

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

In re Archdiocese of Milwaukee,

Debtor,

Bankruptcy Case No. 11-20059-SVK

**ARCHBISHOP JEROME E. LISTECKI, as
Trustee of the Archdiocese of Milwaukee Catholic
Cemetery Perpetual Care Trust,**

Plaintiff-Appellant-Movant,

-vs-

Case No. 13-C-179

Adv. Proc. No. 11-2459-SVK

OFFICIAL COMMITTEE OF UNSECURED CREDITORS,

Defendant.

DECISION AND ORDER

The Trustee for the Archdiocese of Milwaukee Catholic Cemetery Perpetual Care Trust moves for leave to appeal the bankruptcy court's January 17, 2013 order granting the Official Committee of Unsecured Creditors' motion for summary judgment. This interlocutory order held that Committee's efforts to reach the assets of the Trust was not precluded by either the First Amendment or the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb.

An appeal to the district court from an interlocutory order issued by a bankruptcy court is appropriate when it involves a controlling question of law over which there is a substantial ground for difference of opinion, and an immediate appeal from the order may

materially advance the termination of the litigation. 28 U.S.C. 1292(b); *In re Archdiocese of Mil.*, 482 B.R. 792, 797 (E.D. Wis. 2012). Preliminarily, the Court is satisfied that this standard is met, such that it will grant leave to appeal. In the course of briefing, the parties are free to pursue further arguments on this point, in addition to the alternative grounds raised by the Trustee's motion. The Court will make more explicit findings on the proper basis for this appeal in connection with a substantive ruling on the merits. In the unlikely event that the Court ultimately chooses to reject this appeal, the Court will issue an appropriate order.

The Trustee's motion for leave to appeal [ECF No. 1] is **GRANTED**.

Dated at Milwaukee, Wisconsin, this 1st day of April, 2013.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge