

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No. 15-30125

The Archdiocese of Saint Paul and
Minneapolis,

Chapter 11

Debtor.

**NOTICE OF HEARING AND VERIFIED MOTION OF THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS
FOR AN ORDER (1) GRANTING EXPEDITED RELIEF
AND (2) APPROVING ADDITIONAL NOTICE PROCEDURES**

TO: All parties in interest as specified in Local Rule 9013-3:

1. The Committee of Unsecured Creditors (the "Committee"), through its undersigned attorneys, respectfully moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion on July 9, 2015 at 9:00 a.m., before the Honorable Robert J. Kressel in Courtroom 8 West, United States Courthouse, 300 South Fourth Street, Minneapolis, MN 55415.

3. Local Rule 9006-1(c) provides deadlines for responses to this motion. However, given the expedited nature of the relief sought, the Committee does not object to written responses being served and filed twenty-four (24) hours prior to the hearing.

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Rule 5005 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), and Local Rule 1070-1 for the United States Bankruptcy Court for the District of Minnesota ("Local Rules").

5. This motion arises under 11 U.S.C. §§ 105, 107, and 523, as well as Rules 2002 and 3002 of the Federal Rules of Bankruptcy Procedure.

6. Through this motion, the Committee seeks an order from this Court granting expedited relief and approving a procedure for providing additional notice to potential sexual abuse claimants as outlined below.

7. The debtor filed its voluntary petition on January 16, 2015, and has been operating as a debtor-in-possession since that time pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. One of the paramount goals of the debtor's bankruptcy case is the fair and equitable compensation of abuse claimants holding unresolved claims. *See* Rev. Lachowitz Aff. [ECF No. 22] ¶ 62.

8. On February 19, 2015, the Office of the United States Trustee appointed the Committee. The United States Trustee designated James Keenen as acting chairperson of the Committee. During its first scheduled meeting, the Committee formally elected Mr. Keenan as the chairperson and Mr. Keenan continues to serve in that role. On February 23, 2015, the Committee unanimously selected SLS to serve as its bankruptcy counsel. The Court approved the Committee's retention of SLS as its bankruptcy counsel by Order dated March 3, 2015 [ECF No. 136].

9. On April 1, 2015, the debtor moved this Court to create a deadline for filing proofs of claim. [ECF No. 161.] Based upon this motion, and over the objection of the Committee, the Court entered an Order establishing deadlines for filing proofs of claim on April 17, 2015 ("Claim Deadline Order") [ECF No. 188.]

10. After review of the proof of claim notice, and receiving reactions from various parties that had received the notice from the debtor, the Committee grew concerned regarding the

practical effectiveness of the formal, legal notices being published. Among other things, the Committee grew concerned that survivors of sexual abuse would either fail to understand the notices or that the notices would not compel survivors to come forward and file a claim.

11. After careful consideration, the Committee determined that a more personal, multi-media video presentation setting forth details of relevant deadline in layman's terms would greatly increase the likelihood of providing actual and effective notice to potential sexual abuse claimants. The Committee initially met on May 29, 2015 to discuss the details and logistics of creating a professional video to serve the purpose of reaching survivors who had not yet come forward to assert claims in the debtor's bankruptcy. The Committee immediately hired a professional media company and scheduled an aggressive timeline to shoot the video, allow time for edits and feedback, and ultimately present the video to counsel for both the debtor and parish committee.

12. After shooting and editing the video—and despite some technological difficulties as recent as last week—the Committee agreed on the form of video to be presented to counsel for both the debtor and parish committee. The entire process of shooting, editing, and finalizing the video took just over a month. The Committee expended significant time and effort to create this video on such a short timeline. The video presentation can be viewed online at <http://www.viddler.com/v/5ac05fe6?secret=73960781>. Additionally, a transcript of the video presentation is attached hereto as **Exhibit 1**, and the Committee will deliver a copy of the video on a DVD to any party that requests a copy from counsel for the Committee.

