocese  
of Gallup*

Randy S. Bartell  
Victor R. Ortega  
Sharon T. Shaheen  
Montgomery & Andrews, P.A.  
P.O. Box 2307  
Santa Fe, NM 87504  
[rbartell@montand.com](mailto:rbartell@montand.com)  
[vortega@montand.com](mailto:vortega@montand.com)  
[sshaheen@montand.com](mailto:sshaheen@montand.com)  
*Counsel for Catholic Mutual Relief Society  
of America*

Edward A. Mazel  
James A. Askew  
Daniel A. White  
Askew & Mazel, LLC  
320 Gold Ave. SW. Suite 300A  
Albuquerque, NM 87102  
[edmazel@askewmazelfirm.com](mailto:edmazel@askewmazelfirm.com)  
[jaskew@askewmazelfirm.com](mailto:jaskew@askewmazelfirm.com)  
[dwhite@askewmazelfirm.com](mailto:dwhite@askewmazelfirm.com)  
*Counsel for New Mexico Property &  
Casualty Insurance Guaranty Association*

Charles R. Hughson  
Rodey, Dickason, Sloan, Akin & Robb, P.A.  
P.O. Box 1888  
Albuquerque, NM 87103  
[chughson@rodey.com](mailto:chughson@rodey.com)  
*Counsel for St. Bonaventure Indian  
Mission & School*

James I. Stang  
Gillian N. Brown  
Jonathan J. Kim  
Ilan Sharf  
Pachulski Stang Ziehl & Jones  
10100 Santa Monica Blvd., 13<sup>th</sup> Floor  
Los Angeles, CA 90067  
[jstang@pszjlaw.com](mailto:jstang@pszjlaw.com)  
[gbrown@pszjlaw.com](mailto:gbrown@pszjlaw.com)  
[jkim@pszjlaw.com](mailto:jkim@pszjlaw.com)  
*Counsel for Official Committee of  
Unsecured Creditors*

Douglas R. Vadnais  
Modrall, Sperling, Roehl,  
Harris & Sisk, P.A.  
P.O. Box 2168  
Albuquerque, NM 87103  
[drv@modrall.com](mailto:drv@modrall.com)  
*Counsel for The Bank of Colorado  
d/b/a Pinnacle Bank*

Robert M. Charles, Jr.  
Susan M. Freeman  
Justin J. Henderson  
Lewis Roca Rothgerber LLP  
201 E. Washington St., Suite 1200  
Phoenix, AZ 85004  
[rcharles@lrrlaw.com](mailto:rcharles@lrrlaw.com)  
[sfreeman@lrrlaw.com](mailto:sfreeman@lrrlaw.com)  
[jhenderson@lrrlaw.com](mailto:jhenderson@lrrlaw.com)  
*Counsel for Catholic Peoples Foundation  
and Parish Steering Committee of Roman  
Catholic Church of the Diocese of Gallup*

John Manly  
Manly, Stewart & Finaldy  
19100 Von Karman Ave., Suite 800  
Irvine, CA 92612  
[jmanly@manlystewart.com](mailto:jmanly@manlystewart.com)  
*Counsel for Tort Claimants*

Robert E. Pastor  
Montoya, Jimenez & Pastor, P.A.  
3200 N. Central Ave., Suite 2550  
Phoenix, AZ 85012  
[repastor@mjpattorneys.com](mailto:repastor@mjpattorneys.com)  
*Counsel for Tort Claimants*

George M. Moore  
Bonnie B. Gandarilla  
Moore Berkson & Gandarilla P.C.  
3800 Osuna Rd., NE, Suite 2  
Albuquerque, NM 87109  
[mbglaw@swcp.com](mailto:mbglaw@swcp.com)  
[bbg1lusc@swcp.com](mailto:bbg1lusc@swcp.com)  
*Local Counsel for Southwest  
Indian Foundation, Inc.*

Steven D. Jerome  
Snell & Wilmer, LLP  
One Arizona Center  
400 E. Van Buren St., Suite 1900  
Phoenix, AZ 85004  
[sjerome@swlaw.com](mailto:sjerome@swlaw.com)  
*Counsel for The Roman Catholic  
Church of the Diocese of Phoenix*

David Spector  
Everett Cygal  
Schiff Hardin LLP  
233 S. Wacker Dr., Suite 660  
Chicago, IL 60606  
[dspector@schiffhardin.com](mailto:dspector@schiffhardin.com)  
[ecygal@schiffhardin.com](mailto:ecygal@schiffhardin.com)  
*Counsel for Catholic Mutual Relief Society*

Timothy J. Hurley  
Theresa H. Vella  
Taft Stettinius & Hollister LLP  
425 Walnut Street, Suite 1800  
Cincinnati, OH 45202  
[hurley@taftlaw.com](mailto:hurley@taftlaw.com)  
[vella@taftlaw.com](mailto:vella@taftlaw.com)  
*Counsel for the Province of St. John  
The Baptist of the Order of Friars Minor*

John C. Kelly  
Coopersmith Brockelman PLLC  
2800 N. Central Ave., Suite 1200  
Phoenix, AZ 85004  
[jkelly@csblaw.com](mailto:jkelly@csblaw.com)  
*Counsel for The Providence of Our Lady  
Of Guadalupe of the Order of  
Friars Minor*

Michael Murphy  
Young Kim  
AlixPartners, LLP  
580 California Street  
San Francisco, CA 94104  
[mmurphy@alixpartners.com](mailto:mmurphy@alixpartners.com)  
[ykim@alixpartners.com](mailto:ykim@alixpartners.com)  
*Unknown Claims Representative*

Christopher R. Kaup  
J. Daryl Dorsey  
Tiffany & Bosco  
Camelback Esplanade II  
2525 E. Camelback Rd., Suite 300  
Phoenix, AZ 85016  
[CRK@tblaw.com](mailto:CRK@tblaw.com)  
[jdd@tblaw.com](mailto:jdd@tblaw.com)  
*Counsel for Southwest Indian Foundation,  
Inc.*

VIA U.S. MAIL:  
Michael Bazley  
FBN 2237467  
650 I Street  
Sacramento, CA 9581