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*Special Insurance Counsel for the Official  
 Committee of Unsecured Creditors*

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

Case No. 23-40523 WJL  
 Chapter 11

*In re:*

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

**DECLARATION OF MICHAEL A.  
 KAPLAN IN SUPPORT OF THE  
 OFFICIAL COMMITTEE OF  
 UNSECURED CREDITORS'  
 OBJECTION TO AMERICAN HOME  
 ASSURANCE COMPANY'S MOTION TO  
 QUASH OR IN THE ALTERNATIVE  
 FOR A PROTECTIVE ORDER**

**[Related to Docket No. 920]**

Judge: Hon. William J. Lafferty  
 Date: April 26, 2024  
 Time: 10:00 a.m. (Pacific Time)  
 Place: United States Bankruptcy Court  
 1300 Clay Street, Courtroom 220

1 I, Michael A. Kaplan, Esq., hereby declare as follows:

2 1. I am a partner of the law firm of Lowenstein Sandler LLP, counsel to the Official  
3 Committee of Unsecured Creditors (the "Committee") in connection with the above-referenced  
4 chapter 11 case.

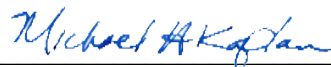
5 2. I submit this Declaration in support of the *Official Committee of Unsecured*  
6 *Creditors' Objection to American Home Assurance Company's Motion to Quash or in the*  
7 *Alternative for a Protective Order* filed simultaneously herewith.

8 3. Attached as Exhibit A is a true and correct copy of email correspondence between  
9 counsel to the Committee and counsel to American Home Assurance Company dated February 20,  
10 2024–March 2, 2024.

11 4. Attached as Exhibit B is a true and correct copy of the relevant pages of the  
12 transcript of hearing held on February 12, 2024 in the above-referenced chapter 11 case.

13 5. Attached as Exhibit C is a true and correct copy of the relevant pages of the  
14 transcript of hearing held on January 9, 2024 in the above-referenced chapter 11 case.

15 I certify under penalty of perjury that the foregoing information is true and correct to the  
16 best of my knowledge, information and belief, and I understand that I am subject to punishment if  
17 any of the foregoing statements made by me are willfully false. Executed this 11th day of April  
18 2024, in Roseland, New Jersey.

19  
20 

21 Michael A. Kaplan, Esq.  
22  
23  
24  
25  
26  
27  
28

# **Exhibit A**

---

**Subject:** RE: In re Roman Catholic Bishop of Oakland, Case No. 23-40523; Subpoenas to American Home Assurance Company and Lexington Insurance Company  
**Date:** Saturday, March 2, 2024 at 9:08:27 AM Mountain Standard Time  
**From:** Restel, Colleen M.  
**To:** Amy P. Klie  
**CC:** Alison V. Lippa, RCBO, tburns, jbair  
**Attachments:** image001.jpg, image002.jpg, image003.png, image004.jpg, image513419.jpg, image274058.jpg, image004503.png

Amy,

We disagree that American Home, as an excess carrier, is differently situated from the other insurers. We acknowledge that American Home is an excess insurer, but note that the excess is over approximately \$5 million in key coverage years. Given the magnitude of claims in this case, American Home is therefore fully exposed and should be obligated to respond to discovery in the same way as the other insurers.

We understand your remaining concerns are two-fold: (i) confidentiality and (ii) privilege.

With respect to confidentiality, the Court has entered a confidentiality order which was fully litigated – including by the insurers. Any arguments relating to privacy, business secrets, or any other alleged confidentiality concerns are addressed through the confidentiality order, and are not a basis for withholding the production of documents.

With respect to any allegation of privilege, as was previously discussed with the Court, any documents withheld on that basis can be logged in a line-by-line privilege log explaining the basis for the privilege. The Committee and/or Debtor will then have the opportunity to challenge the asserted privilege if they see fit.

For any Request which American Home asserts no responsive documents exist, the Committee requests a certification explaining the search that was conducted and that no responsive documents were located.

