

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF VERMONT**

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In re:

Roman Catholic Diocese of Burlington,  
Vermont,<sup>1</sup>

Case No.: 24-10205-HZC  
Chapter 11 Case

Debtor.

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**EMERGENCY MOTION AND MEMORANDUM FOR ORDER AUTHORIZING THE  
DIOCESE TO FILE PORTIONS OF SCHEDULE F, THE STATEMENT OF  
FINANCIAL AFFAIRS, THE MASTER MAILING LIST, AND OTHER PLEADINGS  
AND DOCUMENTS UNDER SEAL**

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The Roman Catholic Diocese of Burlington, Vermont (the “Diocese”) requests that this Court enter an order authorizing the Diocese to file under seal portions of Schedule F, portions of the Statement of Financial Affairs (the “SOFA”), the Master Mailing List, and other pleadings and documents that identify information of individuals (“Survivors”) who have, either informally, formally, or through a lawsuit, notified the Diocese that they were sexually abused by clergy members or other persons employed by Catholic entities and have, could have, or might assert claims against the Diocese arising out of such abuse (“Sexual Abuse Claims”), all as more fully described in this motion (the “Motion”). As the relief sought in this Motion seeks to protect the privacy of the Survivors, the Court should grant the Motion.

The Diocese conferred with the Office of the United States Trustee (the “UST”) prior to filing this Motion.

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<sup>1</sup> In accordance with Fed. R. Bankr. P. 2002(n) and 1005 and 11 U.S.C. § 342(c), as applicable, the Diocese’s address is 55 Joy Drive, South Burlington, Vermont 05403, and its Employer Identification Number (EIN) is 03-0180730.

**JURISDICTION, VENUE, AND STATUTORY BASIS FOR RELIEF**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and Rule 5005 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The petition commencing this Chapter 11 case was filed on September 30, 2024 (the “Petition Date”). The case is currently pending before this Court.

3. This Motion arises under 11 U.S.C. §§ 105 and 107, Bankruptcy Rule 9018, and Local Rule 9018-1. This Motion is filed under Bankruptcy Rules 9013 and 9014 and Local Rules 9013-1 to -6 and 9014-1. Emergency relief is requested pursuant to Bankruptcy Rule 9006(c) and Local Rule 9075-1. Notice of this Motion is provided pursuant to Bankruptcy Rule 2002 and Local Rules 9013-3 and 9013-4.

**BACKGROUND<sup>2</sup>**

4. On the Petition Date, the Diocese filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). The Diocese continues to operate its business as debtor in possession pursuant to 11 U.S.C. §§ 1107(a) and 1108. There is presently no pending request or motion for appointment of a trustee or examiner, and no official committee of unsecured creditors has been appointed.

5. The Diocese is a Catholic Diocese serving the entire State of Vermont. Further background information regarding the Diocese may be found in the Affidavit of Bishop John J. McDermott in Support of Initial Pleadings and Pursuant to Local Rule 1007-1 (the “McDermott Affidavit”).

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<sup>2</sup> The facts contained in this Motion are verified in the McDermott Affidavit.

6. The majority of creditors in this chapter 11 case are Survivors asserting Sexual Abuse Claims and many of the Survivors have chosen to keep their identities private. Several of the Survivors that filed suit against the Diocese prior to the Petition Date did so using pseudonyms. The Diocese expects that other Survivors will also intend to remain anonymous.

**RELIEF REQUESTED**

7. Certain pleadings filed in this case necessarily require the Diocese or other parties in interest to disclose the names of Survivors and the nature of their Sexual Abuse Claims, including, without limitation, Schedule F, Part 3 of the SOFA, and the Master Mailing List.

8. Many of the Survivors that commenced lawsuits against the Diocese or otherwise asserted Sexual Abuse Claims against the Diocese have done so publicly only under pseudonyms or have disclosed their identities to the Diocese with the expectation that the Diocese would hold their identities in confidence.

9. The Diocese wishes to keep the identities of the Survivors private. The Survivors should not be forced to make their identities public in order to participate in this case. Additionally, the Diocese does not want to discourage any Survivor from presenting his or her claims due to fear of public disclosure.

10. The Diocese has no objection if certain Survivors decide to make their identities public; however, the Diocese believes that decision should be left to each individual Survivor and should not be forced upon them due to this case.

