

1 MICHAEL A. SWEET (SBN 184345)
 msweet@foxrothschild.com
 2 EDWARD J. TREDINNICK (CA Bar # 84003)
 etredinnick@foxrothschild.com
 3 FOX ROTHSCCHILD LLP
 345 California Street, Suite 2200
 4 San Francisco, California 94104-2670
 Telephone: 415.364.5540
 5 Facsimile: 415.391.4436

6 Attorneys for Claimant No. 552

7
 8 UNITED STATES BANKRUPTCY COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 OAKLAND DIVISION
 11

12 In re:
 13 THE ROMAN CATHOLIC BISHOP OF
 OAKLAND, a California corporation sole,
 14 Debtor and Debtor-in-Possession
 15
 16
 17
 18
 19
 20
 21
 22
 23

Case No. 23-40523

Chapter 11

**DECLARATION OF TERRY GROSS
 IN SUPPORT OF MOTION TO
 ALLOW FILING OF LATE PROOF OF
 CLAIM**

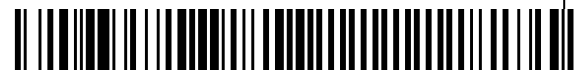
Judge: Hon. William J. Lafferty

Hearing Date: April 24, 2024
 Hearing Time: 10:30 am
 Place: United States Bankruptcy Court
 1300 Clay Street, Courtroom 220
 Oakland, CA 94612

*[In person or via Zoom/AT&T
 Teleconference]*

24 I, Terry Gross, do hereby declare:

25 1. I am an attorney of law admitted to practice by the State Bar of California. I am
 26 familiar with the matters as set forth herein and if called upon could competently testify thereto.
 27
 28



1 2. I am the Managing Attorney at Gross & Belsky P.C. (“**G&B**”). Our firm is a
2 litigation firm that has a specialty in sexual abuse cases, including Clergy Abuse cases. I am
3 responsible for overseeing the firm’s Clergy Abuse cases, including that of Claimant No. 552 (the
4 “**Claimant**”) that is the subject of this Motion to Allow Filing of Late Proof of Claim (the
5 “**Motion**”).

6 3. My firm’s clergy abuse cases are managed by Mary Parker, our lead paralegal. Ms.
7 Parker is responsible for all ministerial actions relating to our clergy abuse cases, including without
8 limitation preparing and finalizing documents for filing, serving and filing documents in the cases,
9 calendaring matters relating to the clergy abuse cases, maintaining tables that list all of our cases
10 and keep track of deadlines relating to filing, service, motions and discovery. Ms. Parker has been
11 employed by my firm since May 2008. Her work throughout this period has been exemplary.
12 During the many years Ms. Parker has worked for our firm, she has gotten married, had a child,
13 selflessly fostered and adopted two other children, and also worked hard for our firm. Ms. Parker
14 had always been on top of the firm’s calendar, regularly reminding the attorneys of filing and
15 statutory deadlines, communicating with court clerks and opposing counsel, and handling all of our
16 filings in a timely and exemplary manner.

17 4. Pursuant to the confidentiality protocol providing that sexual abuse claims shall be
18 held and treated as strictly confidential in this Court’s *Order Establishing Deadlines for Filing*
19 *Proofs of Claim Approving the Form and Manner of Notice Thereof* [Docket 293] the Claimant is
20 identified for purposes of this Motion by the claim number assigned to his proof of claim by the
21 official claims agent.

22 5. Prior to the filing of the bankruptcy case herein, on March 8, 2023, our firm was
23 retained by Claimant to file a clergy abuse complaint against the Roman Catholic Bishop of
24 Oakland (“**RCBO**”). We promptly investigated the claim, obtained background records,
25 determined that the claim was timely, and proceeded to draft a complaint. On April 11, 2023, our
26 firm timely filed a complaint for Claimant (the “**Complaint**”) against RCBO in the Alameda
27 Superior Court alleging childhood sexual abuse. John JP Doe v. Roe 1, et. al. Alameda Superior
28 Court Case # 23 CV 030984.

