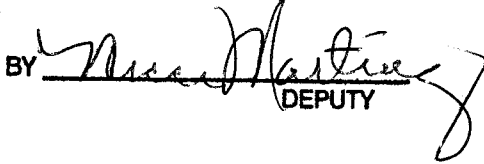


1 Superior Court of California
2 County of San Bernardino
247 W. Third Street, Dept. S23
3 San Bernardino, CA 92415-0210

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

OCT 8 2021

4 BY 
DEPUTY

7 SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF SAN BERNARDINO, SAN BERNARDINO DISTRICT

10 BENJAMIN SERYANA aka BENJAMIN
11 SEMAAN SIRYANA, and SYNERGY
SELECT ONE, LLC,
12 Plaintiff,

Case No.: CIVDS1925212

13 v

14 THE HOLY SEE aka VATICAN CITY
15 STATE (HS/VCS) aka VATICAN NATION,
16 et al,
17 Defendants

RULING ON 3 MOTIONS TO COMPEL:
1) PMK Disposition of Latin Patriarchate
2) PMK Disposition of American University
3) Deposition of His Beatitude Fouad Twal

19 This matter came before the court for a hearing on 3 motions by Plaintiff to
20 Compel: 1) Further PMK Deposition for the Latin Patriarchate of Jerusalem; 2) PMK
21 Deposition for American University of Madaba Company; and 3) Deposition of His
22 Beatitude Fouad Twal. The court has reviewed and considered the briefs of the
23 parties as well as the arguments of counsel and issues its ruling as follows:

24 **PROCEDURAL/FACTUAL BACKGROUND**

25 This is a fraud and breach of contract action. On August 23, 2019, Plaintiffs
26 Benjamin Seryani aka Benjamin Semaan Siryani ("Siryani") and Synergy Select One, LLC,
27 and Indiana Limited Liability Corporation ("Synergy") filed a Verified Complaint alleging
28 nine causes of action for: (1) Fraud, (2) – (5) Breach of Contract, (6) Conversion, (7)

1 Unjust Enrichment / Quantum Meruit, (8) Money Had and Received, and (9) Open Book
2 Account. The original 15 named defendants are as follows:

- 3
- 4 1. The Holy See a/k/a Vatican City State (HS/VCS) a/k/a Vatican Nation
- 5 2. American University of Madaba, Inc.
- 6 3. American University of Madaba Company
- 7 4. American University of Madaba Campus, Board of Trustees
- 8 5. Latin Patriarchate of Jerusalem
- 9 6. Latin Patriarchal Vicariate Ecclesiastical Court
- 10 7. Vatican Foundation St. John the Baptist
- 11 8. Mukawer Castle for Education Company
- 12 9. Honorable Judge Fr. Dr. Majdi Siryani
- 13 10. His Beatitude Fouad Al-Twal
- 14 11. His Excellency Archbishop Pierbattista Pizzaballa
- 15 12. His Excellency Archbishop Bishara Maroun Lahham
- 16 13. His Excellency Archbishop William Shomali
- 17 14. His Excellency Archbishop Antonio Franco
- 18 15. Cardinal Secretary of State His Eminence Pietro Parolin

19 On November 8, 2019, Siryani and Synergy (collectively, "Plaintiffs") filed an Amendment
20 to Complaint naming The Archdiocese of San Bernardino as DOE 1, and another
21 Amendment to Complaint naming The Archdiocese of Los Angeles as DOE 2.

22 Plaintiffs' jurisdictional allegation is that Defendants engaged in an "illegal money
23 laundering scheme of international proportions that is based in California using the
24 financial and managerial assistance of a California resident, and fraudulently inducing
25 [Siryani], a resident of California, to further their purposes of exploiting their charitable
26 deduction status of the Roman Catholic Church and the Defendants, entities under IRS
27 501(c)(3), together with the Sovereign immunity that prevents the tracing of international
28 wire transactions." [Compl., ¶ 24.] The Complaint also alleges minimal contacts since
most of the Defendants exist under the umbrella of the Roman Catholic Church which
has substantial business activities and assets within the State of California, and a single
defendant—American University of Madaba—is a California resident. [Compl., ¶¶ 25, 27.]