11. The Diocese also proposes that the Survivors who are represented by counsel be provided notice through their respective counsel and that such service be sufficient for notice requirements under applicable sections of the Bankruptcy Code and Bankruptcy Rule.

12. For Survivors who have not retained counsel or otherwise identified their counsel to the Diocese, the Diocese proposes that the Court authorize the Diocese to serve notice of the commencement of this case and any other pleadings required to be served on the unrepresented Survivors, but with the names and addresses of those Survivors not disclosed to any other party.

13. Accordingly, the Diocese respectfully requests that the Court enter an order permitting the Diocese:

a. To file those portions of Schedule F, the SOFA, the Master Mailing List, certificates of service, and any other pleadings that would otherwise disclose the identities of the Survivors under seal;

b. To file on the Court's public docket redacted copies of those portions of Schedule F, the SOFA, the Master Mailing List, certificates of service, and any other pleadings that would otherwise disclose the identities of the Survivors with such information regarding the identities redacted;

c. To schedule Survivors on Schedule F, in the SOFA, on the Master Mailing List, and on certificate of service who are represented by counsel by and through such counsel;

d. To provide copies of any sealed pleadings to the UST as necessary and required by the applicable provisions of the Bankruptcy Code;

e. To provide copies of any sealed pleadings to counsel for any committee formed pursuant to 11 U.S.C. § 1102, but only after such counsel and the Diocese agree on terms to maintain confidentiality of the sealed information;

**BASIS FOR RELIEF**

**I. THE COURT HAS THE AUTHORITY TO PROTECT THE SURVIVORS FROM DISCLOSURE OF THEIR IDENTITIES.**

14. Bankruptcy courts have been given the express power to issue orders that will protect entities and individuals from potential harm that may result from disclosure of potentially harmful information. Section 107 of the Bankruptcy Code provides in relevant part:

(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may—

(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or

(2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title.

11 U.S.C § 107(b).

15. Section 107(b) of the Bankruptcy Code works in tandem with Bankruptcy Rule 9018, which provides in relevant part:

On motion or on its own initiative, with or without notice, the court may make any order which justice requires ... to protect any entity against scandalous or defamatory matter contained in any paper filed in a case under the Code[.]

Fed. R. Bankr. P. 9018.

16. Courts considering requests for similar relief have held that the term “scandalous” under §107(b) is construed in accord with its ordinary usage. *In re Roman Cath. Archbishop of Portland in Oregon*, 661 F.3d 417, 432 (9th Cir. 2011). Thus, material is scandalous “if it [is] disgraceful, offensive, shameful and the like.” *Id.* at 433.

17. Bankruptcy courts also have been given the express power to limit the public's access to the lists of creditors that are filed with the court. Bankruptcy Rule 1007 provides in relevant part:

(j) Impounding of lists. On motion of a party in interest and for cause shown the court may direct the impounding of the lists filed under this rule, and may refuse to permit inspection by any entity. The court may permit inspection or use of the lists, however, by any party in interest on terms prescribed by the court.

Fed. R. Bankr. P. 1007.

18. Finally, Local Rule 9018-1 authorizes the Court to order a “case, proceeding, document, or ex parte motion [to] be made inaccessible to the public . . . or otherwise have access restricted.” Local Rule 9018-1(d) defines a document as “highly sensitive” if “(a) it contains classified information or information that could harm national security or (b) its disclosure could reasonably be expected to cause exceptionally grave damage or injury to any person, entity, or institution.”

19. The identities of the Survivors clearly qualify for protection under Section 107 of the Bankruptcy Code and Bankruptcy Rule 9018 due to the potential scandalous or defamatory nature of the Sexual Abuse Claims.

20. Similarly, the Survivors are entitled to protection under Local Rule 9018-1, as the disclosure of the identities of the Survivors could reasonably be expected to cause exceptionally grave damage or injury to the Survivors.

21. Similar types of relief have been granted by other bankruptcy courts across the country. *See generally The Roman Catholic Diocese of Syracuse, New York*, No. 20-30663 (Bankr. N.D.N.Y. Jun. 24, 2020), ECF No. 24; *The Roman Catholic Church for the Archdiocese of New Orleans*, No. 20-10846 (Bankr. E.D. La. May 6, 2020), ECF No. 53; *In re The Archdiocese of Saint Paul and Minneapolis*, No. 15-30125 (Bankr. D. Minn. Jan. 21, 2015), ECF No. 53.

