

FOLEY & LARDNER LLP

Jeffrey R. Blease (CA Bar. No. 134933)
Tel: (617) 226-3155; jblease@foley.com
Thomas F. Carlucci (CA Bar No. 135767)
Tel: (415) 984-9824; tcarlucchi@foley.com
Shane J. Moses (CA Bar No. 250533)
Tel: (415) 438-6404; smoses@foley.com
Emil P. Khatchatourian (CA Bar No. 265290)
Tel: (312) 832-5156; ekhatchatourian@foley.com
Ann Marie Uetz (pro hac vice application pending)
Tel: (313) 234-7114; auetz@foley.com
Matthew D. Lee (pro hac vice application pending)
Tel: (608) 258-4203; mdlee@foley.com
555 California Street, Suite 1700
San Francisco, CA 94104-1520

*Counsel for the Debtor
and Debtor in Possession*

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

In re:

THE ROMAN CATHOLIC BISHOP OF
OAKLAND, a California corporation sole,

Debtor.

Case No. 23-40523

Chapter 11

**DEBTOR'S THIRD MOTION FOR ENTRY
OF AN ORDER, PURSUANT TO
BANKRUPTCY RULES 9006 AND 9027,
ENLARGING THE PERIOD WITHIN
WHICH THE DEBTOR MAY REMOVE
ACTIONS PURSUANT TO 28 U.S.C. § 1452**

Judge: Hon. William J. Lafferty

Date: August 21, 2024

Time: 10:30 a.m.

Place: United States Bankruptcy Court
1300 Clay Street
Courtroom 220
Oakland, CA 94612



1 The Roman Catholic Bishop of Oakland, a California corporation sole, and the debtor and debtor
2 in possession (the “Debtor”) in the above-captioned chapter 11 bankruptcy case (the “Chapter 11 Case”),
3 hereby files this motion (the “Motion”), for entry of an order, pursuant to Rules 9006(b) and 9027 of the
4 Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 9006-1 of the Bankruptcy
5 Local Rules of the United States Bankruptcy Court for the Northern District of California
6 (the “Bankruptcy Local Rules”), extending the period within which the Debtor may remove civil actions
7 and proceedings pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027 (the “Removal Period”) from
8 August 5, 2024, through and including February 3, 2025.

9 This Motion is based on the Memorandum of Points and Authorities set forth herein, the notice of
10 hearing on the Motion, the *Declaration of Attila Bardos in Support of Debtor’s Third Motion for Entry of*
11 *an Order, Pursuant to Bankruptcy Rules 9006 and 9027, Enlarging the Period Within Which the Debtor*
12 *May Remove Actions Pursuant to 28 U.S.C. § 1452* (the “Bardos Declaration”) filed concurrently herewith
13 and incorporated herein by reference, the Debtor’s concurrently filed *Debtor’s Fourth Motion for Order*
14 *Extending Exclusive Periods for the Debtor to File and Solicit Acceptance of a Chapter 11 Plan* [Docket
15 No. [1273] (the “Exclusivity Motion”) which is incorporated herein by reference, and upon such oral and
16 documentary evidence as may be presented at the hearing on the Motion.

17 The Debtor’s proposed form of order granting the relief requested herein is attached hereto as
18 **Exhibit A** (the “Proposed Order”).

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 The Debtor requests a third extension of the Removal Period during which it may remove civil
5 actions and proceedings pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027, for a period of a further
6 six months. The Debtor seeks this extension in light of its progress in the case to date, and the current
7 status of mediation with the Committee and certain of its historical insurance carriers (the “Insurers”).

8 One of the Debtor’s primary objectives in this Chapter 11 Case is to propose a plan that provides
9 a fair and equitable outcome for survivors of sexual abuse. The Debtor is subject to more than three
10 hundred state court lawsuits filed by plaintiffs alleging sexual abuse by clergy or others associated with
11 the Debtor. These state court actions underlie the majority of claims asserted in the Chapter 11 Case.