Thank you,

Colleen

**Colleen Restel**  
she, her, hers  
Counsel  
Lowenstein Sandler LLP

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M: (973) 768-5161



**Lowenstein  
Sandler**

---

**From:** Amy P. Klie <[aklie@nicolaidesllp.com](mailto:aklie@nicolaidesllp.com)>

**Sent:** Friday, March 1, 2024 9:47 PM

**To:** Restel, Colleen M. <[crestel@lowenstein.com](mailto:crestel@lowenstein.com)>

**Cc:** Alison V. Lippa <[alippa@nicolaidesllp.com](mailto:alippa@nicolaidesllp.com)>; RCBO <[RCBO@lowenstein.com](mailto:RCBO@lowenstein.com)>; tburns <[tburns@burnsbair.com](mailto:tburns@burnsbair.com)>; jbair <[jbair@burnsbair.com](mailto:jbair@burnsbair.com)>

**Subject:** RE: In re Roman Catholic Bishop of Oakland, Case No. 23-40523; Subpoenas to American Home Assurance Company and Lexington Insurance Company

Colleen,

Thanks for your email - I'm sorry to have missed you. We understand that you are traveling today and prefer to communicate via email. As such, pursuant to bankruptcy court and district court local rules, this email serves as American Home's meet and confer in advance of our proposed motion to quash the Committee's Subpoena for Rule 2004 Examination ("Subpoena"). In reaching out today, I was hoping we could speak in an effort to resolve some potential issues we identified with respect to the Subpoena. If it's possible to have a call Monday, we still think it would be a useful step toward possibly resolving issues and avoiding the need for a motion to quash.

As you know, I previously reached out to you with the request that the Committee agree to additional time for American Home's response to the Subpoena. While Committee denied that request, we'd like the opportunity to discuss how American Home may be in a different position than some of the other subpoenaed insurers from Adversary Case No. 23-04028 due to its status as a higher layer excess carrier, among other things. In response to your request, we summarize below the key issues we'd like to discuss concerning the Subpoena.

(1) Regarding the request for claim files, is it the Committee's position that claim files must be produced in their entirety, or will it agree that privileged material may be withheld and logged on a privilege log? In particular, American Home intends to withhold documents that are subject to the attorney-client privilege, the attorney work-product doctrine, settlement and mediation privilege, joint defense, common interest, or any other judicially recognized protection or privilege, and must withhold any information to the extent production may violate any constitutional, statutory or common law privacy interest of American Home or any third party. American Home may also move to quash based on the burden / proportionality of the claim file request.

(2) American Home intends to move to quash the Subpoena on grounds that the two requests for reserves are burdensome / not proportional as to American Home, and potentially seek production of records that are privileged or contain confidential business information or trade secrets. We'd like to discuss whether the Committee may reconsider these requests with respect to American Home.

(3) The request for underwriting, as drafted, potentially encompasses privileged, confidential, and proprietary information. American Home is not currently aware of any documents responsive to this request. To the extent any responsive documents are located, will the Committee agree that an assessment may be made at that time regarding privilege, etc.?

Please let me know if you are available to speak further about these issues.

Regards,

Amy

**Amy P. Klie**

[aklie@nicolaidesllp.com](mailto:aklie@nicolaidesllp.com)



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---

**From:** Restel, Colleen M. <[crestel@lowenstein.com](mailto:crestel@lowenstein.com)>

**Sent:** Friday, March 1, 2024 12:48 PM

**To:** Amy P. Klie <[aklie@nicolaidesllp.com](mailto:aklie@nicolaidesllp.com)>

**Cc:** Alison V. Lippa <[alippa@nicolaidesllp.com](mailto:alippa@nicolaidesllp.com)>; RCBO <[RCBO@lowenstein.com](mailto:RCBO@lowenstein.com)>; tburns <[tburns@burnsbair.com](mailto:tburns@burnsbair.com)>; jbair <[jbair@burnsbair.com](mailto:jbair@burnsbair.com)>

**Subject:** RE: In re Roman Catholic Bishop of Oakland, Case No. 23-40523; Subpoenas to American Home Assurance Company and Lexington Insurance Company

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Amy,

I received your voicemail. I am traveling today, so it would be easier to discuss by email. If you have particular questions, please let us know and we will discuss and respond.