22. The Diocese acknowledges the previous rulings of this Court regarding 11 U.S.C. § 107 and the Court’s recognition of the presumption of public access to judicial records. *See In re Fibermark, Inc.*, 330 B.R. 480 (Bankr. D. Vt. 2005); *In re Hemple*, 295 B.R. 200 (Bankr. D. Vt.

2003). For the reasons set forth in this Motion, the Diocese contends that it satisfies its burden and appropriately demonstrated the type of circumstances when it is necessary and proper to make an exception to the general policy of public access, mainly under 11 U.S.C. § 107(b)(2).

**II. THE REQUESTED RELIEF DOES NOT NEGATIVELY IMPACT OTHER CONSTITUENTS.**

23. The relief sought by the Diocese is appropriately tailored to cause the least amount of restriction to achieve the necessary protection.

24. First, the Diocese will provide the names of the known Survivors to the UST in accordance with section 107(c)(3) of the Bankruptcy Code, which provides that the UST:

(A) shall have full access to all information contained in any paper filed or submitted in a case under this title; and

(B) shall not disclose information specifically protected by the court under this title.

11 U.S.C. § 107(c)(3).

25. Second, the Diocese proposes providing the actual names of the known Survivors to counsel for the committee of unsecured creditors (the “Committee”), subject to the confidentiality protocol the Diocese seeks to establish in a motion filed contemporaneously with this Motion.

26. As the Diocese will grant the UST and counsel for the Committee with the necessary access to the sealed information, any impact on the UST’s and the Committee’s ability to perform their respective roles in this case will be minimal.

**III. CAUSE EXISTS FOR EMERGENCY RELIEF.**

27. Local Rule 9075-1 permits the Court to “deem a matter an ‘emergency matter’ only if the movant demonstrates that the need for immediate relief is necessitated by circumstances

beyond the movant's control and that there is not sufficient time to give the notice required by the Code and the Bankruptcy Rules."

28. Here, the Diocese seeks an immediate order authorizing the Diocese to file portions of the schedules, portions of the SOFA, the Master Mailing List, and other pleadings that contain the identities of the Survivors under seal.

29. Bankruptcy Rule 1007(a)(1) requires a debtor to file the Master Mailing List with the petition. Fed. R. Bankr. P. 1007(a)(1); *see also generally* Local Rules 1002-1, 1007-3.

30. Bankruptcy Rule 1007(c) requires a debtor to file its schedules and SOFA with the petition or within 14 days after filing the petition. Fed. R. Bankr. P. 1007(c).

31. Due to the significant nature of protecting the privacy of the Survivors and the timing requirements for filing pleadings that would include such private information, there is a clear need for immediate relief that is outside the Diocese's control and insufficient time to provide the full notice period for the Motion.

#### **WAIVER OF STAY**

32. To the extent that the relief requested in this Motion constitutes a use of property of the Diocese's estate under 11 U.S.C. § 363(b), then the Diocese requests a waiver of the 14-day stay under Bankruptcy Rule 6004(h) and the notice requirements of Bankruptcy Rule 6004(a).

#### **NOTICE AND SERVICE**

33. Notice of this Motion and all related papers were served on the following parties on the date and manner set forth in the certificate of service related to this Motion: (a) the Office of the United States Trustee, (b) the Debtor's secured creditors or, if applicable, to counsel representing them, (c) the non-insider holders of the 20 largest unsecured claims against the Debtor or, if applicable, to counsel representing such holders, (d) applicable federal and state taxing



authorities, and (e) to the extent not included in the foregoing, the applicable state and federal regulatory agencies.

### **CONCLUSION**

34. The Diocese respectfully requests that this Court enter an order:
- a. Granting emergency relief;
  - b. Authorizing the Diocese to file portions of Schedule F, portions of the SOFA, and the Master Mailing List that disclose identifying information of Survivors under seal;
  - c. Authorizing the Diocese to provide certain notices to such Survivors as directed by the Court or the Clerk of the Court;
  - d. Authorizing the Diocese to provide copies of the sealed portions of any such pleadings, reports, or documents to the UST;
  - e. Authorizing the Diocese to provide copies of the sealed portions of any such pleadings, reports, or documents to counsel for any committee appointed under 11 U.S.C. § 1102 who has been retained pursuant to Court approval once agreements regarding confidentiality are reached; and
  - f. Granting the Diocese such other and further relief as the Court deems necessary and proper.