12 The Debtor has made significant progress toward a reorganization plan during the first 15 months
13 of this complex and difficult Chapter 11 Case. Since the Court approved the Debtor’s most recent
14 extension of the Removal Period, the Debtor’s attention and efforts have been singularly focused on two
15 things: (1) seeking a consensual plan of reorganization through mediation with the Official Committee of
16 Unsecured Creditors (the “Committee”); and (2) continuing to aggressively pursue recovery on its
17 insurance assets through two adversary proceedings now pending in District Court (the “Insurance
18 Coverage Litigation”) and mediation with the Insurers. The Debtor continues to make progress toward a
19 Chapter 11 plan. In particular, the Debtor has made substantial progress in mediation between the Debtor
20 and Committee regarding the terms of a plan, and has commenced mediation with the Insurers regarding
21 coverage issues.

22 Extension of the removal Deadline is necessary and appropriate so that the Debtor can ultimately
23 make the decision of whether to remove any of the pending state court actions in the context of any
24 resolution reached through mediation, and of the plan of reorganization the Debtor ultimately proposes.
25 The Debtor therefore requests that the Removal Period be extended through February 3, 2024.

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II.

JURISDICTION

This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b), the *Order Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order No. 24 (N.D. Cal.), and Bankruptcy Local Rule 5011-1(a). Venue for this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

The legal basis for the relief requested herein is 28 U.S.C. § 1452, and Bankruptcy Rules 9006 and 9027.

III.

BACKGROUND FACTS

A. General Background

On May 8, 2023 (the “Petition Date”), the Debtor filed a voluntary petition for chapter 11 bankruptcy relief under title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”). The Debtor continues to operate its ministry and manage its properties as a debtor in possession under sections 1107(a) and 1108 of the Bankruptcy Code. No trustee has been appointed in this Chapter 11 Case.

On May 23, 2023, the Office of the United States Trustee for Region 17 appointed an official Committee of Unsecured Creditors (the “Committee”) in this Chapter 11 Case. *See* Docket No. 66.

The Debtor is a corporation sole organized under the laws of the State of California. The Debtor conducts its civil affairs under the laws of the State of California and the United States of America and in accordance with the Code of Canon Law, the ecclesiastical law of the Roman Catholic Church. Additional information regarding the Debtor, its mission, ministries, and operations, and the events and circumstances preceding the Petition Date, is set forth in the *Declaration of Charles Moore, Managing Director of Alvarez & Marsal North America, LLC, Proposed Restructuring Advisor to the Roman Catholic Bishop of Oakland, in Support of Chapter 11 Petition and First Day Pleadings* [Docket No. 19] (the “First Day Declaration”), which is incorporated herein by reference.

1 **B. The Debtor’s Post-Petition Activities and Case Progress**

2 After the initial period of the Chapter 11 case and resolution of its first day motions, the Debtor’s
3 efforts focused on the bar date and claims process, pursuing insurance coverage for sexual abuse claims
4 through the Insurance Coverage Litigation, and setting up a process for mediation with the Committee
5 and Insurers toward a negotiated consensual plan as set forth more fully in the Exclusivity Motion. *See*
6 Exclusivity Motion, Section III.B, pp. 4-5.¹ Since the last extension of the Removal Period, the Debtor’s
7 focus in this Chapter 11 Case has been on the two tracks of mediation and litigating the Insurance
8 Coverage Litigation, as further described in the Exclusivity Motion. *See id.*, Section III.C., pp. 5-7.

9 The Debtor’s objective in this Chapter 11 Case is to achieve confirmation of a plan of
10 reorganization that will (a) ensure a fair and equitable outcome for survivors of sexual abuse, and (b) allow
11 the Debtor to stabilize its finances, continue its mission to serve the needs of the faithful within the Diocese
12 of Oakland, and continue to provide services to underserved people and groups in the East Bay. As set
13 forth more fully in the Exclusivity Motion, the Debtor has made substantial progress toward that objective.
14 (*See* Exclusivity Motion, Section III, pp. at 3-9).