The Complaint alleges that certain Defendants approached Plaintiff Siryani to
discuss an opportunity for him to serve as the manager of a hotel complex being planned
for construction in Jordan under the auspices of, or funding from, the Vatican. Siryani is

1 a Jordanian national who became a U.S. citizen, and he had a successful career in hotel
2 management. [Compl., ¶¶ 29, 30.] Shortly thereafter, the plan of the hotel complex was
3 tabled. Some of the Defendants then induced Seryani to suspend his career in hotel
4 management in the United States in order to assume the responsibility of promoting,
5 developing, and constructing an international university in Jordan that would promote
6 educational and religious interests for the Catholic Church in the Middle East. Seryani was
7 assured the project would be fully funded, and he would have full control over the
8 application of resources. As a result, Seryani formed a new corporation, Defendant
9 Synergy, and registered it to do business in California. [Compl., ¶¶ 31-34.]

10 Plaintiffs allege the reality of the financial straits of the university project was
11 concealed from them until after Seryani assumed his position as administrator and
12 invested considerable personal funds to support the financially-strapped organization. As
13 the university's financial outlook worsened, Seryani informed Defendant His Beatitude
14 Fouad Al-Twal that \$7 million was needed to complete the repairs and start the second
15 phase of construction. Plaintiffs were repeatedly assured the financial situation would be
16 resolved and all debts would be paid, and Al-Twal stated that more than \$20 million would
17 soon come from the Vatican. [Compl. ¶ 36.]

18 Approximately two years later, Seryani discovered the true purpose of the
19 university – oil companies operating in the United States are allowed to make charitable
20 donations of up to 5% of their net proceeds to educational institutions that are
21 incorporated in the United States and have IRS 501(c)(3) exemption status. Plaintiffs
22 allege the university was organized as a New Hampshire corporation, accredited with two
23 higher education commissions, and qualified for 501(c)(3) status. Plaintiffs allege
24 Defendants believed Seryani would participate in and facilitate this money laundering
25 scheme as a means to provide funding to the university and pay its debts to Plaintiffs.
26 Defendants had allegedly instructed Seryani to negotiate a deal that would authorize and
27 request payment of \$150 million to the University for the necessary repairs and
28 construction. This payment would be reflected as a charitable donation from an
international oil company operating in the United States, thus gaining it a substantial

1 amount of good will with the Vatican. The funds were to be funneled through JPMorgan
2 Chase Bank in New York into the university's accounts. [Compl., ¶¶ 37-41.]

3 Plaintiffs allege that when they refused to cooperate with the money laundering
4 scheme, their long-term contracts were suspended and their property in Jordan was
5 confiscated. As a result, Seryani was forced to leave Jordan and return to California under
6 threat of arrest if he ever returned to Jordan. [Compl., ¶ 44.]

7 Defendant His Excellency Archbishop Peirbattista Pizzaballa specially appears and
8 has a Motion to Quash Service of the Summons that has been pending since October
9 2019. There is also a joinder filed by The Roman Catholic Archbishop of Los Angeles (filed
10 January 30, 2020), and a joinder filed by American University of Madaba Company,
11 American University of Madaba, The Latin Patriarchate of Jerusalem, The Latin Patriarchal
12 Vicariate Ecclesiastical Court, Mukawer Castle for Education Company, His Beatitude
13 Fouad Twal, and His Excellency Archbishop William Shomali (filed July 14, 2020, after
14 their defaults were set aside).¹

15 At the original hearing on Archbishop Pizzaballa's quash motion, Plaintiffs were
16 provided the opportunity to conduct discovery to establish jurisdiction in California over
17 him (and the other named Defendants). Plaintiffs then served deposition subpoenas for
18 personal appearance and document production on: (1) Margaret Romano, the lay leader
19 of Western USA Lieutenancy of the Equestrian Order of the Holy Sepulchre of Jerusalem
20 ["Western Lieutenancy"]; (2) Bradley D. Sharp, the treasurer for Western Lieutenancy;
21 (3) the Person Most Knowledgeable (PMK) of Western Lieutenancy; and (4) Custodian of
22 Record of Western Lieutenancy.

23 When the deponents failed to comply with the deposition subpoenas, Plaintiff filed
24 motions to compel compliance with the deposition subpoenas. On February 10, 2021,
25 this court heard oral arguments on those motions. After taking the matters under
26 submission, the court issued its Statement of Decision on March 29, 2021, wherein the
27 motions were granted in part and denied in part—i.e., denied as to ordering production
28

¹ No answer, default, or dismissal is on file for Defendants The Holy See aka Vatican City State, Vatican Foundation St. John the Baptist, His Excellency Archbishop Bishara Maroun Lahham, His Excellency Archbishop Antonio Franco, Cardinal Secretary of State His Eminence Pietro Parolin, or The Archdiocese of San Bernardino.