Thank you,

Colleen

**Colleen Restel**

she, her, hers

Counsel

Lowenstein Sandler LLP

T: (973) 597-6310

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---

**From:** Restel, Colleen M. <[crestel@lowenstein.com](mailto:crestel@lowenstein.com)>  
**Sent:** Wednesday, February 28, 2024 8:18 PM  
**To:** Amy P. Klie <[aklie@nicolaidesllp.com](mailto:aklie@nicolaidesllp.com)>  
**Cc:** Alison V. Lippa <[alippa@nicolaidesllp.com](mailto:alippa@nicolaidesllp.com)>; RCBO <[RCBO@lowenstein.com](mailto:RCBO@lowenstein.com)>; tburns <[tburns@burnsbair.com](mailto:tburns@burnsbair.com)>; jbair <[jbair@burnsbair.com](mailto:jbair@burnsbair.com)>  
**Subject:** RE: In re Roman Catholic Bishop of Oakland, Case No. 23-40523; Subpoenas to American Home Assurance Company and Lexington Insurance Company

Amy,

The Committee will not agree to an extension of the March 4 deadline.

Colleen

**Colleen Restel**

she, her, hers

Counsel

Lowenstein Sandler LLP

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---

**From:** Amy P. Klie <[aklie@nicolaidesllp.com](mailto:aklie@nicolaidesllp.com)>  
**Sent:** Wednesday, February 28, 2024 4:11 PM  
**To:** Restel, Colleen M. <[crestel@lowenstein.com](mailto:crestel@lowenstein.com)>  
**Cc:** Alison V. Lippa <[alippa@nicolaidesllp.com](mailto:alippa@nicolaidesllp.com)>; RCBO <[RCBO@lowenstein.com](mailto:RCBO@lowenstein.com)>; tburns <[tburns@burnsbair.com](mailto:tburns@burnsbair.com)>; jbair <[jbair@burnsbair.com](mailto:jbair@burnsbair.com)>  
**Subject:** RE: In re Roman Catholic Bishop of Oakland, Case No. 23-40523; Subpoenas to American Home Assurance Company and Lexington Insurance Company

Colleen,

Thank you – we'll consider the Lexington subpoena withdrawn subject to your reservation

of rights. Would the Committee consider extending American Home's time to respond until March 21?

Regards,

Amy

**Amy P. Klie**  
[aklie@nicolaidesllp.com](mailto:aklie@nicolaidesllp.com)

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**From:** Restel, Colleen M. <[crestel@lowenstein.com](mailto:crestel@lowenstein.com)>

**Sent:** Thursday, February 22, 2024 6:19 AM

**To:** Amy P. Klie <[aklie@nicolaidesllp.com](mailto:aklie@nicolaidesllp.com)>

**Cc:** Alison V. Lippa <[alippa@nicolaidesllp.com](mailto:alippa@nicolaidesllp.com)>; RCBO <[RCBO@lowenstein.com](mailto:RCBO@lowenstein.com)>; tburns <[tburns@burnsbair.com](mailto:tburns@burnsbair.com)>; jbair <[jbair@burnsbair.com](mailto:jbair@burnsbair.com)>

**Subject:** RE: In re Roman Catholic Bishop of Oakland, Case No. 23-40523; Subpoenas to American Home Assurance Company and Lexington Insurance Company

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Good morning, Amy,

The Committee will withdraw the Subpoena issued to Lexington at this time. However, the Committee reserves the right to seek the documents requested in the Subpoena at a later date based on the Court's order, or to seek production of any other documents.

With respect to American Home Assurance Company, please see the attached Affidavit of Service, showing service of the Subpoena on January 31 on a legal representative of the company.

