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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
THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF THE ROMAN CATHOLIC BISHOP OF OAKLAND, Plaintiff, v. THE ROMAN CATHOLIC BISHOP OF OAKLAND, ADVENTUS, THE ROMAN CATHOLIC WELFARE CORPORATION OF OAKLAND, AND THE ROMAN CATHOLIC CEMETERIES OF THE DIOCESE OF OAKLAND, Defendants.	Adv. Pro. No. 24-04053 **DEBTOR'S OPPOSITION TO MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR RECONSIDERATION OF THE ORDER DISMISSING FIRST AMENDED ADVERSARY COMPLAINT** Judge: Hon. William J. Lafferty Date: September 9, 2025 Time: 10:00 a.m. Place: United States Bankruptcy Court 1300 Clay Street Courtroom 220 Oakland, CA 94612

This Roman Cahtolic Bishop of Oakland, a California corporation and the debtor and debtor in possession (the "Debtor") in the above-captioned chapter 11 bankruptcy case (the "Chapter 11 Case"), hereby files its opposition (this "Opposition") to the *Motion of the Official Committee of Unsecured Creditors for Reconsideration of the Order Dismissing First Amended Adversary Complaint* [Docket No. 57] (the "Motion"), filed by the Official Committee of Unsecured Creditors (the "Committee"). In support of this Opposition, the Debtor respectfully represents as follow:

I.

INTRODUCTION

After two rounds of motions to dismiss on the Committee's efforts to assert claims to substantively consolidate into the Debtor's estate non-debtor entities The Roman Catholic Welfare Corporation of Oakland ("RCWC"), The Roman Catholic Cemeteries of the Diocese of Oakland ("RCC"), and Adventus (collectively, the "Non-Debtor Defendants"), this Court ultimately dismissed the Committee's amended complaint (the "Amended Complaint"), with prejudice, in a deliberately reasoned and thorough decision. The Committee now asks this Court to reconsider its ruling based on five supposedly newly discovered facts, which the Committee asserts it learned for the first time in the deposition of Adventus on June 5, 2025. While the Committee asks the Court to reconsider its decision as to all three Non-Debtor Defendants, it does not even suggest that it has obtained any new information regarding RCC or RCWC.

None of these five supposed newly discovered facts about Aventus actually presents new information, much less meets the standard of being likely to result in a different outcome. Indeed, one of the "additional facts" that the Committee claims to have learned for the first time – that Adventus is a holding company that exists solely to hold certain real property – was plainly stated in the Debtor's *first day declaration*. The Committee also asserts information regarding Adventus's lack of employees and the overlap of roles between individuals at the Debtor and Adventus, all of which mirrors facts the Committee pled in the Amended Complaint.

The Committee cannot meet the standard for reconsideration because (1) it cannot show that the information it claims to have newly discussed was not already disclosed, (2) even if there were any particular information the Committee did not actually know, it easily could have obtained that information at any point during the past two years by exercise of due diligence, and (3) even if the facts on which it

bases its Motion were truly newly discovered (which they are not), they would not be likely to change the outcome.

This is not an alter ego case asserted for the first time by a plaintiff that has never had the chance to conduct discovery. The Committee has received tens of thousands of documents, including regarding Adventus, in informal discovery from the Debtor over the course of two years. It had every opportunity to fully develop the facts before filing even its Original Complaint. When it filed its Amended Complaint, it was well aware that it needed to make its best case to plead alter ego under California law. It simply failed to do so, not satisfying either prong of the two-prong test under California and Ninth Circuit law. Under those circumstances, dismissal with prejudice was appropriate.

By filing this Motion, the Committee persists in its litigation tactics, seemingly intent on stalling the progress of the case. This approach not only prolongs resolution but also incurs substantial professional fees, thereby draining the resources of the estate and jeopardizing its financial recovery. Accordingly, this Court should deny the Motion.

II.

BACKGROUND

A. General Background

On May 8, 2023 (the "Petition Date"), the Debtor filed a voluntary petition for chapter 11 bankruptcy relief under 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 (the "U.S. Trustee") appointed the Committee.

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*

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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.

