

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re: Chapter 11
THE DIOCESE OF ST. CLOUD, a Minnesota Case No. 20-60337
religious corporation,
Debtor.

**NOTICE OF HEARING AND MOTION FOR AN ORDER UNDER 11 U.S.C. § 107 AND
FED. R. BANKR. P. 1007(j) AND 9018 (I) GRANTING EXPEDITED RELIEF,
(II) AUTHORIZING THE DEBTOR TO FILE PORTIONS OF DOCUMENTS UNDER
SEAL, AND (III) REQUESTING RELATED RELIEF**

TO: The United States Bankruptcy Judge, the United States Trustee, and other parties in interest as specified in Local Rule 9013-3(a)(2).

The Diocese of St. Cloud, the debtor and debtor in possession, moves the court for the expedited relief requested below and gives notice of hearing:

1. The court will hold a telephonic hearing on this motion at 9:30 a.m. (CDT) on June 18, 2020. Parties interested in attending the hearing should contact Judge Kressel's calendar clerk, Lynn Hennen, at (612) 664-5250 for the call-in information.

2. Local Rule 9006-1(e) governs the deadline for responding to this motion and provides that responses may be filed not later than two hours before the scheduled time for the hearing, unless otherwise authorized by the court. **PURSUANT TO LOCAL RULE 9013-2, UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT A HEARING.**

3. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157(b)(2) and 1334, Bankruptcy Rule 5005, and Local Rule 1070-1. This is a core proceeding pursuant to 28

U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. On June 15, 2020, the debtor commenced this case by filing a voluntary Chapter 11 petition.

4. The debtor files this motion under 11 U.S.C. § 107, Bankruptcy Rules 1007(j), 9014, and 9018, and Local Rules 9013-1 through 3. The debtor requests expedited relief under Bankruptcy Rule 9006(c) and Local Rule 9006-1(e). The debtor provides notice of the hearing on this motion under Bankruptcy Rule 2002(a) and Local Rules 9013-3 and 2002-1(b).

I. BACKGROUND

On June 15, 2020, the debtor commenced this case by filing a voluntary Chapter 11 petition. The debtor is a debtor in possession under 11 U.S.C. §§ 1107 and 1108.

Additional background information about the debtor is set forth in the *Declaration of Bishop Donald J. Kettler in Support of Chapter 11 Petition and First Day Motions*. Joseph Spaniol, Finance Officer, also verified the additional facts set forth below, as evidenced by the attached verification.

II. THE COURT SHOULD AUTHORIZE THE DEBTOR TO FILE CERTAIN DOCUMENTS UNDER SEAL

By this motion, the debtor respectfully requests entry of an order under 11 U.S.C. § 107 and Bankruptcy Rules 1007(j) and 9018 authorizing the debtor to file under seal portions of those documents, including, without limitation, portions of the debtor's Schedule F and the master mailing list, that disclose the names of individuals who assert or may assert a claim against the debtor arising from alleged sexual abuse. This relief should be granted on an expedited basis to allow the debtor to protect the confidentiality and privacy of the abuse claimants as early as possible in this case, while allowing the debtor to comply with its filing requirements.

The debtor also seeks authority to provide copies of the sealed portions of any documents it files to the Office of the United States Trustee for use in the discharge of its duties and

obligations, and to counsel for an official committee of unsecured creditors, once formed. Any copies of the sealed documents the debtor provides to the creditors' committee will be subject to execution of a confidentiality agreement between the debtor and counsel for the creditors' committee.