1 6. On April 28, 2023, our firm, as required by Code of Civil Procedure § 340.1(g),
2 filed an Ex Parte Application Requesting In Camera Review Of Certificates Of Merit And For
3 Orders (1) Permitting Plaintiff To Serve Roe Defendants With Process, And (2) That The
4 Concurrently Lodged Certificates Of Merit Be Filed Under Seal And Be Kept Confidential (the
5 **“Ex Parte Application”**). Pursuant to Code of Civil Procedure § 340.1(h), Claimant was not
6 permitted to serve the Complaint unless and until this Ex Parte Application was granted.

7 7. On May 3, 2023, the Superior Court entered an order granting the Ex Parte
8 Application (the “Order”). However, the Certificate of Mailing attached to this order states that the
9 Superior Court clerk did not mail the order to Claimant’s counsel until May 23, 2023.

10 8. In the interim, on May 8, 2023 – after the Superior Court entered the order but before
11 it was mailed to and received by my office – the RCBO filed a bankruptcy petition. Pursuant to
12 the automatic stay of 11 U.S.C. § 362, the bankruptcy filing stayed all actions in Claimant’s lawsuit
13 in Superior Court.

14 9. When my firm received the Order, I promptly conferred with Ms. Parker, and
15 requested that she contact counsel for the RCBO to obtain a stipulation to have Claimant’s case
16 added to JCCP 5108. I understood that, due to the bankruptcy filing and the bankruptcy automatic
17 stay, there would be no further actions in the Superior Court case.

18 10. Shortly after July 25, 2023, I received a copy of this Court’s Order Establishing
19 Deadlines for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof
20 [Docket No. 293], and learned that the bar date for submitting claims against RCBO in this
21 bankruptcy proceeding was September 11, 2023. I conferred with Ms. Parker, and she calendared
22 this date in our firm calendar.

23 11. I conferred with Ms. Parker, and instructed her to prepare proofs of claim for all of
24 our clients who had filed complaints against RCBO. We have seven such cases. In order to be able
25 to fill out the section of the Optional Supplement form for each client, which has questions about
26 the damages incurred, I instructed Ms. Parker to contact the firm’s retained psychology expert and
27 request him to interview the various plaintiffs and analyze the damages our clients each have
28 suffered, and obtain the information that was required to fill in portions of the claim forms

1 concerning psychological damages. Ms. Parker informed me that she had communicated with our
2 expert, and that he was going to interview all the clients with claims against RCBO and would
3 utilize this information to complete the claim forms for each client.

4 12. Frequently during late August and early September 2023, I checked in with Ms.
5 Parker as to her progress in obtaining the necessary information for all the claims that were going
6 to be filed in the RCBO bankruptcy proceeding. Each time, Ms. Parker informed me of the status
7 of her efforts, and stated that she was in the process of timely obtaining all necessary information
8 and would prepare and timely file the claim forms for all of the firm's clients with claims against
9 RCBO.

10 13. In early September, Ms. Parker and I received a report from our expert, in which he
11 provided summaries of the damages suffered by six of our clients, all of whom had filed complaints
12 against RCBO. I requested of Ms. Parker that she finalize the proof of claim forms for all our clients
13 for whom we were filing claims in this proceeding by adding the information from the expert to the
14 proof of claim forms that she had already prepared for each of our clients. Ms. Parker then delivered
15 to me a set of these proofs of claim forms, which I then reviewed and made final edits as necessary.
16 Ms. Parker said that she would then file the proofs of claim with the claims agent.

17 14. On September 11, 2023, which I knew was the bar date, I conferred with Ms. Parker,
18 and she informed me that she had finalized and filed proofs of claim forms for all our clients with
19 cases against RCBO.

20 15. During this period, I did not notice that there was no proof of claim form for
21 Claimant in the packet that Ms. Parker provided to me. I relied on her representation to me that she
22 was providing me with all the proof of claim forms that needed to be filed in this proceeding by the
23 bar date, and her representation that she had filed proofs of claim forms with the claims agent by
24 the bar date for all of our clients who had filed complaints against RCBO.

