

# **EXHIBIT “1”**

## **SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (the "Agreement") is made by and between the Roman Catholic Church of the Diocese of Tucson (the "Diocese") and the "74 Parishes", as hereinafter defined. It is the intent of the Diocese and the 74 Parishes that this settlement be effectuated by confirmation of the Third Amended and Restated Plan of Reorganization dated May 25, 2005, as such may have been amended or modified filed by the Diocese in the United States Bankruptcy Court and the application of the channeling injunction provided therein to the 74 Parishes as Participating Third Parties.

### **RECITALS**

A. The term "74 Parishes" means those 74 parishes which are located within the Diocese, including, without limitation, all missions, churches, schools and other institutions within the 74 Parishes or which form a part of the operations of any of the 74 Parishes. A complete listing of all parishes and missions is attached as Exhibit "A."

B. Capitalized terms used herein that are not otherwise defined in this Agreement will have the meaning as defined in the Plan.

C. The Presbyteral Council for the parishes of the Diocese of Tucson has appointed Msgr. Thomas P. Cahalane, Msgr. Robert D. Fuller, and Rev. Dominico Pinti as the representatives for the 74 Parishes.

D. On September 20, 2004 (the "Petition Date"), the Diocese commenced its Reorganization Case by filing a voluntary Chapter 11 petition. The Reorganization Case was filed by the Diocese in the United States Bankruptcy Court for the District of Arizona, and is entitled: In re The Roman Catholic Church of the Diocese of Tucson, Case No. 4:04-bk-04721-JMM.

E. The 74 Parishes and the Diocese are parties to three (3) primary categories of disputes in this Reorganization Case: (1) disputes over claims for indemnity and contribution related to alleged Tort Claims against the Diocese and co-defendants, including but not limited to claims that certain of the 74 Parishes are liable for allegations involving sexual abuse by clergy, workers or volunteers working in the Diocese or otherwise associated with the Diocese; (2) disputes over the scope of property of the estate, including potential avoidance actions, but primarily, whether or not property owned individually by each of the 74 Parishes is property of the estate under 11 U.S.C. § 541; and (3) disputes over and claims against various insurance policies owned by the Estate (including coverage disputes) and under which there are other insured, including the 74 Parishes.

F. The Diocese filed its Third Amended and Restated Plan of Reorganization on May 25, 2005 (the "Diocese Plan"), which defines "Participating Third Parties" as any Co-Defendant or any Person, including but not limited to the Parishes, who contributes funds to the Estate to be used to pay Allowed Tort Claims (including Relationship Tort Claims and Unknown Tort Claims) in exchange for and in consideration of, among other things, the channeling injunction provided in Section 18.5 of the Diocese Plan.

G. Through this Agreement, the Parties seek to: (1) provide the broadest possible mutual releases with respect to the disputes described in Recital E; and (2) designate the 74 Parishes as Participating Third Parties under the Diocese Plan.

H. The Parties hereto expect a confirmation of the Diocese Plan and a funding on the Effective Date of the Settlement and Litigation Trusts established by the Plan.

In consideration of the foregoing Recitals and of the mutual covenants contained herein, the sufficiency of which is acknowledged, and intending to be legally bound hereby subject to the approval of the Bankruptcy Court, the Parties agree as follows:

### **AGREEMENT**

1. The Recitals are true and correct and adopted as part of the parties' agreement.
2. The Settlement Amount.

2.1 Subject to all of the terms of this Agreement each of the 74 Parishes will make a contribution or a contribution will be made on behalf of each of the 74 Parishes to the Estate as a Participating Third Party in the total a cumulative amount of Two Million Dollars (\$2,000,000), which will be contributed by the Diocese to the Fund. The Two Million Dollars and the insurance proceeds referenced in Sections 2.2 and 2.3 below are hereinafter referred to as the "Settlement Amount." The Two Million Dollars (\$2,000,000) will be paid not later than the Effective Date of the Diocese Plan.

2.2 Some or all of the 74 Parishes are additional or co-insureds with the Diocese under various insurance policies which provide or may provide coverage for sexual misconduct. Subject to the terms and conditions of this Agreement, the 74 Parishes agree to execute the necessary documents so that all policies under which the 74 Parishes are insureds or co-insureds with the Diocese may be settled with the proceeds used to fund the Litigation and Settlement Trusts established by the Diocese Plan and in accordance with the terms of the Diocese Plan.