B. The Adversary Proceeding

On December 11, 2024, the Committee filed its *Adversary Complaint for Declaratory Relief* (the "Original Complaint"), initiating this adversary proceeding. The Original Complaint contained two counts asserted against RCBO and the Non-Debtor Defendants. The first count sought declaratory relief finding that RCBO was the legal and equitable owner of all property of the Non-Debtor Defendants, based solely on section 541 of the Bankruptcy Code. The second count sought substantive consolidation of the Non-Debtor Defendants into the Bankruptcy Estate. The Original Complaint was largely premised on false allegations that the property and assets and affairs of each Non-Debtor Catholic Entity are so entangled with those of the Debtor that they cannot be separated. The Debtors and Non-Debtor Catholic Entities moved to dismiss the Original Complaint, arguing, *inter alia*, that the Court lacks the authority to substantively consolidate the Non-Debtor Catholic Entities under § 105 of the Bankruptcy Code, and, even if the Court had the authority to do so, that the Committee had not pled sufficient facts to support such a claim.

In its response to the motions to dismiss the Original Complaint and at oral argument, the Committee pivoted and argued that the Non-Debtor Catholic Entities were merely alter egos of the Debtor, and that substantive consolidation was warranted on this basis, even though the Original Complaint did not assert alter ego. The Court granted the motions to dismiss filed by the Debtor and the Non-Debtor Defendants and dismissed the Original Complaint without prejudice. In doing so, the Court ruled that pursuant to *Law v. Siegel*, 571 U.S. 415 (2014), substantive consolidation based on section 105 of the Bankruptcy Code is not available against a non-debtor non-profit entity, because involuntary substantive consolidation would be contrary to the provisions of section 303(a) of the Bankruptcy Code prohibiting involuntary bankruptcy filings against a non-profit corporation. The Court's findings and conclusions are reflected in its *Order After Hearing On Motions To Dismiss* [AP Docket No. 30] (the "First Dismissal Order"), entered on April 22, 2025.

While the Court ruled that *Law v. Siegel* and section 303(a) prohibit substantive consolidation of a non-profit entity based solely on section 105, it also stated that this would not inherently preclude relief

based on state law, such as alter ego. The Court found that the Committee had, however, failed to articulate such a claim under state law. *See*, First Dismissal Order, at p. 7. The Committee was therefore granted leave to amend so that it could attempt "to articulate any applicable non-bankruptcy law that would have the desired effect of substantive consolidation without overriding the explicit prohibitions of 303(a)." *Id.*

On May 6, 2024, the Committee filed a *First Amended Adversary Complaint* [AP Docket No. 32] (the "Amended Complaint"), containing four Counts that once again focused on substantive consolidation of the Non-Debtor Defendants into the Debtor's bankruptcy estate. In particular, the Amended Complaint sought a determination that (1) each of the Non-Debtor Defendants should be substantively consolidated with the Debtor under § 105 of the Bankruptcy Code, based on California State Law principles of alter ego (Counts 1–3); and (2) the Debtor is the "equitable owner" of the funds deposited by RCWC schools with the Oakland Parochial Fund (the "School Funds") (Count 4). The Amended Complaint mostly re-alleged the same factual allegations asserted in the Original Complaint, but now specifically asserted that these facts supported a finding that the Non-Debtor Defendants were alter egos of RCBO under California law.

On May 23, 2025, the Debtor filed its *Motion to Dismiss First Amended Adversary Complaint*. [AP Docket No. 41]. Also on May 23, 2025, the Non-Debtor Defendants filed their *Motion of the Roman Catholic Welfare Corporation of Oakland, the Roman Catholic Cemeteries of the Diocese of Oakland and Adventus to Dismiss the Official Committee of Unsecured Creditors' First Amended Complaint* [AP Docket No. 35] (collectively with the Debtor's motion, the "Motions to Dismiss"). On June 4, 2025, Motions to Dismiss came before the Court for hearing, and were taken under submission.

On July 16, 2025, the Court delivered its findings of fact and conclusions of law pursuant to Rule 7052, and oral ruling on the Motions to Dismiss (the "Oral Ruling"). The transcript of the Oral Ruling is attached as Exhibit A to the Declaration of Michael Kaplan in support of the Motion (the "Kaplan Decl."). As set forth in the Oral Ruling, the Court found that the Committee had failed to plead facts sufficient to support a cause of action based on alter ego. *See generally*, Kaplan Decl., Ex. A. Because the Committee had been given the opportunity to "provide everything that they had by way of factual background and

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support in this complaint," the Court ruled that the dismissal would be with prejudice. *Id.*, at Transcript p. 146-147.[1]

On July 25, 2025, the Court entered its *Order Dismissing First Amended Adversary Complaint* granted each of the Motions to Dismiss, and dismissing the Amended Complaint with prejudice, "[f]or the reasons set forth on the record in the Oral Ruling." [AP Docket No. 55] (the "Dismissal Order").