Thank you,

Colleen

**Colleen Restel**

she, her, hers  
Counsel  
Lowenstein Sandler LLP

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**Lowenstein  
Sandler**

---

**From:** Amy P. Klie <[aklie@nicolaidesllp.com](mailto:aklie@nicolaidesllp.com)>

**Sent:** Tuesday, February 20, 2024 4:23 PM

**To:** Restel, Colleen M. <[crestel@lowenstein.com](mailto:crestel@lowenstein.com)>

**Cc:** Alison V. Lipa <[alippa@nicolaidesllp.com](mailto:alippa@nicolaidesllp.com)>

**Subject:** RE: In re Roman Catholic Bishop of Oakland, Case No. 23-40523; Subpoenas to American Home Assurance Company and Lexington Insurance Company

Colleen,

I am still waiting to confirm whether we have approval to accept service of the subpoena, and we have not received word of formal service from our client. In the interim, would you please let us know whether, in light of the Diocese's dismissal of Lexington, which issued an excess policy for the 2007-08 policy period, the Committee would consider withdrawing its subpoena of Lexington?

Regards,

Amy

**Amy P. Klie**

[aklie@nicolaidesllp.com](mailto:aklie@nicolaidesllp.com)

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reply email, delete the communication and destroy all copies.

**From:** Restel, Colleen M. <[crestel@lowenstein.com](mailto:crestel@lowenstein.com)>

**Sent:** Friday, January 19, 2024 11:31 AM

**To:** Alison V. Lippa <[alippa@nicolaidesllp.com](mailto:alippa@nicolaidesllp.com)>; Amy P. Klie <[aklie@nicolaidesllp.com](mailto:aklie@nicolaidesllp.com)>

**Cc:** RCBO <[RCBO@lowenstein.com](mailto:RCBO@lowenstein.com)>; tburns <[tburns@burnsbair.com](mailto:tburns@burnsbair.com)>; jbair <[jbair@burnsbair.com](mailto:jbair@burnsbair.com)>;

Gabrielle Albert <[galbert@kbkllp.com](mailto:galbert@kbkllp.com)>; Uetz, Ann Marie <[AUetz@foley.com](mailto:AUetz@foley.com)>; Ridley, Eileen R.

<[ERidley@foley.com](mailto:ERidley@foley.com)>; Lee, Matt <[MDLee@foley.com](mailto:MDLee@foley.com)>

**Subject:** In re Roman Catholic Bishop of Oakland, Case No. 23-40523; Subpoenas to American Home Assurance Company and Lexington Insurance Company

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Counsel,

Pursuant to the *Order Granting the Official Committee of Unsecured Creditors' Ex Parte Application for Federal Rule of Bankruptcy Procedure 2004 Examination of Insurers* [Dkt. 796], entered on January 18, 2024, please find the attached subpoenas.

Please advise whether you will accept service of the subpoenas on behalf of American Home Assurance Company and Lexington Insurance Company. Absent your consent, we will proceed with formal service of the subpoenas on Monday of next week.

Thank you,

Colleen

**Colleen Restel**

she, her, hers

Counsel

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**Lowenstein  
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# **Exhibit B**

1 UNITED STATES BANKRUPTCY COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3 -oOo-

4 In Re: ) Case No. 4:23-bk-40523  
5 ) Chapter 13  
6 THE ROMAN CATHOLIC BISHOP OF )  
OAKLAND ) Oakland, California  
7 ) Monday, February 12, 2024  
Debtor. ) 10:00 AM  
8 )  
ADV#: 23-04028  
THE ROMAN CATHOLIC BISHOP OF  
OAKLAND, ET AL. v. PACIFIC  
INDEMNITY, ET AL.