Dated: September 30, 2024

*/e/ Raymond J. Obuchowski*

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Raymond J. Obuchowski

**OBUCHOWSKI LAW OFFICE**

1542 Route 107, PO Box 60

Bethel, VT 05032

(802) 234-6244

ray@oeblaw.com

James L. Baillie (*pro hac vice application pending*)

Steven R. Kinsella (*pro hac vice application pending*)

Samuel M. Andre (*pro hac vice application pending*)

Katherine A. Nixon (*pro hac vice application pending*)

**FREDRIKSON & BYRON, P.A.**

60 South Sixth Street, Suite 1500

Minneapolis, MN 55402-4400

(612) 492-7000

jbaillie@fredlaw.com

skinsella@fredlaw.com

sandre@fredlaw.com

knixon@fredlaw.com

**PROPOSED ATTORNEYS FOR ROMAN  
CATHOLIC DIOCESE OF BURLINGTON,  
VERMONT**

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF VERMONT**

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In re:

Roman Catholic Diocese of Burlington,  
Vermont,

Case No.: 24-10205-HZC  
Chapter 11 Case

Debtor.

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**ORDER (I) GRANTING EMERGENCY RELIEF AND (II) AUTHORIZING THE  
DIOCESE TO FILE PORTIONS OF SCHEDULE F, THE STATEMENT OF  
FINANCIAL AFFAIRS, THE MASTER MAILING LIST, AND OTHER PLEADINGS  
AND DOCUMENTS UNDER SEAL**

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Upon the consideration of the Emergency Motion for Order Authorizing the Diocese to File Portions of Schedule F, the Statement of Financial Affairs, the Master Mailing List, and Other Pleadings and Documents under Seal (the “Motion”) filed by the Roman Catholic Diocese of Burlington, Vermont (the “Diocese”), and this Court having jurisdiction to enter this Order and finding that entry of this Order is in the best interest of the Diocese, its estate, and its creditors, and good cause having been demonstrated to this Court, it is hereby **ORDERED**, **ADJUDGED**, and **DECREED** as follows:

1. The Motion is **GRANTED** as set forth in this Order.
2. The Diocese’s request for emergency relief is granted.
3. The Diocese is authorized to file under seal those portion of schedule F, the statement of financial affairs (the “SOFA”), the Master Mailing Matrix, certificates of service, and other pleadings and documents that disclose identifying information of individuals (“Survivors”) who have, either informally, formally, or through a lawsuit, notified the Diocese that they were sexually abused by clergy members or other persons employed by the Diocese and have, could, or might assert claims against the Diocese arising out of such abuse.

4. The Diocese is authorized to file on the Court's public docket redacted copies of any pleadings filed under seal, provided that any identifying information is properly redacted.

5. The Diocese is authorized to identify, schedule, and notify Survivors who have advised the Diocese that they are represented by counsel by and through such counsel on all pleadings in this case, including, without limitation, Schedule F, the SOFA, the Mailing Matrix, and certificates of service.

6. The Clerk of Court shall not provide any notices to any Survivors whose information is filed under seal pursuant to this Order. The Diocese's counsel shall provide such notices, under Fed. R. Bankr. P. 2002(f) and otherwise, and file a certificate of service certifying that those individuals whose identifying information has been provided under seal have been served.

7. Pleadings required to be served on Survivors whose identifying information has been redacted from the Master Mailing Matrix by parties that do not have access to the sealed portion of the Master Mailing Matrix shall be served by the Diocese's counsel, provided that the moving party provides the Diocese's counsel with sufficient time to complete such service and further provided that the moving party shall be responsible for any fees and costs associated with such service.

8. The Diocese is authorized to provide copies of the sealed portions of any such pleadings, reports, or documents to the Office of the United States Trustee in accordance with 11 U.S.C. § 107(c)(3), as necessary and as requested by the Office of the United States Trustee.

9. The Diocese is authorized to provide copies of the sealed portions of any such pleadings, reports, or documents to court-approved counsel for any committee appointed under 11

U.S.C. § 1102, but only after confidentiality procedures are agreed upon between the Diocese and such counsel.

10. The Diocese's authorization to file the documents referenced in paragraph 3 of this Order under seal shall be carried out in accordance with the directions of the Clerk of Court.

11. Notwithstanding the provisions of Bankruptcy Rule 6004(h), this Order is deemed effective and immediately enforceable upon its entry.

Dated:  
Rutland, Vermont

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Honorable Heather Z. Cooper  
United States Bankruptcy Judge