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*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 OPPOSITION IN RESPONSE
TO MOTION TO ENLARGE THE CLAIMS
BAR DATE TO ACCEPT A LATE FILED
PROOF OF CLAIM**

Judge: Hon. William J. Lafferty

Date: April 30, 2025

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” or “RCBO”) in the above-captioned chapter 11 bankruptcy case (the “Chapter
3 11 Case” or the “Bankruptcy Case”), hereby files this opposition (the “Opposition”) in response to the
4 *Motion to Enlarge the Claims Bar Date to Accept a Late Filed Proof of Claim* [Docket No. 1865] (the
5 “Motion”), filed by Movant-Claimant JB Doe (“Movant”), who is represented by the law firm of Zalkin
6 Law Firm, P.C. (the “Firm”). In support of this Opposition, the Debtor respectfully states as follows:

7 The Motion was filed on or about April 21, 2025—nearly nineteen (19) months after the
8 established bar date of September 11, 2023 (the “Bar Date”)—and seeks an order enlarging Movant’s time
9 to file a proof of claim and deem such claim timely filed.¹ At bottom, the reasons for the relief sought
10 therein is more or less due to an administrative “oversight” by the Firm, acknowledging that Movant’s
11 claim regrettably “fell through the cracks” (Mot. ¶ 12). Notably, the Firm also represents a committee
12 member and has been actively involved in this Chapter 11 Case, filing multiple timely proofs of claim on
13 behalf of other claimants, a fact recognized by the Committee in its *Statement* [Docket No. 1903] (the
14 “Statement”) filed in support of the Motion. *Id.* at 2.

15 Bankruptcy Rule 9006(b)(1) “empowers a bankruptcy court to permit a late filing if the movant’s
16 failure to comply with an earlier deadline ‘was the result of excusable neglect’” and governs claims in
17 chapter 11 cases. *Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 382 (1993). The
18 Supreme Court established factors to consider in determining excusable neglect, but “the determination is
19 at bottom an equitable one, taking account of all relevant circumstances surrounding the party’s omission.”
20 *Id.* at 395 (considering factors such as (i) the prejudice to the debtor; (ii) the length of the delay and its
21 impact on case administration; (iii) the reasons for delay, including whether it was within the reasonable
22 control of the movant; and (iv) whether the movant acted in good faith).

23 Permitting Movant to file a claim over nineteen (19) months after Bar Date would be manifestly
24 unjust to the Debtor as it would disrupt administration of the case as the Debtor has begun its solicitation
25 process. Movant argues, however, that because a plan has not yet been confirmed there is no prejudice to
26 the Debtor, nor does the 19-month delay impact the administration of the Chapter 11 Case. A similar

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28 ¹ As the date hereof, Movant’s claim has not been filed and/or received by the Debtor’s claims agent.

argument was made and rejected by the bankruptcy court in *In re AMR Corp.*, 492 B.R. 660 (Bankr. S.D.N.Y. 2013) (finding that filing a claim three months after the bar date would disrupt the administration of the case). In particular, the bankruptcy court noted that “if a late claim was permitted so long as it was filed before the plan, the bar date would serve little purpose.” *Id.* at 667. Moreover, the bankruptcy court noted that the debtors had made “great strides” in their claims reconciliation process and were “well advanced in their plan to emerge from Chapter 11.” *Id.* The same is true for the Debtor here. Not only has the Debtor filed, and subsequently amended, its chapter 11 plan of reorganization and disclosure statement in support of same, the Debtor has already begun soliciting votes. [See, e.g., Docket Nos. 1830, 1874, 1877, & 1884].

The Motion next explains that the reason for the delay is not due to the Movant himself, as he was personally unaware of this Chapter 11 Case or the existence of the Bar Date, but rather, the mistake should be attributed to the Firm. Indeed, the Firm admits that it had such knowledge of the Bar Date but failed to file a claim on behalf of Movant due to an internal tracking oversight. See *Declaration of Devin M. Storey, Esq. In Support of the Motion to Enlarge the Claims Bar Date to Accept a Late Filed Proof of Claim* [Docket No. 1865-1], at ¶¶ 8-12. But in light of the circumstances and current stage of the Chapter 11 Case, the Motion fails to demonstrate that the reasons for delay warrant a finding of excusable neglect.