3. Consideration for Settlement and Channeling Injunction.

The Parties agree that the consideration for this Agreement is: (i) the mutual releases; (ii) payment of the Settlement Amount; and (iii) that the 74 Parishes shall be

deemed Participating Third Parties and shall be beneficiaries of the channeling of the Tort Claims, Relationship Tort Claims, and Unknown Tort Claims to the Settlement Trust and the Litigation Trust, and the issuance of the channeling injunction through the confirmation of the Diocese Plan. As a result of the Channeling Injunction and releases provided in this Agreement, the 74 Parishes will not be subject to any claims identified in Section 3.1 (a-e).

### 3.1 Affected Claims

(a) Any and all tort claims. "Tort Claim" means any and all Claims, demands, suits, causes of action, proceedings or any other rights or asserted rights to payment, including, but not limited to any Claims, demands, suits, or causes of action: (i) for personal injuries, including emotional distress; (ii) for damages, including punitive damages; (iii) for attorneys' fees and other expenses, fees or costs; and (iv) for any equitable remedy, heretofore, now or hereafter asserted against the Diocese, the 74 Parishes, whether or not reduced to judgment, based upon or in any manner arising from or related to: (1) acts of sexual abuse committed by any cleric, employee, volunteer or other person associated with the Diocese, any Parish, or any affiliated entity; (2) the failure to supervise any cleric, any volunteer, or any other employee of or person associated with the Diocese, a Parish or any affiliated entity; (3) the processing, adjustment, defense, settlement, payment, negotiation or handling of any claims, demands, suits, proceedings or causes of action based upon or relating in any way to the Claims made as a result of any alleged abuse or other Tort Claim asserted by a Tort Claimant; or (4) the failure to warn, disclose or provide information concerning, the

alleged sexual abuse and other misconduct of clergy, other employees or volunteers of or persons associated with the Diocese, the 74 Parishes, or any affiliated entities.

(b) Any and all "Relationship Tort Claims," "California Tort Claims," and "Tort Compromise Claims" whether known or unknown, whether the claimant is competent or incompetent, disabled or not.

(c) Any and all claims of the Unknown Tort Claimants for acts occurring prior to the Petition Date, whether known or unknown or asserted in the future.

(d) Avoidance Actions and Contribution Actions as defined by the Diocese Plan.

(e) Claims against the property of the 74 Parishes, whether personal or real and regardless of whether legal title is held by the Diocese or the Diocese is acting as custodian or manager, including any and all money in the "Deposit and Loan Fund," whether restricted or unrestricted; endowments, whether held by the 74 Parishes, the Catholic Foundation, or the Diocese; and, all other property, title to which is claimed by the 74 Parishes.

3.2 The Confirmation Order must provide that from and after the Effective Date, no action may be commenced or continued against the Diocese and/or the 74 Parishes, their past, present and future subsidiaries, affiliates, associations, associated corporations and entities, employees, priests, sisters, brothers, lay religious officers, directors, parish committee members, agents, attorneys, successors or assigns, or any of their property for any Claims which are the subject of the Settlement and Release Agreement and described in defined in § 3.1(a-e). This prohibition of legal action does not protect any of the persons against whom credible allegations of sexual misconduct

has been found by the Diocese, and who are identified on Exhibit "B" or who may later be identified by the Diocese as a person against whom credible allegations of sexual misconduct has been found (the "Excluded Parties").

3.3 The Confirmation Order must further provided that the sole and exclusive remedy for any action arising out of such matter or claim of a Tort Claimant, including a Relationship Tort Claimant, California Tort Claimant, or an Unknown Tort Claimant shall be pursuant to their rights under the Plan and shall be paid when and if such claims are Allowed Claims pursuant to the terms of the Settlement Trust or the Litigation Trust as set forth in the Plan.

3.4 In consideration of payment of the Settlement Amount, the interest of the 74 Parishes in the insurance policies which will be used to fund the Settlement Trust and the Litigation Trust and other agreements, the 74 Parishes are entitled to the protections afforded in the Plan for Settling Parties, including the channeling injunction applicable to the Settling Parties.

### 3.5 Parties.

The parties to this Agreement are the 74 Parishes and the Diocese, as to the matters within the scope of Section 3.1. The Tort Creditors, those holding claims defined in Section 3.1 (a-e), are explicitly identified as third party beneficiaries of this Agreement and they and their representatives and attorneys will receive notice of this Agreement, and the settlement and release of claims provided herein.