On August 8, 2025, the Committee filed the Motion, by which it seeks reconsideration specifically of dismissal with prejudice of the Amended Complaint.

III.

ARGUMENT

A. The Legal Standard for Reconsideration

In seeking reconsideration, the Committee is required to meet a high bar, which it plainly fails to satisfy. "Motions for reconsideration should not be frequently made or freely granted; they are not a substitute for appeal or a means of attacking some perceived error of the court." *Mills v. Mitchell*, No. 16-cv-05095-HSG, 2018 U.S. Dist. LEXIS 118373, at *2 (N.D. Cal. 2018); *See also, 389 Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir.1999). Motions to reconsider are "not vehicles permitting the unsuccessful party to rehash arguments previously presented." *United States v. Navarro*, 972 F. Supp. 1296, 1299 (E.D.Cal.1997), *rev'd on other grounds*, 160 F.3d 1254 (9th Cir.1998).

When a motion for reconsideration is based upon newly discovered evidence, the movant must show that "1) the evidence was discovered after trial; 2) the exercise of due diligence would not have resulted in the evidence being discovered at an earlier stage; and 3) the newly discovered evidence is of such magnitude that production of it earlier would likely have changed the outcome of the case." *In re Pruitt*, 319 B.R. 646, 647 (Bankr. S.D. Cal. 2005) (citing *In re La Sierra Financial Serv., Inc.*, 290 B.R. 718, 733 (B.A.P. 9th Cir. 2002)); *Cachil Dehe Band of Wintun Indians of Colusa Indian Cmty. v. California*, 649 F. Supp. 2d 1063, 1069 (E.D. Cal. 2009) (internal quotations omitted) (articulating the same standard).

[1] While the Committee suggests that the Court was somehow uncertain about this ruling, nothing in the Court's statements or extensive ruling suggests any such uncertainty.

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Specifically, a party may not use a motion for reconsideration to present new evidence for the first time when it could have reasonably been raised earlier in the litigation. *Cachil Dehe Band of Wintun Indians*, 649 F. Supp. 2d at 1069 (citing *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th. Cir 2003). The party moving for reconsideration on this basis bears the burden of demonstrating the second factor of the test, requiring that the evidence asserted "could not have been discovered through due diligence." *Id.* (internal quotations omitted). Evidence is not considered "new" if it was "in the moving party's possession or could have been discovered prior to the court's ruling." *Id.* (citing *Coastal Transfer Co. v. Toyota Motor Sales*, 833 F.2d 208, 212 (9th Cir.1987)).

B. <u>The Committee's "New Evidence" is Not Newly Discovered</u>

The purported new information about Adventus does not constitute new evidence. The Committee has long been aware that Adventus functions as a holding company for real estate, devoid of any operational activities. The First Day Declaration explicitly states that "Adventus, a California corporation, is used by the Debtor to hold title in some limited real estate." First Day Declaration, p. 14:23-24.

Since the Petition Date, the Committee has been cognizant of Adventus' role in holding property for the Debtor. Beyond the description in the First Day Declaration, the same disclosures that "Adventus, a California nonprofit public benefit corporation, is used to hold title in some limited real estate" and that "Adventus' financial are consolidated into the audited financials of the Debtor" has been in every iteration of the RCBO's disclosure statement in support of its proposed plan. *See* Bankruptcy Case Docket Nos. 1445 at p. 32, 1595 at p. 39; 1763 at p. 39; 1874 at p. 39. The Debtor's amended Statement of Financial Affairs, filed on December 14, 2023, also discloses that Adventus is a "California public benefit corporation holding title to limited real estate." *See* Docket No. 693, at p. 113. The Committee is being disingenuous in now claiming that it is presenting "newly discovered" facts by stating that Adventus' sole purpose is to hold property for the Debtor. *See Hopkins v. Andaya*, 958 F.2d 881, 887 n. 5 (9th Cir.1992) ("A defeated litigant cannot set aside a judgment because he failed to present on a motion for summary judgment all the facts known to him that might have been useful to the court.").

