



Signed and Filed: April 10, 2025

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re)	Bankruptcy Case
)	No. 23-30564-DM
THE ROMAN CATHOLIC ARCHBISHOP)	
OF SAN FRANCISCO,)	Chapter 11
)	
)	
Debtor.)	
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MEMORANDUM DECISION ON MOTION FOR RELIEF FROM STAY

I. INTRODUCTION

On March 27, 2025, the court heard *The Official Committee Unsecured Creditors' Motion for an Order Granting Certain Trial-Ready Survivors Relief from the Automatic Stay to Pursue State Court Litigation* ("Motion") (Dkt. 1015); the *Debtor's Opposition to the Official Committee Unsecured Creditors' Motion for an Order Granting Certain Trial-Ready Survivors Relief from the Automatic Stay to Pursue State Court Litigation* ("Opposition") (Dkt. 1083); *Certain Insurers' Objection to the Official Committee Unsecured Creditors' Motion for an Order Granting Certain Trial-Ready Survivors Relief from the Automatic Stay to*

1 Pursue State Court Litigation ("Objection") (Dkt. 1081); and *The*
2 *Official Committee of Unsecured Creditors' Reply Brief in*
3 *Support of an Order Granting Certain Trial-Ready Survivors*
4 *Relief from the Automatic Stay to Pursue State Court Litigation*
5 (Dkt. 1097). Appearances are noted on the record.

6 For the reasons that follow, the court will grant the
7 Motion in part and will overrule the Opposition and the
8 Objection.

9 **II. BACKGROUND**

10 Prior to bankruptcy, the Debtor and other California based
11 dioceses and Catholic entities were parties to a matter pending
12 in the Superior Court of California, County of Alameda, entitled
13 *In re Northern California Clergy Cases*, JCCP No. 5108
14 ("Coordinated Proceedings"). On December 5, 2022, the court in
15 the Coordinated Proceedings identified five cases described as
16 "Bellwether Cases" for trial. Two of those cases (the "Trial
17 Cases") are pending against Debtor (and no other defendant) in
18 San Francisco Superior Court. The Trial Cases were days away
19 from trial when Debtor filed its Chapter 11 case on August 21,
20 2023.

21 Now, almost twenty months into this Chapter 11 case, the
22 Official Committee of Unsecured Creditors ("OCC") filed the
23 Motion to obtain relief from the automatic stay to permit the
24 Trial Cases to proceed to trial. Debtor and certain insurers
25 ("Insurers") opposed that Motion. No party has questioned the
26 standing of the OCC to act on behalf of the individual
27 plaintiffs in the Trial Cases; no party has questioned the
28 standing of the Insurers to file the Objection. For that

1 reason, the court will not question the standing of either the
2 OCC or the Insurers and will proceed to address the merits of
3 the Motion as presented.

4 As is well established by case law and bankruptcy practice,
5 motions for relief from stay generally turn on case specifics
6 and are decided through the court's exercise of broad
7 discretion. Bankruptcy courts routinely consider the so-called
8 "Curtis" factors in deciding to grant or deny such requests.¹
9 There are twelve *Curtis* factors, and some applicable factors
10 will be considered briefly.² The most important factors that
11 apply here will be discussed in more detail.

13 ¹ *In re Curtis*, 40 B.R. 795 (Bankr. D. Utah 1984).

14 ² The *Curtis* factors are:

- 15 (1) Whether the relief will result in a partial or
16 complete resolution of the issues
- 17 (2) The lack of any connection with or interference with
18 the bankruptcy case;
- 19 (3) Whether the foreign proceeding involves the debtor
20 as a fiduciary;
- 21 (4) Whether a specialized tribunal has been established
22 to hear the particular cause of action and that
23 tribunal has the expertise to hear such cases;
- 24 (5) Whether the debtor's insurance carrier has assumed
25 full financial responsibility for defending the
26 litigation;
- 27 (6) Whether the action essentially involves third
28 parties, and the debtor only functions as a bailee o
or conduit for the goods or proceeds in question;
- (7) Whether litigation in another forum would prejudice
the interests of other creditors, the creditors'
committee, or other parties;
- (8) Whether the judgment claim arising from the foreign
action is subject to equitable subordination under
Section 510(c);

1 **III. DISCUSSION**

2 **A. Less Persuasive Curtis Factors**

3 Factor 5 questions whether the debtor's insurance
4 carrier(s) has assumed full financial responsibility for
5 defending the litigation. Here, although the record is not
6 completely clear, that factor weighs in favor of granting the
7 Motion.