25 16. On January 1, 2024, as I reviewed mail that had arrived over the holidays when I
26 was out of town, and I saw that our firm had received a notice concerning the bar date for
27 bankruptcy claims against the Roman Catholic Archbishop of San Francisco ("RCASF"), as our
28 firm has a number of clergy abuse cases pending against RCASF. I also saw that our firm had

1 received from counsel for RCASF a list of cases that counsel stated contained the names of cases
2 that our firm had filed against RCASF. I noticed that one of the cases listed by the RCASF counsel
3 was not filed against RCASF, but instead involved a priest in the Oakland Diocese and was filed
4 against RCBO. I asked Ms. Parker to calendar the bar date and commence efforts to prepare proofs
5 of claim for our clients with cases against RCASF. I also requested that Ms. Parker contact RCASF
6 counsel and determine why the case involving a plaintiff whose complaint asserted claims against
7 RCBO, and not RCASF, was categorized as an RCASF case.

8 17. The next day, Ms. Parker told me that, in checking on the situation involving the
9 case concerning a plaintiff whose complaint asserted claims against RCBO was listed as an RCASF
10 case (where she found out that the RCASF counsel had inadvertently and incorrectly listed it as an
11 RCASF case), she had decided to check all proofs of claim she had filed in this bankruptcy
12 proceeding involving RCBO, and she then discovered that she had not filed a proof of claim for
13 Claimant herein.

14 18. Ms. Parker apologized profusely for this error. I asked her how this could have
15 happened, since several times she had represented to me that proofs of claim for all clients with
16 claims against RCBO had been timely filed. She told me that, in filing the proofs of claim for this
17 bankruptcy proceeding involving RCBO, she had utilized the chart she kept of cases in the JCCP
18 5108 coordinated proceeding, and had filed proofs of claim for all of those cases, but that she had
19 overlooked Claimant's case since it had never been transferred into the JCCP proceeding and thus
20 she hadn't included it in the list she used as a crosscheck for claims to be filed in the RCBO
21 bankruptcy proceeding.

22 19. I asked her how this could have happened, since she always meticulously had
23 managed to keep excellent track of all filing dates. She admitted to me, for the first time, that
24 during last spring, and continuing through fall, she had been involved in a very difficult family
25 situation that was life-threatening for one of her middle-school daughters and caused her to believe
26 that she might lose her daughter, and that this situation continued throughout the time period for
27 the filing of the RCBO proofs of claim, and that during this time she had been unusually distracted
28 and had been functioning poorly. She said she hadn't wanted to mention this to me or anyone else

1 at the firm because she felt extremely embarrassed and did not want to burden me and my law
2 partner with her personal matters. I had not known earlier about this dire family situation, and Ms.
3 Parker had never asked for assistance nor in any way indicated that she was having problems
4 concentrating on her work.

5 20. As I stated earlier, Ms. Parker's work through her 16 years with the firm has been
6 exemplary and thorough, and in particular she had never missed a filing date, and I simply had no
7 reason to suspect that Ms. Parker was not doing the same with the filing of the proofs of claim in
8 the RCBO bankruptcy proceeding.

9 21. As soon as Ms. Parker explained to me her failure to timely file a proof of claim for
10 Claimant, I instructed her to promptly file one. Accordingly, on January 4, 2024, our firm filed a
11 proof of claim for Claimant in this proceeding.

12 22. On February 9, 2024, I spoke with Shane Moses of Foley & Lardner, counsel for
13 RCBO, and explained the late filing of the proof of claim, and requested if the RCBO would consent
14 to the late filing of Claimant's proof of claim. Mr. Moses stated he would check with his client,
15 and later informed me that RCBO was not in a position to agree to anything, and that once we filed
16 our motion to file a late claim, the law firm would review the motion and let us know of RCBO's
17 position, if any.

18 I declare under penalty of perjury that the foregoing is true and correct. Executed this
19 27th day of March 2024 at Oakland, California.

20 

21 _____
TERRY GROSS