13. In advance of filing this motion, the Committee played the video presentation to counsel for both the debtor and the parish committee. The Committee further requested that the parties consent to the playing of the video as now requested in this motion. The attempt to work

cooperatively proved futile, however, likely as a result of “cooperation clauses” contained within the insurance coverage contracts held by the debtor and parishes defending clergy abuse-related claims. These “cooperation clauses” obligate the insured parties to limit the liability of the insurer to the maximum extent possible.

14. As part of this motion, the Committee requests expedited relief. The Committee worked diligently to file this motion to allow sufficient notice under Local Rule 9006-1(b), but the Committee encountered some technical difficulties that prevented the Committee from finalizing the video in time—the Committee wanted to ensure that it was presenting a message that would meet the goal of enhancing notice procedures. Granting this motion on an expedited basis is now necessary given the impending August 3, 2015 date for timely filing proofs of claim. The Committee discussed the possibility of moving the hearing date out by one week, but determined that such a timeline would be detrimental to Committee's goal as there are only four weekends left before August 3, 2015. Allowing potential sexual abuse survivors as much time as possible after viewing the video is of vital importance. The Committee members understand from personal experience the difficulty of coming forward to assert a claim and believe that the extra week of notice is crucial to this process. Thus, cause exists to grant expedited relief in connection with this motion. The Committee submits that it has complied with the service and notice requirements of Local Rule 9006-1(e).

15. The Committee requests entry of an Order requiring the debtor to (i) deliver a letter to every parish within the Archdiocese of Saint Paul and Minneapolis (a) requesting that the video be played in every parish in connection with each Mass service on July 11-12, 2015, and (b) requesting that the video (or the website address to the video referenced above) be posted

to each parish website¹; and (ii) post the video (or the website address to the video referenced above) on the debtor's website. The Committee believes that playing the presentation in parishes throughout the Archdiocese in connection with each weekend Mass service on July 11-12, 2015 and posting the video to the parishes' and debtor's websites will greatly enhance existing notice procedures as to the August 3, 2015 date for timely filing proofs of claim

16. With only a few weekends remaining until August 3, 2015, playing and posting the video as soon as possible is necessary to ensure that potential sexual abuse claimants have adequate notice and sufficient time to file a proof of claim by August 3, 2015.

WHEREFORE, the Committee requests entry of an Order granting expedited relief and approving the additional notice procedures requested by the Committee.

Dated: June 29, 2015

/e/ Robert T. Kugler

Robert T. Kugler (#194116)

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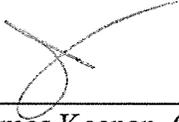
**COUNSEL FOR THE COMMITTEE OF
UNSECURED CREDITORS**

¹ The debtor has previously delivered letters to all 187 parishes requesting that they publish the claim filing notice in their monthly bulletins (*see Steffens Aff.* [ECF No. 257] at ¶ 10), so the procedure requested by the Committee is not a novel one in this case. The Committee only seeks to provide another, more targeted medium through which the August 3, 2015 date to timely file proofs of claim is conveyed.

VERIFICATION

I, James Keenan, Chair of the Official Committee of Unsecured Creditors, certify under penalty of perjury, that I have read the Notice of Hearing and Verified Motion of the Official Committee of Unsecured Creditors for an Order (1) Granting Expedited Relief and (2) Approving Additional Notice Procedures and accompanying Memorandum in Support of the Motion and the factual information contained therein is true and correct to the best of my knowledge, information and belief.

Dated: June 26, 2015



James Keenan, Chair of the Official
Committee of Unsecured Creditors

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No. 15-30125

The Archdiocese of Saint Paul and
Minneapolis,

Chapter 11

Debtor.

**MEMORANDUM IN SUPPORT OF THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS' VERIFIED MOTION FOR AN ORDER
(1) GRANTING EXPEDITED RELIEF AND (2) APPROVING
ADDITIONAL NOTICE PROCEDURES**

The Committee of Unsecured Creditors (the "Committee") of The Archdiocese of Saint Paul and Minneapolis (the "Archdiocese"), by and through its counsel, moves the Court for an Order approving additional procedures for notifying potential sexual abuse claimants of the August 3, 2015 date for timely filing claims.

