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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. --- 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.	Case No. 23-40523 WJL Chapter 11 Adv. Pro. 24-04053 **OMNIBUS REPLY IN SUPPORT OF MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR RECONSIDERATION OF THE ORDER DISMISSING FIRST AMENDED ADVERSARY COMPLAINT** Date: September 9, 2025 Time: 10:00 a.m. (Pacific Time) Place: United States Bankruptcy Court 1300 Clay Street, Ctrm. 220 Oakland, CA 94612

The Official Committee of Unsecured Creditors (the "**Committee**") of The Roman Catholic Bishop of Oakland files this omnibus reply (this "**Reply**") in support of the Committee's motion [Dkt. No. 57] (the "**Motion**")[1] seeking reconsideration of the Order dismissing the above-captioned Adversary Proceeding and in response to the objections (collectively, the "**Objections**") filed by the Non-Debtor Affiliated Entities [Dkt. No. 65] and the Debtor [Dkt. No. 67]. In support of this Reply, the Committee states as follows:

PRELIMINARY STATEMENT

The Objections respond to arguments not presented in the Motion or before this Court and ignore the only issue raised in the Motion. The Committee is *not* asking the Court to revisit its ruling that the Complaint failed to state a claim; that issue is now on appeal. Rather, the Committee asks for reconsideration of a narrow part of the Order: the words "with prejudice."

The Ninth Circuit has made clear that dismissal with prejudice is proper only if amendment would be futile. The Defendants have not attempted to show that any future possibility of amendment to the complaint would be futile and instead focus the entirety of the Objections rebutting when the Committee knew or could have known of the facts included in the Motion as *examples* of new information the Committee learned since the Complaint was filed.

The Debtor and Non-Debtor Affiliated Entities have not, and cannot, assert that new facts can never be discovered by the Committee, particularly while discovery is ongoing. The relief sought in the Motion is to allow the Committee to amend the Complaint *if* it discovers information, through ongoing discovery, which would support the causes of action alleged in the Complaint.

REPLY

The Court's ruling on the sufficiency of the Complaint is not before this Court—that issue will be heard by the District Court in the pending appeal if the appeal is necessary following this Court's decision on the Motion.[2] The narrow question before this Court is whether dismissal *with*

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[1] Capitalized terms not defined in this Reply shall have the meanings ascribed to them in the Motion.

[2] The Committee might decide, if dismissal of the Complaint is without prejudice, that it will not pursue the appeal of the Order at this time.

prejudice was proper.

The Ninth Circuit has made clear: "Dismissal with prejudice and without leave to amend is not appropriate unless it is clear on de novo review that the complaint could not be saved by amendment." *Eminence Cap., LLC v. Aspeon Inc.*, 315 F.3d 1048, 1052 (9th Cir. 2003) (noting that "[a] district court's failure to consider the relevant factors and articulate why dismissal should be with prejudice instead of without prejudice may constitute an abuse of discretion."). Here, the Court did not conclude that amendment to the Complaint would be futile but nonetheless dismissed the Complaint with prejudice. *See* Oral Ruling at 147: 1–10.

Rather than demonstrating that an amendment to the Complaint would be futile, Defendants devote pages to a revisionist account of this adversary proceeding and insist (incorrectly) that the Committee's example of additional facts (*i.e.*, that Adventus is a shell company with no other purpose than to hold real estate for the Debtor, has no employees, directors, or officers, possibly has only two board members (the Debtor's CFO and vicar general), and was not receiving any individual benefit for its proposed contribution to the Survivor's Trust) were already known or knowable at the time of filing. *See* Debtor's Obj. 3–7; Non-Debtor Affiliated Entities' Obj. at 2–7, Ex. A. Setting aside these irrelevant arguments, principles of equity preclude permanently barring amendment while discovery continues to uncover evidence that could support the causes of action in the Complaint. *See Eminence Cap.*, 315 F.3d at1052; *see also In re Int'l Fibercom, Inc.*, 503 F.3d 933, 940 (9th Cir. 2007) (a motion for reconsideration "complements the discretionary power that bankruptcy courts have as courts of equity to reconsider, modify or vacate their previous orders so long as no intervening rights have become vested in reliance on the orders.") (citations omitted).

Therefore, at this stage, foreclosing the Committee's claims against the Defendants *with prejudice* would be inequitable, and reconsideration is warranted to prevent manifest injustice.

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Dated: September 2, 2025

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