The debtor proposes that the documents, or portions of documents, containing sealed information be filed in accordance with the direction of the clerk of the court. The debtor will be responsible for providing notices to creditors listed on the sealed portion of documents. The debtor's certificates of service of such documents will certify only that such individuals were served, without listing their names or any other identifying information. Because service to these individuals will be completed by the debtor, the clerk of the court need not provide any notices to those claimants listed on the sealed portion of documents;

III. RELIEF REQUESTED

WHEREFORE, the debtor requests that the court enter an order:

- A. Granting expedited relief;
- B. Authorizing the debtor to file under seal all documents, including, without limitation, portions of the debtor's Schedule F and the master mailing list, that disclose the names of individuals who assert or may assert a claim against the debtor arising from alleged sexual abuse;
- C. Authorizing the debtor to provide copies of the sealed documents it files to the Office of the United States Trustee in accordance with 11 U.S.C. § 107(c)(3), as necessary;
- D. Directing the clerk of the court not to provide any notices to those claimants listed on the sealed portion of documents;

E. Authorizing the debtor to provide notices to creditors listed on the sealed portion of documents and file a certificate of service certifying that those individuals whose identifying information was filed under seal have been served;

F. Authorizing the United States Trustee to use such sealed documents in the discharge of its duties and obligations, including, but not limited to, solicitation and appointment of any committee under 11 U.S.C. § 1102, but only as protected by 11 U.S.C. § 107(c)(3);

G. Authorizing the debtor to provide sealed documents to court-approved counsel for any committee appointed under 11 U.S.C. § 1102, but only after execution of a confidentiality agreement between the debtor and such counsel;

H. Authorizing the debtor to file the documents referenced in paragraph A under seal in accordance with the directions of the clerk of court;

I. Granting such other relief as the court deems just and proper under the circumstances.

Dated: June 15, 2020.

QUARLES & BRADY LLP

/s/ Susan G. Boswell

Susan G. Boswell (AZ Bar No. 004791)

Jason D. Curry (AZ Bar No. 026511)

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Proposed Counsel for the Debtors


**UNITED STATES BANKRUPTCY COURT
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VERIFICATION OF JOSEPH SPANIOL

I, Joseph Spaniol, Financial Officer for The Diocese of St. Cloud, declare under penalty of perjury that the facts in the motion and the memorandum are true and correct to the best of my knowledge, information, and belief.

Executed on: June 15, 2020



Joseph Spaniol

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re: Chapter 11
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religious corporation,
Debtor.

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR
AN ORDER UNDER 11 U.S.C. § 107 AND FED. R. BANKR. P. 1007(j) AND 9018
(I) GRANTING EXPEDITED RELIEF, (II) AUTHORIZING THE DEBTOR TO FILE
PORTIONS OF DOCUMENTS UNDER SEAL, AND (III) REQUESTING RELATED
RELIEF**

The debtor submits this memorandum in support of its motion seeking (i) expedited relief, and (ii) authority to file portions of documents that may contain confidential identifying information under seal.

I. BACKGROUND

The facts relevant to this memorandum are set forth in the verified motion, which the debtor incorporates herein by this reference.

II. LEGAL ANALYSIS

A. The court should grant the debtor's request for expedited relief.

The court should consider the motion on an expedited basis. Cause exists for such expedited consideration because the debtor is required to file certain sensitive documents early in this case, and the debtor does not want to unnecessarily disclose the identities of sexual abuse claimants without their consent.

B. The court should allow the debtor to file sensitive documents under seal.

Under 11 U.S.C. § 107(b), bankruptcy courts may issue orders to protect entities and individuals from potential harm resulting from disclosure of potentially scandalous or defamatory information. That section 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.

Furthermore, Bankruptcy Rule 1007(j) provides:

(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.

Bankruptcy Rule 9018 also describes how a party may move for relief under 11 U.S.C. § 107(b). It 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[.]

Under this authority, the debtor requests that the court allow the debtor to file under seal all documents, including, without limitation, portions of the debtor's Schedule F and the master mailing list, that disclose the names of individuals who assert or may assert a claim against the debtor arising from alleged sexual abuse. The debtor also seeks authority to provide copies of the sealed documents to the Office of the United States Trustee, subject to the protections of 11 U.S.C. § 107(c)(3), and to counsel for a creditors' committee (once formed), subject to a confidentiality protocol agreed upon by the debtor and counsel for the creditors' committee.

Many sexual abuse claimants have made claims against the debtor under pseudonyms, or they have disclosed their identities confidentially. Accordingly, the debtor has a duty to keep such identities confidential. Sexual abuse claimants should not be forced to publicly disclose their identities to participate in this case. The sexual abuse claimants themselves should choose how and when to disclose their identities.