## 4. Conditions of Payment

The obligation to pay the Settlement Amount is expressly conditioned on, and payment need not be made unless and until:

4.1 The Parties have obtained a Final Order approving the Settlement Agreement and Release; and, a Final Order confirming the Diocese Plan in a form acceptable to the Parties, providing for the protection of the 74 Parishes, as Participating Third Parties, as provided in Section 18.5 of the Diocese Plan; *and the occurrence of the Effective Date.*

4.2 A finding in the Final Order confirming the Diocese Plan that sufficient notice has been provided to all, including the Tort Claimants and their representatives.

4.3 Prior to the payment of the Settlement Amount, the segregated, unrestricted funds of the 74 Parishes held by the Diocese shall be turned over to Counsel for the Parishes.

4.4 That the final Orders approving (i) the Settlement Agreement and Release; and (ii) confirming the Diocese Plan are obtained not later than December 31, 2005, which date may be extended by written consent of all Parties hereto.

## 5. Releases

### 5.1 74 Parishes Release of the Diocese.

Upon occurrence of the Diocese Plan's Effective Date, the 74 Parishes shall release the Diocese from the claims related to the disputes described in Recital E, including but not limited to claims for indemnity or contribution for Claims described in § 3.1(a-e). The 74 Parishes hereby specifically release the Diocese from the indemnity/contribution proofs of claim filed by each of the 74 Parishes.

### 5.2. Diocese Release of the 74 Parishes.

Upon the occurrence of the Diocese Plan's Effective Date, the Diocese shall release each of the 74 Parishes from any and all claims related to the disputes described

in Recital E, including but not limited to (i) Contribution Actions as defined in §2.33(a) of the Diocese Plan; (ii) Avoidance Actions as defined in § 2.7 the Diocese Plan; and (iii) claims related to the Claims described in Section 3.1(a-e) of this Agreement.

5.3 The Parties acknowledge and agree that these releases comply with applicable law.

## 6. Miscellaneous

6.1 Each of the Parties separately represents and warrants as follows:

a. It has requisite power and authority to enter into this Agreement and to perform the obligations contemplated by this Agreement, subject to approval of the Bankruptcy Court, entry of the Final Order confirming the Diocese Plan (as such may be modified or amended from time to time), and the occurrence of the Effective Date.

b. Subject to Section 4 hereof, the performance of the obligations contemplated by this Agreement have been approved by the duly authorized representatives of the Parties, and by all other necessary actions of the Parties.

c. This Agreement has been thoroughly negotiated and analyzed by its counsel and has been executed and delivered in good faith, pursuant to arm's length negotiations, and for value and valuable consideration.

d. Each party has received the advice of counsel in the negotiation, preparation, drafting and execution of this Agreement.

6.2 In the event that any proceedings are commenced to invalidate all or any part of this Agreement, the Parties agree to cooperate fully to oppose such proceedings and make any changes to the Plan or any of the Plan Documents as might be necessary to effectuate the purposes and intent of this Agreement.

6.3 Each Party agrees to take such steps and to execute any documents as may be reasonably necessary or proper to effectuate the purpose and intent of this Agreement and to preserve its validity and enforceability. In the event that any action or proceeding of any type whatsoever is commenced or prosecuted by any Person not a Party hereto to invalidate, interpret, or prevent the validation, enforcement, or carrying out of all or any of the provisions of this Agreement, the Parties mutually agree, represent, warrant, and covenant to cooperate fully in opposing such action or proceeding.

6.4 Except where the Agreement adopts terms of the Diocese Plan, this Agreement constitutes a single integrated written contract that expresses the entire agreement and understanding between the Parties. Except as otherwise expressly provided, this Agreement supersedes all prior communications, settlements, and understandings between the Parties and their representative regarding the matters addressed in this Agreement. Except as explicitly set forth in this Agreement, there are no representations, warranties, promises, or inducements, whether oral, written, expressed, or implied, that in any way affect or condition the validity of this Agreement or alter or supplement its terms. Any statements, promises, or inducements, whether made by the party or any agents of any party, that are not contained in this Agreement shall not be valid or binding. Any changes to the Agreement must be in writing and with the consent of all Parties.

6.5 By entering into this Agreement, none of the Parties has waived or shall be deemed to have waived any rights, obligations, or positions it or they have asserted or may assert in the future in connection with any matter or Person outside the scope of this Agreement. No part of this Agreement, its negotiation or performance may be used in any manner in any action, suit or proceeding by any Person as evidence of the rights, duties, or obligations of any of the Parties with respect to matters or Persons outside the scope of this Agreement.