1 of any documents sought within the subpoenas without prejudice, but ordering
2 Deponents Romano, Sharp, and Western Lieutenancy's PMK to appear and testify in
3 person.

4 Plaintiffs also moved to compel the deposition of Archbishop Pizzaballa and to have
5 him produce documents. At the hearing on April 6, 2021, the court took the matter under
6 submission. On May 27, 2021, the court issued its ruling wherein it stated it would be
7 prudent to continue and set a further hearing on the merits of the motion after the then-
8 pending June 2021 hearing on Archbishop Pizzaballa's motion to quash service of
9 summons. Although the hearing on the motion to quash was subsequently continued to
10 September 30, 2021, the court, on June 24, 2021, conducted the hearing on the pending
11 motion to compel Archbishop Pizzaballa's attendance at deposition and production of
12 documents. The court deemed the motion moot in light of the fact the deposition had
13 already commenced.

14 On July 8, 2021, Plaintiff Seryani filed the following motions that are currently
15 before the court: (1) Motion to Compel Attendance and Production of Documents at
16 Further Deposition of the Person Most Knowledgeable for The Latin Patriarchate of
17 Jerusalem (Anton Asfar); (2) Motion to Compel Attendance at Deposition and Production
18 of Documents at Deposition of American University of Madaba Company's Person Most
19 Knowledgeable; and (3) Motion to Compel Attendance at Deposition and Production of
20 Documents at Deposition of His Beatitude Fouad Twal. Specially appearing Defendant
21 Latin Patriarchate of Jerusalem ("LPJ"), specially appearing Defendant American
22 University of Madaba Company ("AUMC"), and specially appearing Defendant His
23 Beatitude Fouad Twal ("Twal") each oppose the respective motion filed against them.
24 Seryani has filed his replies. Accordingly, these matters are now before the court.

25 **DISCUSSION**

26 **LATIN PATRIARCHATE OF JERUSALEM ("LPJ")**

27 **I. Statement of the Law**

28 Code of Civil Procedure section 2025.480 provides that if a deponent fails to
answer a deposition question or produce documents or things designated in the

1 deposition notice or subpoena, the examiner may file a motion to compel no later than
2 60 days after completion of the record of the deposition, accompanied by a meet and
3 confer declaration. (Code Civ. Proc., §2025.480, subd. (b).)

4 If the motion to compel also pertains to the deponent's opposition to the
5 production of electronically stored information, the deponent bears the burden of
6 demonstrating that the information is from a source that is not reasonably accessible
7 because of the undue burden or expense. (Code Civ. Proc., § 2025.480, subd. (d).) If
8 the deponent meets this burden, the court may nonetheless order discovery if the
9 deposing party shows good cause, subject to certain limitations.² (Code Civ. Proc., §
10 2025.480, subd. (e).)

11 To establish "good cause", the burden is on the moving party to show both
12 relevance to the subject matter (e.g., how the information in the documents would tend
13 to prove or disprove some issue in the case), and specific facts justifying discovery (e.g.,
14 why such information is necessary for trial preparation or to prevent surprise at trial).
15 (*Glenfed Develop. Corp. v. Sup.Ct.* (1997) 53 Cal.App.4th 1113, 1117.) In the context of
16 discovery, evidence is relevant if it might reasonably assist a party in evaluating its case,
17 preparing for trial, or facilitating a settlement. (*Id.*) Absent a claim of privilege or
18 attorney work product, the party who seeks to compel production has met his burden of
19 showing good cause simply by a fact-specific showing of relevance. (*Kirkland v. Superior*
20 *Court* (2002) 95 Cal.App.4th 92, 98.)

21 Declarations are generally used to show the requisite "good cause." The
22 declarations must contain "specific facts" rather than mere conclusions. (*Fireman's Fund*
23 *Ins. Co. v. Sup.Ct.* (1991) 233 Cal.App.3d 1138, 1141 [plaintiff's desire to review
24 documents for "context" is "a patently insufficient ground" for production of sensitive
25 commercial information].) The declarations may be on information and belief, if
26

27 ² In this instance, the "court shall limit the frequency or extent of discovery of electronically stored information, even
28 from a source that is reasonably accessible, if the court determines that any of the following conditions exists: (1) It is possible to
obtain the information from some other source that is more convenient, less burdensome, or less expensive; (2) The discovery
sought is unreasonably cumulative or duplicative; (3) The party seeking discovery has had ample opportunity by discovery in the
action to obtain the information sought; (4) The likely burden or expense of the proposed discovery outweighs the likely benefit,
taking into account the amount in controversy, the resources of the parties, the importance of the issues in the litigation, and the
importance of the requested discovery in resolving the issues." (Code Civ. Proc., § 2025.480, subd. (g).)