8 Next, Factor 7 asks whether litigation elsewhere will
9 prejudice the interests of other creditors, the OCC or other
10 interested parties. In a complex Chapter 11 reorganization
11 where full payment by a debtor, with or without assistance of
12 insurance, is highly unlikely, and others may be adversely
13 impacted, denying such a motion would be appropriate. The
14 present record, with no reason to suspect that allowed claims
15 will not be paid in full, together with the active involvement
16 of the OCC in bringing the Motion, supports granting the Motion.
17 Added to that, the Trial Cases involve just two of hundreds of
18 pending similar cases against the Debtor, so results there

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20
21 (9) Whether movant's success in the foreign proceeding
22 would result in a judicial lien avoidable by the
23 debtor under Section 522(f);

24 (10) The interest of judicial economy and the expeditious
25 and economical determination of litigation for the
26 parties;

27 (11) Whether the foreign proceedings have progressed to
28 the point where the parties are prepared for trial;

(12) The impact of the stay on the parties and the
'balance of hurt'

Id. at 799-800. The third, fourth, sixth, eighth, and ninth
factors have no application to this case and will not be
addressed.

1 following jury trials may help facilitate a global resolution.
2 This factor again weighs in favor of granting the Motion.

3 Factor 10 looks to the interest of judicial economy and
4 expeditious and economical determination of litigation. Because
5 the Trial Cases involve personal injury matters, 28 U.S.C. §
6 157(b) (5) precludes this court from deciding the Motion and thus
7 a California Superior Court, or perhaps a United States District
8 Court, is a more suitable forum. This factor also weighs in
9 favor of granting the Motion.

10 Factor 11 looks to whether the matter is ready for trial.
11 The comments of OCC counsel strongly indicated at the hearing
12 that trial before a jury for the two plaintiffs in the Trial
13 Cases is perhaps only weeks away. That factor clearly weighs in
14 favor of granting the Motion.

15 **B. Significant Curtis Factors**

16 It is inefficient separately to analyze and discuss the
17 first, second, and last Curtis factors: whether relief from stay
18 will result in partial or complete resolution of the issues;
19 lack of interference with the bankruptcy case; and balance of
20 hurt. The court will consider the first two factors in tandem,
21 then apply them to assess the final one.

22 To begin, the court rejects the argument of the Debtor and
23 the Insurers that no new data points are needed regarding the
24 accused perpetrator. Though the court understands that the
25 parties use the term "data point" to describe the outcome of a
26 jury trial, the court emphasizes that the two plaintiffs
27 themselves (along with other Survivor Claimants) are not data
28 points. They are aging survivors of clergy abuse, with stories

1 that are both unique to themselves and similar to other
2 survivors.

3 Letting two cases go to trial involving wrongful conduct
4 committed decades ago by a long-deceased perpetrator, whose
5 similar conduct resulted in two substantial judgments against
6 the Debtor in previous decades, will not result in a complete
7 resolution of issues in this bankruptcy. Verdicts in favor of
8 those two plaintiffs will not resolve everything for them, since
9 relief would only be to obtain and defend judgments, but not to
10 collect on them except perhaps from the Insurers. But the
11 insights provided from trying these cases, even if the outcome
12 is a partial resolution for the two plaintiffs, will move the
13 entire case toward, and not away from, a global resolution of
14 these abuse cases.