Further, the Debtor produced to the Committee the original and amended bylaws of Adventus, on or about August 24, 2023, as Bates numbers RCBO-CC-0004877_0001 and RCBO-CC-0004878_0001. The bylaws of Adventus were also attached as Exhibit 5 to the Declaration of Ryan Manns in support of

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the Non-Debtor Defendants' Motion to Dismiss [AP Docket No. 36]. Both the Articles of Incorporate and the Bylaws were also attached as Exhibits 5 and 6 to the Declaration of Ryan Manns in support of the Non-Debtor Defendants' motion to dismiss the Original Complaint, filed on January 10, 2025 [AP Docket No. 10]. The Bylaws, which the Committee has had since August of 2023, state that the purpose of Adventus is as follows: "This corporation shall perform certain functions of The Roman Catholic Diocese of Oakland, and its affiliated entities, relating to real estate and such other functions as may be agreed upon from time to time." Ap Docket No. 36, Ex. 5. The Bylaws also reflect that all board members are appointed by RCBO. *Id.*

In other words, for more than eighteen months before the Committee filed its Amended Complaint, it knew that Adventus was simply a real estate holding company, what real estate it held, and that all of its directors are appointed by RCBO. The potential contribution of the Livermore property held by Adventus to the Debtor's plan, with no consideration to be received in return, was disclosed in the Debtor's first disclosure statement filed on November 8, 2024, six months before the Amended Complaint. *See* Bankruptcy Case Docket Nos. 1445. Yet, these facts are the core of the "new evidence" that the Committee now asserts. This is not a basis for reconsideration.

C. The Committee Could Have Discovered the Alleged "New" Evidence at Any Point in the Last Two Years

Even if the Committee claims it did not specifically know that Adventus did not have employees, or who the current directors are, or were at the Petition Date, those allegation do not support its request for reconsideration. The Committee has to show that "the exercise of due diligence would not have resulted in the evidence being discovered at an earlier stage." *In re Pruitt*, 319 B.R. at 647; *Coastal Transfer Co.*, 833 F.2d at 212. Over the course of more than eighteen months between the Committee's appointment and the Committee filing its Original Complaint, the Debtor produced tens of thousands of documents responsive to hundreds of informal discovery requests by the Committee. The Debtor complied with the Committee's informal document requests, with very few objections, and at no point did the Committee file a motion with the Court alleging any deficiency in the Debtor's production or asserting that additional documents were required.

The documents produced by the Debtor to the Committee before even the Original Complaint included not only the corporate formation documents of Adventus, but also the consolidated financial statements of RCBO, which as disclosed in the First Day Declaration, include Adventus's financial results. The Committee also cannot argue that could not reasonably have anticipated the purported "new evidence" from the deposition of Adventus. That a real estate holding company lacks operations or employees is more to be expected than a surprise. If the Committee did not have specific information on the directors, officers, and employees of Adventus prior to filing its Amended Complaint, the only reason is because it failed to ask.

Event after the Original Complaint was dismissed based on a failure to allege alter ego, the Committee could have obtained any of the information it now asserts is "newly discovered." The Committee could have made further informal discovery requests, but it did not. The Committee could have asked the Court for leave to conduct limited discovery regarding alter ego prior to filing its Amended Complaint, but it did not. The Committee was well aware that it needed to "provide everything that they had by way of factual background and support in this complaint." *See* Oral Ruling, p. 147. Knowing that, it filed the Amended Complaint on May 6, 2025, even though there was no pending deadline for the filing. At that time, the Committee already knew that depositions, including the deposition of Adventus, would be held by early June, pursuant to the Court's confirmation scheduling order entered on April 15, 2025, which set a fact discovery cutoff of June 9, 2025. [Bankruptcy Case Docket No. 1893]. Instead of seeking additional discovery, the Committee, clearly believing it had everything it needed, filed its Amended Complaint.

Because the Committee could easily have discovered any of the evidence it now asserts as "new" at any point during the Bankruptcy Case, the Committee cannot meet the standard of showing that the facts it alleges in its motion "could not have been discovered through due diligence" before the hearing on the Amended Complaint. *See Cachil Dehe Band of Wintun Indians*, 649 F. Supp. 2d at 1069.

D. <u>The Evidence Asserted by the Committee Would Not Change the Outcome</u>

Even if the Committee could demonstrate both that the Adventus Declaration revealed new evidence, and that it could not have discovered that new evidence earlier through due diligence, the Committee would still have to show that this new evidence would have likely changed the outcome of the

Court's ruling. *See, eg., In re La Sierra Financial Serv.*, 290 B.R. at 733; *See also Beverly v. Network Solutions, Inc.*, 1998 WL 917526, at *4 (N.D. Cal. 1998) (evidence asserted as a basis for reconsideration "must be of such a character that it would change the outcome of the court's prior decision."). The Committee cannot make this showing, because there is no likelihood that any of the five "new" facts it asserts would have resulted in a different outcome.