6.6 This Agreement represents a settlement among the Parties, and shall not be deemed an admission or concession by any Party of liability, culpability, or wrongdoing. Settlement negotiations leading up to this Agreement and all related discussions and negotiations shall be deemed to fall within the protection afforded to compromises and to offers to compromise by rule 408 of the Federal Rules of Evidence and any parallel state law provisions. Any evidence of the terms of this Agreement or negotiations or discussions associated with this Agreement shall be inadmissible in any action or proceeding for the purposes of establishing any rights, duties, or obligations of the Parties, except in (1) a proceeding to obtain approval of this Agreement; or (2) an action or proceeding to enforce the terms of this Agreement.

6.7 Neither this Agreement nor the rights and obligations set forth herein shall be assigned without the prior written consent of the other Parties.

6.8 Section title headings contained in this Agreement are included only for ease of reference and shall have no substantive effect.

6.9 All notices, demands, or other communication to be provided pursuant to this Agreement shall be in writing and sent by facsimile or by Federal Express or other

overnight delivery service, costs prepaid, to the Parties at the addresses set forth below, or to such other person or address as any of them may designated in writing from time to time:

If to the Diocese:

Fr. Al Schifano, Moderator of the Curia  
Roman Catholic Church of the Diocese of Tucson  
111 South Church Avenue  
Tucson AZ 85702-0031

With a copy to:

Susan G. Boswell, Esq.  
Quarles & Brady Streich Lang LLP  
One South Church Avenue, Suite 1700  
Tucson, AZ 85701

If to the Parishes:

Michael McGrath, Esq.  
Lowell E. Rothschild, Esq.  
Mesch, Clark & Rothschild, P.C.  
259 North Meyer Avenue  
Tucson, AZ 85701

With a copy to the Steering Committee Members:

Msgr. Thomas P. Cahalane  
Our Mother of Sorrows Parish  
1800 S. Kolb Road  
Tucson, AZ 85710

Msgr. Robert D. Fuller  
St. Frances Cabrini Parish  
3201 E. Presidio Road  
Tucson, AZ 85716

Fr. Domenico Pinti  
St. George Catholic Community  
300 East 16<sup>th</sup> Avenue  
Apache Junction, AZ 85219

6.10 This Agreement may be executed in multiple counterparts, all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by facsimile, which facsimile counterparts shall be deemed to be originals.

6.11 Except as otherwise provided in this Agreement, each Party shall be responsible for their own fees and costs incurred in conjunction with this Agreement.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the last date indicated below.

On behalf of The Diocese

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Counsel for the Diocese

By \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

On Behalf of the 74 Parishes:

By \_\_\_\_\_  
Msgr. Thomas P. Cahalane

By \_\_\_\_\_  
Msgr. Robert D. Fuller

By \_\_\_\_\_  
Fr. Domenico Pinti

Counsel for the 74 Parishes

By \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

PARISHES AND PARISH SCHOOLS AND MISSIONS IN THE DIOCESE OF TUCSON

1. **Assumption of the Blessed Virgin Mary Parish,**
2. **Blessed Kateri Tekakwitha Parish,**  
Mission: El Senor De Los Milagros, Tucson  
Mission: Cristo Rey, Tucson  
Mission: Santa Rosa de Lima, Tucson  
Mission San Juan Bautista, Tucson  
Mission: San Ignacio de Loyola, Tucson  
Mission: San Martin De Porres, Tucson
3. **Blessed Sacrament Parish,**
4. **Corpus Christi Parish,**
5. **Holy Angels Parish,**  
Holy Angels School in Globe, AZ
6. **Holy Cross Parish,**
7. **Holy Family Parish**
8. **Immaculate Conception Parish,**
9. **Immaculate Conception Parish,**
10. **Immaculate Conception Parish,**  
Immaculate Conception School  
Mission: Our Lady of Guadalupe Chapel, Yuma, AZ
11. **Immaculate Heart of Mary Parish,**  
Casa Moreno Center
12. **Infant Jesus of Prague Parish,**
13. **Most Holy Trinity Parish,**
14. **Most Holy Nativity of Our Lord Jesus Christ Parish,**
15. **Our Lady of Fatima Parish,**  
Mission: St. Mary of the Desert, Three Points, AZ
16. **Our Lady of Guadalupe Parish,**  
Mission: San Jose, Solomon
17. **Our Lady of La Vang Parish,**
18. **Our Lady of Lourdes Parish,**
19. **Our Lady, Queen of All Saints Parish,**
20. **Our Lady of the Blessed Sacrament Parish,**  
Mission: St. Joseph Chapel, Claypool, AZ  
Mission: St. Theresa, Roosevelt Lake Resort, AZ