The Debtor is sympathetic and understands that in certain circumstances, administrative oversight provides a basis for excusable neglect. Indeed, the Debtor did not oppose similar request by other claimants [See Docket Nos. 607 & 1081]. For instance, the Debtor did not oppose counsel’s request to deem certain claims timely filed when such claims were filed less than twenty-four (24) hours after the Bar Date. See *Debtor’s Statement of Non-Opposition in Response to Motion to Allow Filing of Late Proof of Claim* [Docket No. 668]. The Debtor also did not oppose a similar request where counsel explained that she failed to file a timely claim (which was filed on January 4, 2024) because of a serious medical and physiological illness of her daughter which became life-threatening in August 2023. *Debtor’s Statement of Non-Opposition in Response to Motion to Allow Filing of Late Proof of Claim* [Docket No. 1131] at p.4; *Declaration of Mary Parker in Support of Motion to Allow Filing of Late Proof of Claim*

1 [Docket No. 1083] at ¶ 20.² Unfortunately, those circumstances are not present here. Here, it has been
2 19 months (and counting) since the Bar Date expired in September of 2023. The Firm has been actively
3 engaged in this Chapter 11 Case by representing a committee member and was well aware of the
4 applicable deadlines, including the Bar Date, with which it complied for multiple other claimants in this
5 case. Moreover, the Firm admitted that it discovered the error in February 2025, but to date, has failed to
6 file a proof of claim. *See Declaration of Devin M. Storey, Esq. In Support of the Motion to Enlarge the*
7 *Claims Bar Date to Accept a Late Filed Proof of Claim* [Docket No. 1865-1], at ¶ 12. Notably, the Firm
8 has not provided a reason for why it has yet to file a proof of claim when it learned of this mistake in
9 February 2025. *See In re Roman Catholic Diocese of Rockville Centre, New York*, 2023 WL 4497418, at
10 *11 (Bankr. S.D.N.Y. July 12, 2013) (noting that neither claimant provided an explanation for the delay
11 in filing the late claims *after* learning about the bar date). The Debtor has started the solicitation process
12 and mailed out its plan. As such, the Motion has failed to demonstrate excusable neglect, and should be
13 denied.

14 To be clear, the Debtor does not believe any party involved here has acted in bad faith, or even not
15 in good faith; the Debtor takes the Firm's acknowledgement of its own culpability at face value. But as
16 the Committee itself notes, one of the key *Pioneer* factors in the context of excusable neglect is the reason
17 for the delay in appropriate action. Here, that reason—the Firm's "internal oversight"—does not justify
18 the relief Movant seeks, particularly when considered in the larger context of this bankruptcy case. The
19 Bar Date did not pass yesterday, or last month, or even last year. It occurred more than 560 days prior to
20 the filing of the Motion, and the Firm cannot dispute that *it was aware of that deadline the entire time*.

21 RCBO reserves all other rights with respect to the claim and *other* claims not filed prior to the
22 September 11, 2023 Bar Date, for which a corresponding motion to allow late-filed claim(s) has not yet
23 been filed. Should any such motions be filed in the future, RCBO shall review the specific facts and
24 circumstances applicable and proceed accordingly.

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26
27 ² That very similar situations have already occurred twice in this case cuts against the Committee's
28 characterization of the Firm's failure to timely file Movant's claim as "unique." *See* Statement at 2. What
is unique the Firm's response—waiting so long to attempt to address its error.

1 WHEREFORE, for the reasons and on the bases set forth above, the Debtor respectfully submits
2 the Court deny the Motion and grant all other relief it deems just and proper.

3
4 DATED: April 23, 2025

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8 /s/ Shane J. Moses

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