10 SCHEDULING CONFERENCE

11 STATUS CONFERENCE

12 STATUS CONFERENCE

13 TRANSCRIPT OF PROCEEDINGS  
14 BEFORE THE HONORABLE WILLIAM J. LAFFERTY  
UNITED STATES BANKRUPTCY JUDGE

15 APPEARANCES (All present by video or telephone):  
16 For the Debtor-Plaintiff: EILEEN R. RIDLEY, ESQ.  
ANN MARIE UETZ, ESQ.  
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18 San Francisco, CA 94104  
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19 JOSEPH M. BREALL, ESQ.  
20 Breall & Breall, LLP  
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21 San Francisco, CA 94118  
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1 For California Insurance  
2 Guarantee Association:

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FREDERICK G. HALL, ESQ.  
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5 For Official Committee of  
6 Unsecured Creditors:

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9 JEFFREY D. PROL, ESQ.  
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12 TIMOTHY W. BURNS, ESQ.  
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15 For Certain Underwriters  
16 at Lloyd's of London:

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18 For Pacific Indemnity  
19 Company:

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22 JUSTINE M. DANIELS, ESQ.  
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1	For Pacific Indemnity	ALEXANDER E. POTENTE, ESQ.
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8	For Certain Underwriters	MARK D. PLEVIN, ESQ.
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15		NATHAN REINHARDT, ESQ.
16		Duane Morris LLP
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21		
22		BRADLEY PUKLIN, ESQ.
23		Clyde & Co LLP
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15	For American Home	AMY P. KLIE, ESQ.
16	Assurance Co.:	Nicolaides Fink Thorpe Michaelides
17		Sullivan LLP
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19		21st Floor
20		Chicago, IL 60606
21		(312)585-1422
22		
23	For Travelers Casualty &	JOSHUA K. HAEVERNICK, ESQ.
24	Surety Company:	Dentons
25		1999 Harrison Street
		Suite 1300
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		(415)882-5000
	For Westport Insurance	JOHN E. BUCHEIT, ESQ.
	Corporation:	Parker, Hudson, Rainer & Dobbs LLP
		Two North Riverside Plaza
		Suite 1850
		Chicago, IL 60606
		(312)477-3305

1 For Westport Insurance  
2 Corporation:

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APLC  
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(415)352-6200

18 Court Recorder:

D CHAMBERS  
United States Bankruptcy Court  
1300 Clay Street  
Oakland, CA 94612

21 Transcriber:

RIVER WOLFE  
eScribers, LLC  
7227 N. 16th Street  
Suite #207  
Phoenix, AZ 85020  
(800) 257-0885

24 Proceedings recorded by electronic sound recording;  
25 transcript provided by transcription service.

1 write as a comment under my opportunity under our Local Rule  
2 5011, with respect to the motion to withdraw the reference. So  
3 I will defer -- why don't I start with Ms. Uetz and see if  
4 there's anything she wants to tell me right -- organization or  
5 how we proceed?

6 MS. UETZ: Your Honor, I like the organization that  
7 you just suggested. I think that we'll have some comments  
8 following Your Honor's statements, but they may inform what I  
9 would otherwise say. So if you wouldn't mind proceeding as  
10 you've outlined, I think that makes perfect sense.

11 THE COURT: Yeah, I'm happy to.

12 MS. UETZ: Thank you.

13 THE COURT: Well, do we have anybody else from Duane  
14 Morris here because they really were the principal --

15 MR. REINHARDT: That's me, Your Honor. Nate  
16 Reinhardt. I'll be Mr. Rubin's eyes and ears, I guess, for  
17 this, but anything you say, I'll relay to him as well.

18 THE COURT: Okay. Okay. All right. Well, let me  
19 proceed in two fashions. I think what I heard from Mr. Rubin  
20 last week was that the extent the motion for clarification was  
21 concerned about matters that were truly matters of privilege,  
22 whether they be attorney-client or work product, that that was  
23 no longer an issue, that the parties had discussed privilege  
24 issues. And I don't know if the parties literally agreed that  
25 nothing in the 2004 exam request was meant to obliterate any

1 privilege, but I can tell you right now, it was not my intent  
2 to obliterate any privileges. So to the extent that's an issue  
3 that's off the table, that's appropriate for all purposes.

4 Having said that, I probably made a comment or two  
5 about what might be the proper scope of privileges or work  
6 product, and I'll circle back to that when I get into what my  
7 thinking was in giving the ruling that I believe I gave on  
8 November 14th. So number one, I'm glad that privilege issues  
9 are being dealt with responsibly by the parties. That's  
10 terrific.