Parish and Parish Entities Page Two

21. **Our Lady of the Mountains Parish,**  
Our Lady of the Mountains Catholic School
22. **Our Lady of the Valley Parish,**
23. **Our Mother of Sorrows Parish,**  
Our Mother of Sorrows School
24. **Sacred Heart Parish,**  
Mission: St. Mary in Duncan, AZ
25. **Sacred Heart Parish,**  
Sacred Heart School, Nogales
26. **Sacred Heart Parish,**  
Mission: Blessed Kateri Tekakwitha, Poston, AZ  
Mission: Queen of Peace, Quartzsite, AZ  
Mission: St. John the Baptist, Wenden-Salome, AZ
27. **Sacred Heart Parish,**
28. **Sacred Heart Parish,**
29. **Sacred Heart Parish,**  
Mission: Our Lady of Guadalupe, Bowie, AZ  
Mission: Our Lady of Perpetual Help Mission, San Simon, AZ
30. **St. Ambrose Parish,**  
St. Ambrose School
31. **St. Andrew the Apostle Parish,**  
Mission: Good Shepherd, Whetstone, AZ
32. **St. Ann Parish,**  
Mission: Assumption Chapel, Amado, AZ  
Mission: St. Ferdinand, Arivaca, AZ  
Mission: St. Helen, Sasabe, AZ
33. **St. Anthony of Padua Parish,**  
Mission: St. Francis de Sales, Maricopa, AZ  
St. Anthony of Padua Elementary School
34. **St. Augustine Cathedral Parish,**
35. **St. Bartholomew Parish,**  
Mission: St. Helen, Oracle, AZ

Parish and Parish Entities Page Three

36. **St. Bernard Parish,**  
Mission: Our Lady of La Salette, Double Adobe-McNeal, AZ  
Mission: Sacred Heart Chapel, Pirtleville, AZ
37. **St. Christopher Parish,**  
Red Rock Catholic Community
38. **St. Cyril of Alexandria Parish,**  
St. Cyril School
39. **St. Elizabeth Ann Seton Parish,**  
St. Elizabeth Ann Seton School
40. **St. Frances Cabrini Parish,**
41. **St. Francis de Sales Parish,**
42. **St. Francis of Assisi Parish,**
43. **St. Francis of Assisi Parish,**  
St. Francis of Assisi School
44. **St. George Parish,**
45. **St. Helen Parish,**
46. **St. James Parish,**
47. **St. John Neumann Parish,**
48. **St. John the Evangelist Parish,**  
St. John the Evangelist School
49. **St. Joseph Parish,**
50. **St. Joseph Parish,**  
St. Joseph School
51. **St. Joseph the Worker Mission,**
52. **St. Jude Thaddeus Parish,**  
Mission: St. Francis of Assisi, Elfrida, AZ
53. **St. Jude Thaddeus Parish,**
54. **St. Luke Parish,**
55. **St. Margaret Mary Parish,**
56. **St. Mark the Evangelist Parish,**
57. **St. Monica Parish,**
58. **St. Odilia Parish,**  
St. Odilia School
59. **St. Patrick Parish,**  
Mission: St. Michael, Naco, AZ

**60. St. Philip Parish,**

**61. St. Pius X Parish,**

**62. St. Rita in the Desert Parish,**

**63. St. Rose of Lima Parish,**

Mission: Pima Mission, Pima, AZ

**64. St. Theresa Parish,**

Mission: Our Lady of the Angels, Sonoita, AZ

**65. St. Thomas More Newman Center Parish,**

**66. St. Thomas the Apostle Parish,**

St. Thomas the Apostle Pre-School

**67. Ss. Peter and Paul Parish,**

Ss Peter and Paul School

**68. San Carlos Mission Parish,**

Mission: Blessed Kateri Tekakwitha, Bylas, AZ

St. Charles School

**69. San Felipe de Jesus Parish,**

**70. San Martin de Porres Parish,**

**71. San Solano Missions Parish,**

Mission : St. Augustine Church, Chuichu, AZ

Mission : San Jose, Pisinemo, AZ

Mission : Our Lady of the Sacred Heart Church, Sells, AZ

Mission : Sacred Heart Church, Sells, AZ

Mission : St. Catherine Church, Topawa, AZ

**72. Mission San Xavier del Bac Parish,**

San Xavier Mission School

**73. Santa Catalina Parish,**

**74. Santa Cruz Parish,**

Santa Cruz School