15 **C. The State Court Actions and Claims**

16 As this Court is aware, the passage and enactment of California AB 218 allowed certain individuals
17 to bring what had been time-barred claims for childhood sexual abuse. As of May 4, 2023, immediately
18 before the Chapter 11 Case was filed, there were approximately 332 separate, active lawsuits (the
19 “Actions”) and mediation demands pending against the Debtor filed by plaintiffs alleging sexual abuse by
20 clergy or others associated with the Debtor. *See* First Day Decl., at ¶ 84. The Debtor had neither the
21 financial means nor the practical ability to litigate all of the Actions. The Debtor commenced this Chapter
22 11 Case to allow all of the sexual abuse claims to be asserted and addressed in a single forum – the
23 Bankruptcy Court – and ensure that all meritorious abuse claims be paid on a fair and equitable basis
24 pursuant to an approved chapter 11 plan. *Id.*

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27 ¹ In the interest of brevity, the Debtor refers to the concurrently filed Exclusivity Motion, and the declaration of Attila Bardos
28 in support thereof, each of which is incorporated herein by reference, for a detailed discussion of the Debtor’s progress in
the Chapter 11 Case and the current case status.

1 The claims asserted in this Chapter 11 Case are largely based on the allegations asserted in the
2 Actions filed in California Superior Court. In the early stages of the case, following extensive discussions
3 with the Committee, the Debtor secured approval of a motion to set September 11, 2023, as the bar date
4 and to approve claims procedures and proof of claim forms [Docket No. 181] (the "Bar Date Motion").
5 The Court entered the Bar Date Order on July 25, 2023, establishing September 11, 2023, as the bar date
6 for non-governmental claims (the "Bar Date"). Following the Bar Date, the Debtor and its professionals
7 began the process of analyzing the filed claims, with the assistance of its professionals.

8 Approximately 560 proofs of claim were filed, including 421 claims asserting the Debtor is liable
9 for damages relating to childhood sexual abuse. Based on the Debtor's initial review it appears there are
10 approximately 386 non-duplicate sexual abuse claims. There are a small number of non-abuse tort claims,
11 and the remainder of the filed claims are primarily commercial vendor claims. Many of the claims are
12 asserted to be of six-figure or seven-figure amounts. Many are listed as having an unknown amount. The
13 claims related to childhood sexual abuse present unique complexities of confidentiality, valuation,
14 procedure, and appropriate and equitable treatment of claims.

15 **D. Previous Extensions of the Removal Period**

16 The Debtor has requested, and this Court has granted, two previous extensions of the Removal
17 Period in light of the circumstances of the case and the need to evaluate removal of the Actions in the
18 context of treatment of claims and the structure of the Debtor's ultimate Chapter 11 plan of reorganization.
19 On August 1, 2023, the Debtor filed its *Debtor's Motion for Entry of an Order, Pursuant to Bankruptcy*
20 *Rules 9006 and 9027, Enlarging the Period Within Which the Debtor May Remove Actions Pursuant to*
21 *28 U.S.C. § 1452* [Docket No. 318] (the "First Motion"). The First Motion was granted by this Court's
22 order entered August 22, 2023 [Docket No. 387], extending the Removal Period through February 5, 2024.
23 On January 10, 2024, the Debtor filed its *Debtor's Second Motion for Entry of an Order, Pursuant to*
24 *Bankruptcy Rules 9006 and 9027, Enlarging the Period Within Which the Debtor May Remove Actions*
25 *Pursuant to 28 U.S.C. § 1452* [Docket No. 770] (the "Second Motion"). The Second Motion was granted
26 by this Court's order entered February 2, 2024 [Docket No. 840], extending the Removal Period through
27 August 5, 2024 (the "Current Removal Deadline").
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IV.

RELIEF REQUESTED

By this Motion, the Debtor seeks entry of the Proposed Order, further extending the deadline by which the Debtor may file notices of removal under 28 U.S.C. § 1452. Bankruptcy Rule 9027(a), by approximately 180 days, from the Current Removal Deadline of August 5, 2024, through and including February 3, 2025, for all matters encompassed by Bankruptcy Rule 9027(a)(2) and (3).²

V.

