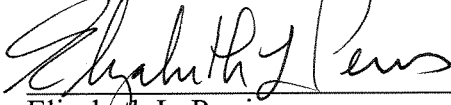


ORIGINAL

1 Below is an order of the Court.

2
3 
4 Elizabeth L. Perris
U.S. Bankruptcy

CLERK U.S. BANKRUPTCY COURT
DISTRICT OF OREGON
JAN 14 2005
LODGED PAID _____ REC'D _____ DOCKETED _____

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OREGON

11
12 IN THE UNITED STATES BANKRUPTCY COURT
13 FOR THE DISTRICT OF OREGON

14 ROMAN CATHOLIC ARCHBISHOP OF
PORTLAND IN OREGON, AND
15 SUCCESSORS, A CORPORATION SOLE,
dba the ARCHDIOCESE OF PORTLAND IN
16 OREGON,

No. 04-37154-elp11

**ORDER REGARDING PREMEDIATION
DISCOVERY BY TORT CLAIMANTS**

17 Debtor.

18 On November 19, 2004, the court heard arguments on Debtor's Proposed Plan of
19 Accelerated Claims Resolution Process (ACRP) and, at that time, considered the scope of pre-
20 mediation discovery by the individual tort claimants. Debtor was represented by its counsel, as
21 were various tort claimants. After considering the arguments of counsel, the Court FINDS AND
22 CONCLUDES AS FOLLOWS:

23 1. Evidence regarding Debtor's "patterns, practices, and policies" in regards to
24 allegations of sexual misconduct with a minor by any priest while working in an Archdiocesan
25 ministry assignment is relevant for discovery purposes to the negligence claims of various tort
26 claimants.

1 2. Debtor identified 37 priests who, from 1950 through 2003, were accused of sexual
2 misconduct with a minor while working in an Archdiocesan ministry assignment.

3 THEREFORE, THE COURT ORDERS AS FOLLOWS:

4 1. By not later than January 11, 2005, Debtor shall produce, to the Law Office of
5 David Slader, for the common use of the tort claimants and their counsel, subject to the
6 provisions of the protective order referenced below, the following:

7 (a) A complete list of the 37 priests referenced above, identifying whether
8 their complete personnel files have previously been produced to counsel for any tort claimant
9 and, if so, identifying the name of such counsel, the citation to the case or cases in which the
10 records were produced, and the date of production;

11 (b) A complete copy of all non-privileged personnel records, including "sub
12 secreto" files, if any, regarding any of the identified 37 priests unless such records have been
13 previously produced to an attorney for any tort claimant;

14 (c) Debtor shall not be required to produce documents produced to the Law
15 Office of David Slader, or previously produced to another attorney for a tort claimant, to any
16 other counsel for tort claimants; and

17 (d) A privilege log, adequate to apprise the tort claimants of the basis for the
18 assertion of privilege, of any documents withheld by Debtor as privileged from the files
19 produced pursuant to this order.

20 (e) Debtor shall not be required to produce any medical records of alleged
21 victims contained in the seven priest files as to whom no attorney has made a claim to the Debtor
22 but shall instead provide a certification to the court that debtor's counsel have reviewed the
23 victims' medical records and that they do not contain references to the victim having previously
24 warned the Archdiocese, to the victim knowing of a third person having warned Debtor or being
25 a victim, or relating something significant that the victim was told by an official of the
26 Archdiocese. If such references are contained in such records, the relevant portion of such

1 records shall be produced in camera to the court for a determination whether they should be
2 produced to claimants' counsel. In addition, production of priests' medical records shall be
3 subject to the right of an attorney representing such priest to lodge objections to the production
4 of such documents with the court.

5 2. Tort claimants may depose up to four witnesses, to be chosen jointly by the tort
6 claimants, for purposes of discovering Debtor's "patterns, practices, and policies" in regard to the
7 abuse or molestation of minors by priests.

8 3. Such depositions shall not exceed a total of three days except upon further order
9 of the court and shall be scheduled at times when the court is available to receive calls from
10 counsel to resolve any objections.