11 To the extent that what Mr. Rubin was telling me was  
12 he was genuinely uncertain what my ruling was, I find that very  
13 difficult to accept, having read the transcript. We had  
14 lengthy argument about the categories that were being  
15 requested. I will give you this -- and Mr. Plevin, I think in  
16 particular was helpful in focusing us on this particular aspect  
17 of the motion. It was arguably, from the insurance company's  
18 perspective, a moving target in that the initial request was  
19 not exactly the same thing as the request as articulated in the  
20 reply brief, where I think Mr. Plevin identified six  
21 categories, and the committee, I think, identified basically  
22 six categories of documents.

23 But we certainly moved, I thought quite, adeptly into  
24 that discussion, and it was a long standing discussion. And  
25 everybody except Mr. Schiavoni got to make their thoughts

1 known. I'll come back to Mr. Schiavoni's characterization of  
2 that in a few minutes, with which I thoroughly disagree. And  
3 I'll tell you why.

4 But what I was trying to articulate through my  
5 questions and through my ruling was that I thought there was a  
6 difference between a 2004 exam, which is meant to get  
7 information about the debtor's assets, liabilities, financial  
8 condition, and the matters necessary to administer the case and  
9 do what you need to do in the course of a bankruptcy case, and  
10 litigation issues, which are going to be dealt with differently  
11 in the AP.

12 And if I was not clear about that, I'm not sure how I  
13 could have made myself any clearer. That was a theme  
14 throughout my comments and my questions. And that was how I  
15 approached the decision that I made at the end of the hearing,  
16 which I think is articulated at pages 175 and 176 of the  
17 transcript, to not require that there be, at least for now, any  
18 production or disclosure of matters having to do with the  
19 resolution of claims in prior cases. In my view, that was much  
20 more of a sort of a litigation-type posture. I didn't think it  
21 was necessary or appropriate to get into that.

22 I did think that there were three categories that,  
23 while I think they might in some ways arguably have been  
24 litigation-related rather than 2004-related, and those are, as  
25 I said, the current claims files, the reserve working papers,

1 and the underwriting information. I thought those were all  
2 fair game for a discovery because in my view, they were in some  
3 ways the mirror image of the claim information. The claim  
4 information is one side of the ledger. What the insurance  
5 companies are doing about it is the other side of the ledger.  
6 So that was my thinking in making that ruling, and I thought it  
7 was quite clear.

8           Where I left a little bit of room for you folks to  
9 discuss was being more precise than I probably was being about  
10 what those categories mean because you know that better than I  
11 do. So what I did say is, please get in a room and talk about  
12 these categories so that you're talking about the same thing  
13 and that you're defining them the same way and that we can get  
14 closure on this. And that was the point of my ruling and that  
15 was my ruling. So to the extent there's an argument that it  
16 wasn't clear, I simply can't accept that.

17           So to the extent this is a motion for clarification,  
18 I'm going to deny it. I don't think clarification was  
19 necessary. And I think the party filing the motion for  
20 clarification could simply have done what everybody else did,  
21 which was try to get in the same room and talk about these  
22 categories. But rather than do that, they up with a motion for  
23 clarification, which I just don't think really makes any sense.

24           To the extent there's an argument that the relevancy  
25 concerns were not fully articulated and these materials weren't

1 relevant, again, for the reasons I set forth during my ruling,  
2 I believe they were. And I'll go a little bit further and say  
3 something that I think was probably implicit in my ruling, but  
4 I'll say it more directly. One cannot survey the scattered  
5 history of mediations in these types of cases and come up with  
6 the idea that anybody has figured out how to do them perfectly.  
7 Far from it. I don't think you can pull any rule from those  
8 experiences, as far as I can tell, as to what's the perfect way  
9 to get a mediation or get people the information they need.