INTRODUCTION

Sexual abuse claimants will hold the vast majority of claims in this case and it is critical that they be provided with adequate notice of the August 3, 2015 date for timely filing claims. The Committee is concerned that the formalistic legal notices being published may not provide actual and effective notice. The Committee has therefore prepared a personalized, multi-media video presentation directed toward potential sexual abuse claimants, and, if played in parishes within the Archdiocese of Saint Paul and Minneapolis in connection with weekend Mass services, and posted to the websites of the parishes and the debtor, the video will materially increase the likelihood that actual and effective notice is provided to potential sexual abuse claimants.

FACTUAL BACKGROUND

The factual basis for this memorandum is set forth in the motion and is incorporated as though fully set forth herein.

EXPEDITED RELIEF

Expedited relief is permitted upon a showing of cause. Bankruptcy Rule 9006(c). Cause exists for this motion given the impending August 3, 2015 date for timely filing proofs of claim. The Committee seeks an order that would require the debtor to deliver a written communication to all 187 parishes within the Archdiocese of Saint Paul and Minneapolis requesting that the Committee's video be played in connection with Mass services over the weekend of July 11-12, 2015. There is little time remaining before August 3, 2015, and the Committee wants to have the video played in the parishes as far in advance of August 3, 2015 as possible to allow potential sexual abuse claimants sufficient time to assert their claims.

The Committee attempted to reach a voluntary agreement with the debtor and parish committee regarding the relief it seeks, but those discussions were ultimately unsuccessful. The Committee also intended on filing this motion late last week, to allow standard notice under Local Rule 9006-1(b) but the Committee encountered unanticipated technical obstacles that prevented it from finalizing the video within that timeframe.

The Committee believes strongly that waiting another week to address the relief sought would significantly limit—if not nullify altogether—the potential benefits of playing the video in the parishes and posting the video on debtor and parish websites. Potential claimants will require time to complete a claim and get it on file after seeing the video, and many such individuals will require more time than typical claimants to address the claims process due to the significant

emotional and psychological issues it will trigger for them. Additionally, because all potential claimants may not attend Mass on the specific weekend that the video is played, follow-up discussions, informal circulation of the video by parishioners, and parish website visits after the initial, in-Church presentations could play an important role in increasing the video's overall viewership and, thus, materially increase its enhancement of the notice process. For these reasons the Committee is compelled to bring this motion on an expedited basis in order to increase the likelihood that actual and effective notice of the August 3, 2015 date for timely filing proofs of claim will be provided to potential sexual abuse claimants.

DISCUSSION

The Court has spoken more than once about the importance and need for proper notice in this case:

The real issue is one of getting notice, letting [the survivors] know that this is their – not only their time, but their opportunity to make a claim.

I think it's pretty fair to say there are more [survivors] out there that no one knows about, so it's important for all of us and to the case to get notice out there to as many people as possible.

The point here is to publicize this [as] broadly and widely as possible, which I will attempt to do in the order and requiring the debtor to send notice, but the committee can ... do what they can to make sure that this is publicized widely.

Motion to Approve Claim Filing Procedures Hr'g Tr. 56:25, 57:1-3; 59:21-25; 60:9-15; (April 16, 2015). The Committee agrees whole-heartedly with the concerns and objectives voiced by the Court.

Notice to creditors serves to provide due process in bankruptcy proceedings and is therefore a primary concern when determining whether a discharge of claims is permissible. “[B]efore a pre-petition or pre-confirmation claim can be discharged under the applicable provisions of the Bankruptcy Code, a debtor’s creditors must be afforded notice of the debtor’s bankruptcy case, as well as the deadline for asserting any pre-petition claims against the debtor.” *Sanchez v. Northwest Airlines, Inc.*, 659 F.3d 671, 675 (8th Cir. 2011) (citation omitted); *see Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314-15 (1950) (apprising “interested parties of the pendency of the action and afford[ing] them an opportunity to present their objections” is an “elementary and fundamental requirement of due process”). Without proper notice, creditors lack “the opportunity to participate in a meaningful way in the course of bankruptcy proceedings.” *In re Hairopoulos*, 118 F.3d 1240, 1244 (8th Cir. 1997).