1 necessary. However, in such cases, the "specific facts" supporting such information and
2 belief (the sources of the information) must also be alleged. (See, e.g., *Grannis v. Board*
3 *of Medical Examiners* (1971) 19 Cal.App.3d 551, 564.)

4 If "good cause" is shown by the moving party, the burden is then on the
5 responding party to justify any objections made to document disclosure just as in motions
6 to compel answers to interrogatories or deposition questions. (*Coy v. Sup. Ct.* (1962) 58
7 Cal.2d 210, 220-221.)

8 The moving party must also lodge a certified copy of the disputed portion of the
9 deposition transcript at least five days before the hearing. (Code Civ. Proc., § 2025.480,
10 subd. (h).) In addition, the questions and answers in dispute must be set forth in a
11 separate document stating the factual or legal reasons why a further answer should be
12 compelled. (CRC 3.1345(a).)

13 As with most discovery motions, a good faith attempt at informal resolution of the
14 dispute is required. (Code Civ. Proc., § 2025.480(b).) The burden is on the deponent to
15 justify a refusal to answer a question – e.g., if a privilege is asserted, the deponent may
16 have to show the basis for such a privilege. (*San Diego Prof. Ass'n v. Sup.Ct.* (1962) 58
17 Cal.2d 194, 199.)

18 Monetary sanctions are to be awarded to the losing side, unless the losing party
19 "acted with substantial justification" or other circumstances make the imposition of
20 sanctions unjust. (Code Civ. Proc., § 2025.480, subd. (j).) However, absent exceptional
21 circumstances, the court shall not impose sanctions on a deponent, or any attorney of a
22 deponent, for failure to provide electronically stored information that has been lost,
23 damaged, or overwritten as a result of the routine, good faith operation of an electronic
24 information system. (Code Civ. Proc., § 2025.480, subd. (l)(1).)

25 **II. Analysis**

26 On April 6, 2021, at the continued hearing on Plaintiffs' motion to compel the
27 deposition of Archbishop Pizzaballa, the parties reached an agreement whereby
28 Defendants' counsel agreed to produce an alternate Person Most Knowledgeable ("PMK")
for LPJ. Defendants determined that person to be Anton Asfar ("Asfar"), the Director of

1 Finance for LPJ. The parties agreed to limit Asfar's deposition to financial information
2 regarding transfers from California residents to the Equestrian Order of the Holy
3 Sepulchre of Jerusalem and then to LPJ. [Declaration of Robert J. Spitz ("Spitz Decl."), ¶
4 2.] After the parties met and conferred, Seryani served a Notice of Deposition on April
5 30, 2021, wherein LPJ's PMK was asked to appear for deposition and produce documents
6 on May 6, 2021. [*Id.* at ¶ 3, Exh. 2.]

7 LPJ served its objections on May 3, 2021, but stated the PMK would appear subject
8 to the objections. LPJ objected that the deposition notice was served less than 10 days
9 prior to the deposition,³ sought to examine the deponent and production of documents
10 on matters beyond the scope of jurisdictional discovery as order by this court, and the
11 subjects of examination and request for documents were overbroad, vague, ambiguous,
12 irrelevant, and not likely to lead to the discovery of admissible evidence.

13 Asfar was deposed on May 6, 2021, pursuant to the agreement of the parties. [*Id.*
14 at ¶ 3, Exh. 3.] During and after the deposition, the parties met and conferred about
15 whether a further deposition would be needed, but on May 7, 2021, counsel for LPJ stated
16 that Asfar would not appear for any further deposition. [*Id.* at Exh. 6.] The deposition
17 transcript was completed on May 10, 2021. [*Id.* at ¶ 4, Exh. 4.]

18 Seryani contends that at the deposition, Asfar refused to answer the following
19 questions without valid objection or justification:

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1. "What was the amount of money that LPJ received from the Grand Magisterium in the year 2020?" [Depo. Trans., 18:20.]
2. "If there was funding from LPJ to the American University of Madaba in the year 2013, wouldn't records of LPJ show that? ... So your answer is 'Yes,' if that amount of money was transferred, it would be shown in the financial records of LPJ, correct?" [Depo. Trans., 83:24.]