10 So I think we need to be sensitive to possibly doing  
11 things a little bit differently. And it was my theory that  
12 having the insurance companies provide this information was  
13 going to help that process and was going to get everybody into  
14 the mediation with the optimum amount of information. On the  
15 debtor to committee side, that's the claim information produced  
16 to the insurers. From the insurers, that is a snapshot of  
17 where they are with their evaluations. And in my view, those  
18 are simply mirror images of each other. I did not think there  
19 was anything necessarily categorically confidential or  
20 privileged about that information. To the extent something  
21 truly is privileged, I was not intending to obliterate that,  
22 and the parties can work through that.

23 So that was my ruling. I stand by it. I continue to  
24 think for those reasons that there was relevancy established,  
25 at least for the limited purposes of a 2004 exam, which again,

1 I'm contrasting with litigation theories. Okay. Litigation is  
2 a whole other story, and you're going to get into that in the  
3 AP. That is different. So for all those reasons, I'm going to  
4 deny the motion for clarification and/or for reconsideration.  
5 I will not get into whether it's really a motion for  
6 reconsideration. Arguably it isn't, but that's really neither  
7 here nor there.

8 I do want to make one other point. Mr. Schiavoni was  
9 perceptive enough, I guess, at the last hearing to attempt to  
10 remind me that we had a very long hearing and that at one point  
11 he asked to speak and was not permitted to do so. That's true.  
12 But when I went back and looked at the transcript, I reminded  
13 myself that the reason that that wasn't true was because Mr.  
14 Schiavoni had not filed papers with respect to that issue. And  
15 I turned to the other side, and I said, do you have any  
16 objection to one more person arguing this from the insurers'  
17 side? The answer was yes. And I said, okay, I'm sustaining  
18 that objection.

19 So let me just say this and leave it at that. Far  
20 from that being a result of everybody being tired or me being  
21 arguably discourteous, there was a very good reason why in that  
22 instance Mr. Schiavoni didn't add to what Mr. Plevin had  
23 already said with great articulation. So that point is --  
24 that's all I want to say about that, and I want to leave it at  
25 that.

1           So I would ask the committee, who I think was the  
2 principal responding party with respect to the motion for  
3 clarification, to prepare an order that is simply for the  
4 reasons stated on the record, the motion is denied. And I  
5 would move off to the APs and some thoughts about the  
6 withdrawal of the reference.

7           Anything else?

8           No? Okay. Would it be -- let me begin this  
9 discussion this way. Obviously, a motion to withdraw the  
10 reference is not directed to me. I will not decide it. And it  
11 would not be appropriate for me to support or oppose it  
12 necessarily. I do have this right in our Local Rules to  
13 comment on it. And I realized that on the one hand, I don't  
14 think we have any opposition papers yet on the motions to  
15 withdraw the reference; is that correct?

16           MS. UETZ: Correct, Your Honor.

17           THE COURT: Okay. Having said that, there are a  
18 couple of -- if it's going to be helpful, there are a couple  
19 comments I would make. So if you want to tell me where you are  
20 before I say anything, I'm delighted to hear it. If you're  
21 ready to hear some thoughts from me, I'm happy to give you  
22 them.

23           MS. UETZ: Your Honor, we'd prefer to hear your  
24 thoughts again, just because for the debtor --

25           THE COURT: Okay.

# **Exhibit C**

1 UNITED STATES BANKRUPTCY COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3 -oOo-

4 In Re: ) Case No. 4:23-Bk-40523  
5 THE ROMAN CATHOLIC BISHOP OF ) Chapter 11  
6 OAKLAND )  
7 Debtor. ) Tuesday, January 9, 2024  
8 ) 9:00 AM  
9 )

10 CLAIMS MOTION TO ALLOW FILING  
11 OF LATE PROOFS OF CLAIM  
12 F.R.B.P. 9006(B)(1). FILED  
13 BY WBS CLAIMANTS (DOC. 607)

14 JOINT MOTION FOR ENTRY OF  
15 ORDER REFERRING PARTIES TO  
16 MEDIATION, APPOINTING  
17 MEDIATORS, AND GRANTING  
18 RELATED RELIEF, FILED BY  
19 DEBTOR THE ROMAN CATHOLIC  
20 BISHOP OF OAKLAND (DOC. 705)

21 STATUS CONFERENCE

22 TRANSCRIPT OF PROCEEDINGS  
23 BEFORE THE HONORABLE WILLIAM J. LAFFERTY  
24 UNITED STATES BANKRUPTCY JUDGE

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24 Proceedings recorded by electronic sound recording;  
25 transcript provided by transcription service.