BASIS FOR RELIEF

A. The Removal Period May Be Extended For Cause

Section 1452 of title 28 of the United States Code provides for the removal of pending claims in civil actions related to bankruptcy cases. Section 1452 provides, in pertinent part:

A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

28 U.S.C. § 1452(a).

Bankruptcy Rule 9027 establishes the deadlines for filing notices of removal of claims or causes of action. Bankruptcy Rule 9027(a)(2) provides, in pertinent part:

If the claim or cause of action in a civil action is pending when a case under the [Bankruptcy] Code is commenced, a notice of removal may be filed in the bankruptcy court only within the longest of (A) 90 days after the order for relief in the case under the [Bankruptcy] Code, (B) 30 days after entry of an order terminating a stay, if the claim or cause of action in a civil action has been stayed under § 362 of the [Bankruptcy] Code, or (C) 30 days after a trustee qualifies in a chapter 11 reorganization case but not later than 180 days after the order for relief.

Fed. R. Bankr. P. 9027(a)(2).

² Exactly 180 days from August 5, 2024, would be February 1, 2025, which falls on a Saturday. The Debtor therefore requests extension through February 3.

1 With respect to postpetition actions, Bankruptcy Rule 9027(a)(3) provides that a notice of removal
2 may be filed:

3 only within the shorter of (A) 30 days after receipt, through service or
4 otherwise, of a copy of the initial pleading setting forth the claim or cause
5 of action sought to be removed or (B) 30 days after receipt of the summons
if the initial pleading has been filed with the court but not served with the
summons.

6 Fed. R. Bankr. P. 9027(a)(3).

7 Bankruptcy Rule 9006(b)(1), however, permits the Court to enlarge unexpired time periods, such
8 as the Removal Period, without notice, upon a showing of cause:

9 Except as provided in paragraphs (2) and (3) of this subdivision, when an
10 act is required or allowed to be done at or within a specified period by [the
11 Bankruptcy Rules] or by a notice given thereunder or by order of court, the
12 court for cause shown may at any time in its discretion (1) with or without
13 motion or notice order the period enlarged if the request therefor is made
before the expiration of the period originally prescribed or as extended by a
previous order or (2) on motion made after the expiration of the specified
period permit the act to be done where the failure to act was the result of
excusable neglect.

14 Fed. R. Bankr. P. 9006(b)(1). As provided by Bankruptcy Rule 9006(b)(1), a request to enlarge time made
15 before the expiration of the applicable period is timely. *See* Bankruptcy Procedure Manual: Federal Rules
16 of Bankruptcy Procedure Ann. § 9006:3 (2023 ed.) (“The court has broad discretion in allowing an
17 extension, so long as the request therefore . . . is made before the expiration of the period originally
18 prescribed Thus, it should not be necessary that the order itself actually be filed within such period.”)
19 (internal quotation marks omitted). This Motion is filed prior to the Current Removal Deadline and is
20 therefore timely.

21 It is well-settled that this Court is authorized to extend, for cause, the removal period under 28
22 U.S.C. § 1452 and Bankruptcy Rule 9027. *See Pacor, Inc. v. Higgins*, 743 F.2d 984, 996 n.17 (3d Cir.
23 1984), overruled on other grounds by *Things Remembered, Inc. v. Petrarca*, 516 U.S. 124 (1995); *see also*
24 *Caperton v. A.T. Massey Coal Co., Inc.*, 251 B.R. 322, 325 (S.D.W. Va. 2000) (explaining that Bankruptcy
25 Rule 9006 provides authority to enlarge time periods for removing actions under Bankruptcy Rule 9027);
26 *Raff v. Gordon*, 58 B.R. 988, 990 (E.D. Pa. 1986) (finding that an expansion of time to file notices of
27 removal is authorized under the Bankruptcy Rules); *In re Jandous Elec. Constr. Corp.*, 106 B.R. 48
28 (Bankr. S.D.N.Y. 1989) (concluding that the period in which to file a notice of removal may be expanded

DEBTOR’S THIRD MOTION FOR ENLARGEMENT OF TIME TO REMOVE CIVIL ACTIONS

1 pursuant to Bankruptcy Rule 9006); *In re World Fin. Servs. Ctr., Inc.*, 81 B.R. 33, 39 (Bankr. S.D. Cal.
2 1987) (providing that the United States Supreme Court intended to give bankruptcy judges the power to
3 enlarge the filing periods under Bankruptcy Rule 9027(a) pursuant to Bankruptcy Rule 9006(b)).