11 4. Not later than January 24, 2005, tort claimants shall advise Debtor in writing of
12 the identity of the four witnesses they choose to depose and shall describe the topics and the
13 scope thereof which shall be the subject of the inquiry of each witness. Tort claimants may
14 subsequently change a witness designation for reasonable cause and designate a subsequent
15 witness pursuant to the procedures set forth in this order.

16 5. Not later than February 7, 2005, Debtor shall file with the court any motions to
17 quash any of the tort claimants' proposed inquiries.

18 6. Tort Claimants shall file a responsive memorandum in regard to Debtor's motion
19 within 11 days after service of Debtor's motion.

20 7. Debtor shall file its reply memorandum within 11 days after service of Tort
21 Claimants' responsive memorandum.

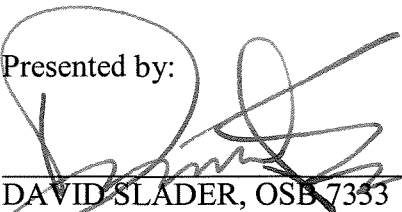
22 8. This order shall not limit the right of any tort claimant, to the extent permitted by
23 this court's orders concerning the Accelerated Claims Resolution Process, to depose any witness
24 whose testimony is relevant to any issue other than "pattern, practice, and policy" in regard to a
25 particular claim. This order shall also not limit the right of tort claimants' attorneys who are
26 identified as having previously received priest records from challenging the completeness of

1 such production or requesting copies of documents which have been lost or misplaced. If, after
2 reasonable effort, the Law Office of David Slader has not been able to obtain copies of files
3 already produced, production of such file may be requested from Debtor.

4 9. No prior protective order shall prevent the sharing of documents produced by
5 Debtor among counsel for tort claimants. Nothing in this Order shall prevent the insurers for the
6 Debtor from obtaining copies of the documents produced hereunder nor prevent the Tort
7 Claimants Committee or the future claimants' representative from seeking production of such
8 documents to them. Debtor waives any rights it may have under any prior protective order or
9 agreement to allow counsel for any claimant or plaintiff in a prior claim or suit to produce any
10 priest file that counsel may have to the office of David Slader and for that office to share such
11 documents with other claimants' counsel. To the extent that any third party not currently before
12 the court may have any right pursuant to any prior protective order or agreement, that order or
13 agreement shall not prevent the production of such documents to the office of David Slader or
14 the sharing of such documents among the claimants' counsel to the extent the documents, when
15 originally produced, were within the exclusive control of the debtor. Such production shall be
16 treated as new production by debtor.

17 10. The production of documents by Debtor shall be subject to the protective order, a
18 form of which is attached hereto.

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Presented by: 

DAVID SLADER, OSB 7353 11/10/05
Attorney for Tort Claimants Stephen Walsh, M.J.D., H.S.2, G.P.,
James Devereaux, JC1, M.Y., and S.L.

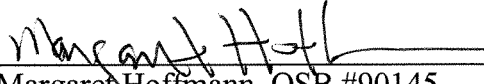
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 11 day of January, 2005, I served the foregoing **ORDER**
3 **REGARDING PREMEDIATION DISCOVERY BY TORT CLAIMANTS**, on the following
4 parties at the following addresses:

5 Roman Catholic Archbishop of Portland in Oregon, and successors, a corporation
6 sole, dba the Archdiocese of Portland in Oregon
7 Attn: Paulette Furness, Director of Business Affairs
8 2838 East Burnside
9 Portland, OR 97214
10 Debtor

11 **SEE ATTACHED LIST OF INTERESTED PARTIES**

12 by mailing to them a true and correct copy thereof, placed in a sealed envelope addressed to them
13 at the addresses set forth above, and deposited in the U.S. Post Office at Portland, Oregon on
14 said day with postage prepaid.