In granting the Motions to Dismiss, the Court stated the alter ego standard as requiring that: "The facts must be, as taken together, cumulatively show that the parent controls a subsidiary with such consistency and severity that the latter is rendered a mere instrumentality of the former." Oral Ruling, p. 140 (citing *Ranza v. Nike, Inc.*, 793 F.3d 1059, 1073 (9th Cir, 2015)). Further, "[p]laintiff must show 'a total domination of finances, policy, and business practices,' such that the subsidiary has 'no separate mind, will, or existence of its own.' *Id.* (citing *Doe v. Unocal Corp.*, 248 F.3d 915 (9th Cir. 2001)).

The Committee fails to explain in its motion how the five facts it asserts would have changed the Court's finding that it did not plead facts meeting the standard. The Committee already pled that "Adventus is a California corporation used by the Debtor to hold title to certain single-family residences in Byron and Hayward, California and undeveloped land in Livermore, California." Amended Complaint, ¶ 16. It also pled that the "Debtor selects each director on Adventus's board of directors." *Id.*, ¶ 43. Regarding specific officers and directors, it pled the overlap of roles at the Debtor and Adventus of Paul Bongiovanni and Michael Canizzaro. *Id.*, ¶ 25. Regarding employees, the Amended Complaint pled that "[t]he Chancery and its employees handle administrative functions for both the Debtor and Adventus." *Id.*, ¶ 141. Indeed, the Amended Complaint pled a laundry list of connections between the Debtor and Adventus. *Id.* Ultimately, however, the Court found correctly that none of these facts rose to the level necessary to meet the entanglement standard articulated by the Ninth Circuit in *Ranza* and *Unocal*. See Oral Ruling, p. 139-142. None of the five facts asserted by the Committee in its Motion are materially different from what the Committee already pled in the Amended Complaint, and therefore they could not provide any basis for changing the Court's analysis regarding entanglement.

In addition to finding that the Committee failed to sufficiently plead the entanglement prong of alter ego, the Court also found that the Committee failed to sufficiently plead the fraud or injustice prong. *See* Oral Ruling, p. 142-143. Specifically, the Court cited the Ninth Circuit decision in *Doe v. Unocal*

Corp., 248 F.3d 915, for the proposition that alter ego "requires a showing that maintaining corporate separateness would sanction fraud or promote injustice." Oral Ruling, p. 142. The Court found that the Committee's only argument, that abuse survivors would receive less if the corporate form was not pierced, did not satisfy the test, because it is established that "the inability to collect a judgment or access additional funds, even if inequitable, does not by itself rise to the level of injustice required to pierce the corporate veil." *Id.* at 142-143 (citing *Roman Catholic Archbishop v. Superior Court*, 15 Cal.App.3d 405 (1971)). There is no conceivable basis for the Committee to argue that the supposed new evidence would change this analysis. Neither the existence or non-existence of officers or employees, nor the overlap in roles of individuals between RCBO and Adventus, bear any relationship to the fraud or injustice prong of alter ego. Therefore, this "new evidence" is not material and controlling nature that it demands a probable change in the outcome. *See Medina v. Two Jinn, Inc.*, 2024 WL 4485592, at *3 (N.D. Cal. 2024).

E. The Committee Has Waived Reconsideration as to RCC and RCWC

The Committee appears to seek relief as to all three Non-Debtor Defendants. *See* Motion, p. 7, and Ex. A. Nonetheless, in the Motion, the Committee only alleges that there are new facts regarding Adventus. Indeed, the Motion presents no facts and no argument regarding RCC or RCWC. The Committee is unable to provide such evidence or arguments because none exist. Therefore, as to RCC and RCWC, the Committee has waived reconsideration. *See Wilson v. JPMorgan Chase Bank, NA.*, No. 2:23-cv-01827-JHC, 2024 U.S. Dist. LEXIS 195542, at *3 (W.D. Wash. Oct. 28, 2024) (arguments not raised by a party in its opening brief are deemed waived). Consequently, there is unequivocally no basis to reexamine the dismissal with prejudice as to RCWC and RCC.

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IV.

CONCLUSION

WHEREFORE, the Committee has failed to show any basis for reconsideration of the Court's prior ruling, and the Debtor therefore requests the Court enter an Order denying the Motion.

DATED: August 21, 2025

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