4 **B. Cause Exists to Enlarge the Removal Period**

5 In addition to overseeing its business operations, ministry, mission, and social service activities,
6 the Debtor must address and resolve in the Chapter 11 Case the numerous sexual abuse claims that have
7 been asserted against it. During the initial stages of this Chapter 11 Case, the Debtor's resources were
8 devoted to assuring a smooth transition into chapter 11 and minimizing the business disruptions normally
9 attendant thereto, attending to diligence requests from the Committee, and establishing a collaborative
10 working relationship with the U.S. Trustee, the Committee, and the Debtor's other economic stakeholders.

11 In the 15 months following the Petition Date, and following the initial phase of the case, the Debtor
12 has stabilized its operations as a debtor in possession and made significant progress in the Chapter 11
13 Case, as detailed in the Exclusivity Motion. In particular, since the last extension of the Removal Period,
14 the Debtor has made substantial progress toward achieving its goals through mediation of a consensual
15 plan, although mediation remains ongoing. On December 19, 2023, the Debtor and the Committee jointly
16 filed the *Joint Motion for Entry of an Order Referring Parties to Mediation, Appointing Mediators and*
17 *Granting Related Relief* [Docket No. 705] (the "Mediation Motion"). On January 22, 2024, the Court
18 entered an order referring the parties to mediation, appointing the mediators agreed by the parties, and
19 identifying the matters for mediation, both as between the Debtor and the Committee, and between the
20 Debtor and its Insurers [Docket No. 810] (the "Mediation Order"). The matters for mediation and the
21 specifics of the mediation process are more fully set forth in the Mediation Order.

22 The Committee and the Debtor each met individually with mediators Judge Sontchi and Jeff
23 Krivis, exchanged initial proposals, and participated in the first round of mediation on March 18 and 19,
24 2024. Additional mediation sessions were held on multiple dates in April, May, and June, and counsel
25 for the Debtor and Committee held virtual one-hour meetings each week in July. The Debtor also
26 commenced mediation with the Insurers in June 2024, conducted by mediators Judge Newsome and Tim
27 Gallagher. Progress in the mediations with both the Committee and the Insurers is further described in
28 the Exclusivity Motion. (*See* Exclusivity Motion, Section III.E., pp. 8-9). The mediation process between

1 the Debtor and Committee, and between the Debtor and the Insurers, is a critical step toward the Debtor's
2 goal of reaching a consensual plan of reorganization.

3 As set forth above, the Debtor is party to numerous Actions and related proceedings. Treatment
4 of the approximately 421 claims in the Chapter 11 Case based on those state court Actions is core to any
5 Chapter 11 plan that the Debtor may propose, and an essential topic for the ongoing mediation with the
6 Committee. To date, the Debtor has not determined which, if any, of the Actions it may seek to remove
7 in due course—if at all. This decision will ultimately be informed by the ultimate resolution of mediation
8 with the Committee, and the structure and terms of the Chapter 11 plan proposed by the Debtor. Therefore,
9 the Debtor believes that it is prudent to seek an enlargement of the time prescribed by Bankruptcy Rule
10 9027(a), for an additional six months, to protect the Debtor's right to remove these Actions if it determines
11 that removal would be appropriate. The enlargement of time sought will afford the Debtor much-needed
12 time to determine whether to remove any pending Action or Actions in light of the plan it ultimate
13 proposes and the resolution of mediation with the Committee and will ensure that the Debtor does not
14 forfeit valuable rights under 28 U.S.C. § 1452 in the meantime.

15 By the concurrently filed Exclusivity Motion, the Debtor seeks an extension of exclusivity to file
16 a plan through November 8, 2024, and if a plan is filed by that date, through January 8, 2025, for
17 solicitation of its filed plan. The extension of the Removal Period through February 3, 2025, as requested
18 herein, provides necessary time to evaluate removal of any of the Actions in connection with a plan that
19 may be filed through the end of the Debtor's requested extension of the exclusivity periods.