Due process requires that notice be “reasonably calculated, under all the circumstances, to inform interested parties of the pendency” of a proceeding. *Mullane*, 339 U.S. at 314. While notice by publication may satisfy due process concerns, the United States Supreme Court acknowledges the limitations of notice by publication: “Notice by publication is a poor and sometimes a hopeless substitute for actual service of notice. Its justification is difficult at best” *City of New York v. New York, N.H. & H.R. Co.*, 344 U.S. 293, 296 (1953); *see In re New Century TRS Holdings, Inc.*, 465 B.R. 38, 48 (Bankr. Del. 2012).

Publication could prove to be even less effective in this case where survivors of clergy abuse may not have shared their story with anyone and significant psychological barriers may exist that prevent unknown survivors from confronting their past personally or coming forward publicly. *Blackowiak v. Kemp*, 546 N.W.2d 1, 4 (Minn. 1996) (Gardebring, J., dissenting) (Recognizing that “injuries from sexual abuse are often psychological in nature, [and] they may

be essentially latent for many years.”). By comparison, in other bankruptcies involving unknown tort claimants (e.g., asbestos-related bankruptcies), there is a greater likelihood that someone would be aware of the link between the tort claimant and the bankrupt debtor – i.e., that the tort claimant worked for the bankrupt debtor or with products made by the bankrupt debtor. In such a scenario, specific populations can be identified, notified of the claim filing deadline, and asked whether he or she may have a claim. Family members and friends are also more likely to raise the issue with unknown tort claimant in such cases.

Conversely, this case involves claimants who, in many instances, are reticent to discuss their history of sexual abuse, and there is also no obvious link between such individuals and potential claims against the debtor as there would be in other bankruptcies filed primarily to address tort claims. For this reason, it is critical that *all* vested parties work together in this case to not only cast a wide net, but also tailor notice procedures to the extent possible to provide actual notice to potential sexual abuse claimants in a meaningful, impactful way. The Committee believes that playing the proposed video presentation in parishes within the Archdiocese of Saint Paul and Minneapolis in connection with each Mass service on July 11-12, 2015 serves this collective goal.

The Committee requests that the Court order that the debtor: (i) deliver a written communication to every parish within the Archdiocese of Saint Paul and Minneapolis (a) requesting that the video be played in every parish in connection with each Mass service on July 11-12, 2015, and (b) requesting that the video (or the website address to the video referenced above) be posted to each parish website; and (ii) post the video (or the website address to the video referenced above) on the debtor's website.

WHEREFORE, the Committee moves the Court for an order granting expedited relief and approving the additional notice procedures requested by the Committee.

Dated: June 29, 2015

/e/ Robert T. Kugler

Robert T. Kugler (#194116)

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**COUNSEL FOR THE OFFICIAL
COMMITTEE OF UNSECURED
CREDITORS**

Exhibit 1

TRANSCRIPTION OF SURVIVOR NOTICE VIDEO:

Announcer: This video was produced by the official committee of unsecured creditors appointed in the bankruptcy case filed by the Archdiocese of St. Paul and Minneapolis. The committee is composed of five clergy abuse survivors and their job is to represent the interest of all unsecured creditors in the Archdiocese bankruptcy case.

Jim: Hi, my name is Jim Keenan. I'll be 48 in June of this year and currently I work as a psychologist here in the metropolitan area.

Marie: My name is Marie Melke. I am 30 years old and I am a stay at home mom of 2 beautiful children.

Curt: Curt, I'm 58. I spent 30 years in law enforcement as a police officer.

Marie: I grew up Catholic and I am still practicing Catholicism today. Faith was really important in my family growing up. Not only were the traditions of the Catholic church valued but also a relationship with Jesus Christ was also really, really important.

Jim: It was a very important part of my childhood to be Catholic. All of our friends were Catholic, all of our acquaintances were Catholic, all of our social interactions basically were with people of the church.