However, to facilitate a successful reorganization and comply with Bankruptcy Code and Bankruptcy Rules, the debtor requests that the court allow it to disclose the identities of the sexual abuse claimants to the Office of the United States Trustee and to counsel for a creditors' committee, once formed. In the case of the committee's counsel, the debtor's disclosure will be subject to execution of a confidentiality agreement between the debtor and counsel for the creditors' committee.

III. CONCLUSION

For the reasons set forth in this memorandum and the motion, the debtor requests that the court enter an order:

- A. Granting expedited relief;
- B. Authorizing the debtor to file under seal all documents, including, without limitation, portions of the debtor's Schedule F and master mailing list, that disclose the names of individuals who assert or may assert a claim against the debtor arising from alleged sexual abuse;
- C. Authorizing the debtor to provide copies of the sealed documents it files to the Office of the United States Trustee in accordance with 11 U.S.C. § 107(c)(3), as necessary;
- D. Directing the clerk of the court not to provide any notices to those claimants listed on the sealed portion of documents;

E. Authorizing the debtor to provide notices to creditors listed on the sealed portion of documents and file a certificate of service certifying that those individuals whose identifying information was filed under seal have been served;

F. Authorizing the United States Trustee to use such sealed documents in the discharge of its duties and obligations, including, but not limited to, solicitation and appointment of any committee under 11 U.S.C. § 1102, but only as protected by 11 U.S.C. § 107(c)(3);

G. Authorizing the debtor to provide sealed documents to court-approved counsel for any committee appointed under 11 U.S.C. § 1102, but only after execution of a confidentiality agreement between the debtor and such counsel;

H. Authorizing the debtor to file the documents referenced in paragraph A under seal in accordance with the directions of the clerk of court; and

I. Granting such other relief as the court deems just and proper under the circumstances.

Dated: June 15, 2020.

QUARLES & BRADY LLP

/s/ Susan G. Boswell

Susan G. Boswell (AZ Bar No. 004791)

Jason D. Curry (AZ Bar No. 026511)

Michael Galen (AZ Bar No. 035044)

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Proposed Counsel for the Debtors

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In re: Chapter 11
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**ORDER UNDER 11 U.S.C. § 107 AND FED. R. BANKR. P. 1007(j) AND 9018
(I) GRANTING EXPEDITED RELIEF (II) AUTHORIZING THE DEBTOR TO FILE
PORTIONS OF DOCUMENTS UNDER SEAL, (III) AND REQUESTING RELATED
RELIEF**

At Minneapolis, Minnesota on June ____, 2020.

This matter is before the court on the debtor's motion seeking (i) expedited relief, and (ii) authority to file portions of documents that may contain confidential identifying information under seal. Based on the motion and file,

IT IS ORDERED:

- A. Expedited relief is granted.
- B. The debtor is authorized to file under seal all documents, including, without limitation, portions of the debtor's Schedule F and the master mailing list that disclose the names of individuals who assert or may assert a claim against the debtor arising from alleged sexual abuse.
- C. The debtor is authorized to provide copies of the sealed documents it files to the Office of the United States Trustee in accordance with 11 U.S.C. § 107(c)(3), as necessary.
- D. The clerk of court is directed not to provide any notices to claimants listed on the sealed portion of documents.

E. The debtor is authorized to provide notices to creditors listed on the sealed portion of documents, and file a certificate of service certifying that those individuals whose identifying information was filed under seal have been served.

F. The United States Trustee is authorized to use such sealed documents in the discharge of its duties and obligations, including, but not limited to, solicitation and appointment of any committee under 11 U.S.C. § 1102, but only as protected by 11 U.S.C. § 107(c)(3).

G. The debtor is authorized to provide sealed documents to court-approved counsel for any committee appointed under 11 U.S.C. § 1102, but only after execution of a confidentiality agreement between the debtor and such counsel.

H. The debtor is authorized to file the documents referenced in paragraph A under seal, in accordance with the directions of the clerk of court.

DATED:

ROBERT J. KRESSEL
UNITED STATES BANKRUPTCY JUDGE