15 Nor will trial of these cases, as Debtor contends,
16 interfere with the main bankruptcy case. Despite the protests
17 of both the Debtor and Insurers that allowing the Trial Cases to
18 proceed will interfere with Debtor's mediation and
19 reorganization efforts, neither have provided anything but
20 responses without specifics to support their contention. The
21 court is well-aware of the moving parts of any complex corporate
22 reorganization, whether it be a massive public utility, a law
23 firm, a tech company or a religious organization. The Debtor is
24 not a small, understaffed business. It has its own panoply of
25 active components engaged in a variety of schools, churches,
26 charitable activities, administrative tasks, and religious
27 functions, and more. This work is aided by many employees, one
28 of whom is its general counsel. It has also engaged a

1 substantial number of outside attorneys and other professionals
2 to deal with insurance, real estate, litigation, bankruptcy and
3 other related matters. It can defend two long standing
4 lawsuits, manage several hundred more (protected by the
5 automatic stay) and move forward on its mediation and
6 reorganization efforts at the same time. If the Archbishop
7 personally, or any senior member of his staff, or any of his
8 outside counsel, wish or need to attend sessions of the Trial
9 Cases that conflict with a mediation session, or vice versa, the
10 court is confident that either the mediators or the presiding
11 superior court judge will accommodate them

12 In this court's experience as both a trial judge and as an
13 occasional mediator, the actual conflicts between such parallel
14 actions are more imagined than real. This case is no different.
15 These two factors weigh in favor of granting the Motion.

16 **C. Pending Mediation**

17 Before completing the assessment of the *Curtis* factors, it
18 is necessary to look to one other important factor not
19 explicitly found on the *Curtis* list. Mediation is now a regular
20 part of the bankruptcy landscape for many large-scale tort-
21 related bankruptcies. All parties have mentioned the numerous
22 clergy-abuse cases around the country that have turned to
23 mediation. This case is no exception. While ongoing mediation
24 may be wrapped into one or multiple *Curtis* factors, the court
25 feels that is a significant process that merits its own
26 consideration when weighing a related motion for relief from
27 stay.

1 This court has appointed the mediators, with the
2 concurrence of the Debtor, the OCC, the Insurers and others.
3 It has been and remains impressed by the mediators' experience
4 and efforts in carrying out their assignment. It knows of
5 several sessions that have occurred and several that are
6 scheduled in coming days. The OCC says not enough progress is
7 being made and relief from stay will encourage all parties to
8 mediate in a more serious and meaningful manner. The Debtor and
9 the Insurers say things are early in the process and on track.
10 Somewhere in between is probably the case.

11 This court will not speak to the mediators. They know how
12 to declare an impasse and they have not. The fact that they
13 have scheduled more mediation is in this court's mind a good
14 sign, not a bad one. This factor, which the court terms the
15 progress of mediation, weighs in favor of denying the Motion at
16 this time.

17 **IV. BALANCE OF HARM**

18 The twelfth *Curtis* factor, the impact of the stay and
19 balance of harm, is the driving factor of the court's ultimate
20 decision. It is more properly thought of as a summation of all
21 the considerations taken together and leading to the proper
22 conclusion. The court concludes that more good than harm will
23 be achieved, more progress forward than retreat backward or
24 status quo will be the case, by granting the Motion but delaying
25 the effectiveness of that grant for a short period. This will
26 permit if not encourage the parties and the mediators to have a
27 meaningful impact on the case. Both the OCC's citations to
28 other bankruptcies that have progressed after relief from stay

1 has been lifted (and others that have languished where no stay
2 relief was granted) and the court's own experience lead the
3 court to this decision.

4 **V. CONCLUSION**

5 Having considered all of the applicable factors, and
6 weighing the interest of the parties and the potential for harm
7 on both sides, the court exercises its discretion and will grant
8 the Motion, effective June 30, 2025. This brief pause is to
9 allow more time for ongoing mediation, potentially to achieve a
10 global resolution of matters that would render adjudication of
11 the Trial Cases unnecessary. After that, all sides will need to
12 attend to both the trials and the mediation.

13 Concurrent with this Memorandum Decision, the court is
14 issuing an order granting the Motion and permitting the Trial
15 Cases to proceed without regard to and free of the automatic
16 stay, effective as of June 30, 2025.

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19 **END OF MEMORANDUM DECISION**
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ECF Recipients