Marie: I'm grateful that I grew up Catholic. I believe that it brought a lot of good things to me as a child and again – and now as an adult. The man who abused me was a dear friend of my family's. My parents knew him long before I came along and he was invited into my parents' home almost like a brother. I did not realize that I was being abused by him because I was very young. I was only 12 when it started and I was very innocent.

Jim: Prior to disclosing my history of being abused by a priest, life was really up and down. My anger level would spike. My temper would be short. My frustration tolerance was non-existent. I would self-medicate through drinking alcohol to excess.

Marie: Well then over the course of the years that followed, I started having – I started feeling isolated, depressed, incredibly sad, lonely.

Curt: Basically it's hard to describe your – like living in a nightmare. You think about it and it would just anger you. But yet you have nobody you could turn to. Like I say, being in law enforcement for 30 years the concern was always fit for duty, fit for duty and that includes not only physically fit, but psychologically fit as well. The biggest fear about coming forward with this is being deemed unfit for duty so

as a result you suffer in silence. You keep quiet about it and you don't say anything even though deep down its – its gnawing at you, its irritating you and you can't really disclose why.

Marie: I felt like I was the only person in the world that had ever gone through what I had gone through and I was so ashamed of it because I was certain that it was my fault. But as I have grown, I have realized that a child cannot be held responsible for the actions of an adult.

Curt: Even though you might try to mitigate it or explain it away that, oh, it only happened once. Once is too many times and in order for the Catholic church to move on and to heal, that needs to be exposed. You might save somebody else from going through the same situation.

Jim: At one point I decided that part of being a therapist is helping and protecting and working through the difficult times and if I couldn't do that myself, I certainly shouldn't be helping other people so I – I came forward and I shared my truth so that I could be a strong survivor and help those that needed help.

Marie: I was only 19 when I first told someone that I had been abused and it was really hard and really scary. But at the same time it was such a relief to let someone else in to ask them to help me carry this burden.

Curt: A lot of time had passed. I'm 58 now. I was 30 when I tried the first attempt to bring it forward. It wasn't easy. It was difficult to come forward with it. But it was freeing, if I can use that term, because it was – it was out there now. But it wasn't out there in that it was going to be read in any of the newspapers, it wasn't on any television stories that hey this happened to me. It was more along the line of here's another victim another survivor.

Marie: There is a deadline for survivors to come forward – it's August 3, 2015. I know that probably seems really overwhelming to have to share something that you've been carrying around for so long. It takes courage to bring it forward and now all of a sudden you have to do it on a deadline. That is a bit unfair. But it's the reality of this situation. It's a brave thing to do. It's a hard thing to do. But it is worth it and there are people waiting to help you, to listen to you, and to believe you in complete confidence.

Curt: There's a history here that you might not know of that they do and just getting that reassurance and hearing something of what's gone on and knowing that you're not alone out there. That there are a lot of us that went through this.

Jim: We need to create change. Coming forward you get to be part of that process. We're trying to fix the church to make it better. We're trying to make it an environment that families know without any doubt that their children are safe. We're trying to create an environment where the wonderful priests who are out there doing great works are not tainted in reputation by a few who are not.

Curt: It's not an attack on the Catholic church, it's helping the Catholic church to improve and maybe for them to heal as well.

Marie: I used to be a victim and now I am a survivor and you can be one too and I know it's scary, but you are not alone. There are people waiting to hear your story, to hear your truth and to help you get your power back.

Announcer: We have come forward and many others have as well. And now we encourage and invite you to do the same. If you wish to timely file a claim in the Archdiocese bankruptcy case, you need to do so by August 3, 2015 to ensure that your rights are protected. This is your opportunity to come forward safely and confidentially.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No. 15-30125

The Archdiocese of Saint Paul and
Minneapolis,

Chapter 11

Debtor.