20 The requested enlargement of the Removal Period will not prejudice the rights of the state court
21 plaintiffs because the Actions remained stayed by virtue of the bankruptcy automatic stay pursuant to
22 section 362 of the Bankruptcy Code. Further, any party to an Action that is removed may seek to have
23 the action remanded to state court pursuant to 28 U.S.C. § 1452(b).

24 The Debtor further requests that the order approving this Motion be without prejudice to any
25 position the Debtor may take regarding whether section 362 of the Bankruptcy Code applies to stay any
26 given Action pending against the Debtor.

1 For the reasons set forth above, the Debtor submits that cause exists to enlarge the Removal Period
2 through and including February 3, 2025, and that granting the relief requested is necessary, prudent, and
3 in the best interests of the Debtor, its estate, and creditors.

4 **VI.**

5 **RESERVATION OF RIGHTS**

6 Nothing contained in this Motion is intended to be or shall be construed as (i) an admission as to
7 the validity of any claim against the Debtor, (ii) a promise to pay any claim, (iii) a waiver of the Debtor's
8 or any appropriate party in interest's rights to dispute any claim, or (iv) an approval or assumption of any
9 agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code.

10 The relief requested herein is without prejudice to (a) any position the Debtor may take regarding
11 whether section 362 of Bankruptcy Code applies to stay any given civil action pending against the Debtor
12 and (b) the Debtor's right to seek from this Court further extensions of the Removal Period.

13 **VII.**

14 **NOTICE**

15 Notice of this Motion is being provided to the Core Service List pursuant to the Court's *Final*
16 *Order Authorizing and Approving Special Noticing and Confidentiality Procedures* [Docket No. 292] (the
17 "Noticing Order"). Pursuant to the Noticing Order, no further notice is required.

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VIII.

CONCLUSION

WHEREFORE, the Debtor requests that the Court enter an order, substantially in the form of the Proposed Order, granting (i) the relief requested herein, extending the Removal Period through February 3, 2025; and (ii) such other and further relief as the Court may deem just and proper.

DATED: July 31, 2024

FOLEY & LARDNER LLP

Jeffrey R. Blease
Thomas F. Carlucci
Shane J. Moses
Emil P. Khatchatourian
Ann Marie Uetz
Matthew D. Lee

/s/ Shane J. Moses

Shane J. Moses

*Counsel for the Debtor
and Debtor in Possession*

EXHIBIT A

1 **FOLEY & LARDNER LLP**

2 Jeffrey R. Blease (CA Bar. No. 134933)
3 Tel: (617) 226-3155; jblease@foley.com
4 Thomas F. Carlucci (CA Bar No. 135767)
5 Tel: (415) 984-9824; tcarlucchi@foley.com
6 Shane J. Moses (CA Bar No. 250533)
7 Tel: (415) 438-6404; smoses@foley.com
8 Emil P. Khatchatourian (CA Bar No. 265290)
9 Tel: (312) 832-5156; ekhatchatourian@foley.com
10 Ann Marie Uetz (admitted *pro hac vice*)
11 Tel: (313) 234-7114; auetz@foley.com
12 Matthew D. Lee (admitted *pro hac vice*)
13 Tel: (608) 258-4203; mdlee@foley.com
14 555 California Street, Suite 1700
15 San Francisco, CA 94104-1520

16 *Counsel for the Debtor*
17 *and Debtor in Possession*

18 **UNITED STATES BANKRUPTCY COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **OAKLAND DIVISION**

21 In re:
22 THE ROMAN CATHOLIC BISHOP OF
23 OAKLAND, a California corporation sole,
24
25 Debtor.

Case No. 23-40523 WJL

Chapter 11

**[PROPOSED] THIRD ORDER, PURSUANT
TO BANKRUPTCY RULES 9006 AND 9027,
ENLARGING THE PERIOD WITHIN
WHICH THE DEBTOR MAY REMOVE
ACTIONS PURSUANT TO 28 U.S.C. § 1452**

Judge: Hon. William J. Lafferty

Date: August 21, 2024

Time: 10:30 a.m.

Place: United States Bankruptcy Court
1300 Clay Street
Courtroom 220
Oakland, CA 94612

COURT SERVICE LIST

All ECF Recipients.

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THIRD ORDER ENLARGING TIME TO FILE NOTICES OF REMOVAL