1 THE COURT: All right. Very good. Okay. Well, I'll  
2 reserve 9:30 for you, okay, next Wednesday.

3 MR. WEISENBERG: Thank you, Your Honor.

4 THE COURT: You're welcome.

5 MR. WEISENBERG: And if it's okay with you, if the  
6 parties are able to agree, then we'll submit something to the  
7 Court indicating as such, and if not, we'll --

8 THE COURT: Yeah. I mean, I had no other independent  
9 problems with the order.

10 MR. WEISENBERG: Okay.

11 THE COURT: Okay.

12 MR. WEISENBERG: Thank you, Your Honor.

13 THE COURT: So that's fine. Okay.

14 All right. Does that resolve that as far as we go?

15 MS. UETZ: Yeah. Just for clarity, I'll circulate a  
16 proposed order --

17 THE COURT: Okay.

18 MS. UETZ: -- with that one change tomorrow.

19 THE COURT: Okay. The other call's at 1:30? Okay.

20 Okay. I wanted to talk a little bit about where we  
21 were with respect to the order after a very lengthy hearing  
22 with respect to some of the discovery matters on the insurance  
23 side. I think there have been -- there's been an exchange of  
24 orders, and there have been some declarations and other  
25 pleadings filed. I want to give you just a couple of

1 observations about that.

2 In my view, I mean, if someone wants to bring a  
3 companion motion to veil on my motion, I guess they can,  
4 although I'll have a comment about that too. What we largely  
5 resolved in connection with the earlier hearings, in which I  
6 granted some requests, denied others, and this went as well to  
7 some of the what we can call the internal documents from the  
8 insurance companies, I don't think I was asked to resolve and I  
9 don't think I did resolve what was attorney-client privilege.  
10 That is a sometimes-moving target.

11 I'll make the observation that I tend to -- I take  
12 that relatively seriously, both because if it is waived or  
13 breached, it's a big deal, but also because I think there can  
14 sometimes be efforts to cloak something in attorney-client  
15 privilege that arguably is not necessary to that relationship  
16 or is overstated or is not something on which legal advice is  
17 truly sought. I mean, I've never had anybody CC their lawyer  
18 with their grocery list and later claim it's attorney-client  
19 privilege, but someday I will. So I'm not resolving that, but  
20 I'm suggesting I take a fairly rigorous view of that question.  
21 Okay.

22 Work product, again, work product to me is something  
23 that is produced in connection with litigation. So again, I  
24 don't think I resolved it, but I would suggest that my view of  
25 that is rigorously questioning. Okay.

1 With respect to relevance, I think we did resolve  
2 that. And I think that the long discussion we had, I found  
3 very helpful. And if anybody wants to either appeal my order  
4 or argue that it should be deemed a final order, you can do  
5 that. But in my view, we thoroughly exhausted the relevance  
6 arguments. So for better or for worse, that's my sense of  
7 that. Okay.

8 Mr. Plevin, you want to say something?

9 MR. PLEVIN: Briefly, Your Honor. So I did not join  
10 the LMI motion. My client did not. So I'm not going to speak  
11 about that.

12 THE COURT: Yeah, we're going to -- we're going to  
13 come to that in a second --

14 MR. PLEVIN: Right.

15 THE COURT: -- and I think I'm needing some  
16 clarification on that myself. All right. Go ahead.

17 MR. PLEVIN: So the dispute that was laid out in the  
18 two certifications and the declaration was really, it really  
19 comes down to one paragraph and one issue.

20 THE COURT: Yep.

21 MR. PLEVIN: And that is that when we -- there were  
22 some open issues about definitions and phrasing of some of the  
23 requests, and we had a meet-and-confer. There were a lot of  
24 people on it. There were some respects in which we expressed  
25 some concerns about a definition or something, and the