CERTIFICATE OF SERVICE

Laura A. Schumm, being duly sworn, deposes and says that on the 29th day of June, 2015, she served the following:

1. Notice of Hearing and Verified Motion of the Official Committee of Unsecured Creditors for an Order (1) Granting Expedited Relief and (2) Approving Additional Notice Procedures;
2. Affidavit of Service; and
3. (Proposed) Order

by sending true and correct copies to all parties receiving electronic notice via the Court's ECF Notice System and on the parties listed below by FedEx:

IRS District Counsel 380 Jackson Street, Suite 650 St. Paul, MN 55101-4804	Internal Revenue Service Wells Fargo Place 30 E 7 th Street Mail Stop 5700 St. Paul, MN 55101	MN Department of Revenue Collection Enforcement 551 Bankruptcy Section 600 North Robert Street St. Paul, MN 55101-2228
Office of the U.S. Attorney 600 U.S. Courthouse 300 S Fourth Street Minneapolis, MN 55415	Ramsey County Assessor's Office 90 Plato Boulevard W. St. Paul, MN 55107	Hennepin County Treasurer A600 Government Center Minneapolis, MN 55487
Dakota County 1590 Hwy 55 Hastings, MN 55033	Ramsey County P.O. Box 64097 Saint Paul, MN 55164	Social Security Administration CBIZ Payroll 2797 Frontage Road, Suite 2000 Roanoke, VA 24017

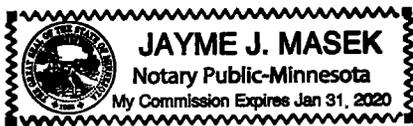
US Dept of HHS – Medicare CBIZ Payroll 2797 Frontage Road, Suite 2000 Roanoke, VA 24017	MN Dept of Labor and Industry P.O. Box 64219 St. Paul, MN 55164	The Archdiocese of Saint Paul and Minneapolis c/o Joseph F. Kueppers 226 Summit Avenue St. Paul, MN 55102
Premier Bank 2866 White Bear Ave Maplewood, MN 55109	North American Banking Company 2230 Albert Street Roseville, MN 55113	GE Information Technology Solutions, Inc. 1738 Bass Rd P.O. Box 13708 Macon, GA 31208
Jeff Kahane Duane Morris LLP 865 S Figueroa St, Ste 3100 Los Angeles, CA 90017- 5450	Russell Roten Duane Morris LLP 865 S Figueroa St, Suite 3100 Los Angeles, CA 90017	Laura K McNally Grippo & Eldon LLC 111 S Wacker Drive, 51 st Floor Chicago, IL 60606
John Philip Borger Faegre Baker Daniels 90 S 7 th Street Minneapolis MN 55402	Eric E. Caugh Zelle Hoffman Voelbel & Mason 500 Washington Ave S, Suite 4000 Minneapolis, MN 55415	Michael Bazley SBN 2257467 652 I Street Sacramento, CA 95814
Bremer Bank as Custodian for MN Department of Commerce 225 S. Sixth Street, Suite 200 Minneapolis, MN 55402		

Laura A. Schumm
Laura A. Schumm

STATE OF MINNESOTA
COUNTY OF HENNEPIN

Subscribed and sworn to before me
this 29th day of June, 2015.

Jayne J. Masek
Notary Public



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

The Archdiocese of Saint Paul
and
Minneapolis,

Debtor.

ORDER GRANTING EXPEDITED
RELIEF AND APPROVING
ADDITIONAL NOTICE
PROCEDURES

BKY 15-30125

At Minneapolis, Minnesota, July 9, 2015

Based on the motion of The Official Committee of Unsecured Creditors for an order granting expedited relief and approving additional notice procedures;

IT IS ORDERED:

1. The Committee's motion for expedited relief is granted.

2. Immediately upon entry of this Order, the debtor shall (i) deliver a letter to every parish within the Archdiocese of Saint Paul and Minneapolis (a) requesting that the video be played in every parish in connection with each Mass service on July 11-12, 2015, and (b) requesting that the video (or the website address to the video) be posted to each parish website; and (ii) post the video (or the website address to the video) on the debtor's website.

Dated: July ____, 2015

Robert J. Kressel
United States Bankruptcy Judge