

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

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

**v.**

**Case No. 13-cv-0179**

**OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS,  
Appellee.**

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**ORDER**

This bankruptcy appeal arises from bankruptcy proceedings of the Archdiocese of Milwaukee. One of the issues in the proceedings is whether the Archdiocese's creditors, represented by the Official Committee of Unsecured Creditors (the "Committee"), can access the funds of the Archdiocese Cemetery Trust (the "Trust"). The Trust filed an adversary complaint asking the bankruptcy court to declare, for a number of reasons, that the Trust's funds cannot be used to satisfy the Committee's claims. One of the reasons, alleged in Count III of its amended complaint, argued that allowing the Committee to access the Trust's funds would violate the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq.* ("RFRA") and the Free Exercise Clause of the First Amendment. The Committee moved for partial summary judgment on Count III, and the Trust filed a cross-motion for summary judgment. The bankruptcy court granted the Committee's motion for partial summary judgment, but the district court reversed and granted the Trust's cross-motion for summary judgment on both RFRA and First Amendment grounds.

On March 9, the Seventh Circuit reversed the district court in part, concluding that

neither RFRA nor the First Amendment preclude application of the relevant Bankruptcy Code provisions to the Trust's funds and that the Committee's motion for partial summary judgment on Count III should be granted, and remanded the case for further proceedings consistent with its opinion. The case was reassigned to me on remand under Fed. R. App. P. 36.

**THEREFORE, IT IS ORDERED** that, the bankruptcy court's decision is **AFFIRMED**. Consistent with the Seventh Circuit's opinion, the Trust's motion for summary judgment is **DENIED** and the Committee's motion for partial summary judgment on Count III is **GRANTED**.

**IT IS FURTHER ORDERED** that this matter is **REMANDED** for further proceedings consistent with the Seventh Circuit's opinion.

Dated at Milwaukee, Wisconsin, this 29th day of April, 2015.

s/ Lynn Adelman

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LYNN ADELMAN  
District Judge