15 
16 Margaret Hoffmann, OSB #90145
17 Of Attorneys for Debtor

Self
~~JUDGE'S COPY~~

'05 JAN 11 P3:39

LOGGED _____ REC'D _____
PAID _____ DOCKETED _____

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2

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4 Elizabeth L. Perris
U.S. Bankruptcy

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12

Special Counsel for Debtor and Debtor-In-Possession

13

14

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

15

16

ROMAN CATHOLIC ARCHBISHOP OF
17 PORTLAND IN OREGON, AND
SUCCESSORS, A CORPORATION
18 SOLE, dba the ARCHDIOCESE OF
PORTLAND IN OREGON,

No. 04-37154-elp11

PROTECTIVE ORDER

19

Debtor.

20

21

This order relates to documents produced by debtor in accordance with the court's order
22 of this date concerning discovery related to debtor's "pattern, practice, and policies."

23

24

1. The Debtor may designate as "confidential" any and all documents produced
24 pursuant to the order referenced above. Any document or material that has been or will be
25 designated by the Debtor shall be marked with the word "Confidential" and shall not be

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1 disclosed in the absence of prior notice to Debtor's counsel and counsel, if any, for priests who
2 are referenced in such documents, as provided herein, except to:

3 (a) The members, associates, and employees of any law firm representing any
4 claimant;

5 (b) Independent experts or consultants, who have been retained and requested
6 by counsel for claimants to furnish technical or expert services or to give technical or
7 expert testimony in this action, and who agree in writing to be bound by the terms of this
8 Protective Order; or

9 (c) The Court, provided that any such confidential information submitted to or
10 filed with the Court shall be placed under seal and subject to release or inspection only by
11 order of the court or consent of the parties.

12 2. In addition, Debtor may redact the names of any third parties who have reported
13 allegations of sexual misconduct with a minor, including the alleged victims, or whose names are
14 mentioned in the documents concerning the allegations of sexual misconduct.

15 3. Production of priests' medical records shall be subject to the right of an attorney
16 representing such priest to lodge objections to the production of such documents with the court.

17 4. If this ^{case, or a proceeding in this case, etc.} ~~action~~ proceeds to trial or other hearing, the court may enter any
18 appropriate further order governing the use at trial or hearing of any material designated as
19 "Confidential" under this Protective Order.

20 5. Nothing in this Protective Order shall prevent counsel for the parties from
21 agreeing at any time that certain documents or information otherwise covered by this Protective
22 Order are not confidential and need not be treated in accordance with the terms of this Protective
23 Order.

24 6. Nothing herein shall prevent a party from seeking any change or modification to
25 this Protective Order, including but not limited to seeking to add persons to those designated in
26 paragraph 1 to whom the documents produced pursuant to this order may be disclosed, or to use

1 such documents in a deposition or hearing. Also, nothing herein shall foreclose any party from
2 requesting any further or additional protective orders. The court reserves the right to make any
3 changes or modifications to this Protective Order that it determines to be appropriate and to enter
4 further orders, as appropriate, upon the request of either party.

5 7. In the event that tort claimants wish to remove from the restrictions of this order
6 any document designated as "Confidential" by Debtor pursuant to this order, tort claimants shall
7 provide prior written notice to Debtor's counsel and counsel for the priest whose file is at issue,
8 if any. Counsel shall then have seven (7) days to file a motion with the court seeking an order
9 preventing the disclosure of such document. The document or documents shall remain subject to
10 this order unless the court rules otherwise following the filing of counsel's motion.

11 8. Prior to the final adjudication of this ^{case, or any proceeding in this case, SLP} ~~proceeding~~, Debtor may seek an order from
12 the court to require the return of the produced documents that have not been disclosed to third
13 parties pursuant to this order.

14
15 PRESENTED BY:

16 SCHWABE, WILLIAMSON & WYATT

17
18
19 Margaret Hoffmann
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22 Debtor-In-Possession

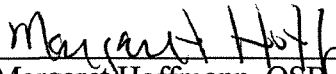
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9 Debtor

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13 said day with postage prepaid.

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