27 ³ Regarding the purportedly untimeliness of the deposition notice, Seryani contends the parties cooperated on the
28 scheduling of Asfar's deposition, and LPJ consented to reduced notice. Seryani notes that Asfar lives in Jordan, and the scheduling of his deposition required unusual considerations, including the difference in time zones. According to Seryani, after requesting time to accommodate these concerns, LPJ notified him of Asfar's availability on April 26, 2021—only 10 days prior to the deposition date of May 6, 2021 that had been selected by the parties. As a result, Seryani contends it was impossible to draft and serve the notice in strict compliance with Code of Civil Procedure section 2025.270, subdivision (a), since there was no time for service by mail, email, or overnight delivery.

1 In response to the first question, Asfar's counsel objected on the grounds the
2 question was irrelevant and not likely to lead to the discovery of relevant evidence.
3 Counsel then instructed Asfar not to respond, and advised Seryani's counsel that he was
4 free only to ask about funding from California to LPJ but that fund coming from Rome to
5 LPJ were not relevant to the issues. In LPJ's objections to the deposition notice, it similarly
6 objected on the grounds this subject of examination was overbroad, vague, ambiguous,
7 irrelevant, not likely to lead to the discovery of admissible evidence, and violated the
8 privacy rights or confidentiality of Asfar and third parties.

9 Seryani contends Asfar should be compelled to answer the first question because
10 it is directly relevant to the issue of jurisdiction to the extent it seeks facts relating to the
11 amount of money flowing to LPJ from California residents. As argued by Seryani, regular
12 transfers of such funds would establish jurisdiction over LPJ. Seryani notes this court
13 previously ruled he was entitled to discover facts regarding money given to LPJ, including
14 whether California residents donated money to Western Lieutenancy that was then
15 transferred to the Equestrian Order of the Holy Sepulchre of Jerusalem or any of the
16 named Defendants. In that regard, Seryani contends California residents give money to
17 the Western Lieutenancy, the Western Lieutenancy sends that money to the Grand
18 Magisterium—an entity that governs all of the lieutenancies of the Equestrian Order
19 located around the world—and the Grand Magisterium sends this money to LPJ. As a
20 result, Seryani argues that since the first question is relevant to the issues in this litigation
21 and it is within the scope of discovery defined by the court and LPJ, then Asfar must be
22 compelled to respond.

23 Regarding the second question, Asfar first stated he had previously answered the
24 question, and noted he had mentioned that if he transferred funds from the project, he
25 would have recorded the transaction in LPJ's records. When Seryani's counsel restated
26 Asfar's response in posing the second part of the question, Asfar's counsel objected on
27 the grounds Seryani's counsel had misstated Asfar's testimony, the question assumed
28 facts not in evidence, and the question was vague and ambiguous and called for
speculation. Asfar's counsel then asked if Seryani's counsel was referring to a portion of

1 an exhibit, and after Seryani's counsel confirmed he was, Asfar's counsel objected on the
2 same grounds and instructed Asfar not to respond.

3 Seryani contends Asfar should be compelled to provide a response to the second
4 question because AUMC is a defendant in this case, and jurisdiction will be established if
5 he can show that money regularly flowed from California to AUMC. According to Seryani,
6 he is entitled to discover if the funds which flowed from California residents to LPJ were
7 then transferred from LPJ to AUMC. Seryani argues this question is particularly important
8 because Asfar did not produce any documents in response to certain requests contained
9 in the deposition notice, as discussed below. As a result, Seryani argues that Asfar must
10 be compelled to identify the records showing the money transferred to AUMC from LPJ
11 and to produce those documents.

12 Seryani also contends Asfar failed to produce documents in response to the
13 following requests for production:

14
15 No. 13 – Produce all documents that comprise, evidence, or reflect each
16 and every transfer of money from The Equestrian Order of The
17 Holy Sepulchre of Jerusalem, including but not limited to its
Western USA Lieutenancy, to LPJ during the Period.

18 No. 21 – Produce all documents that comprise, evidence, or reflect any
19 correspondence between LPJ and The Equestrian Order of The
20 Holy Sepulchre of Jerusalem, including but not limited to its
Western USA Lieutenancy, during the Period.

21
22 As with the deposition questions, Seryani contends LPJ should be compelled to produce
23 these documents because they are directly relevant to the issue of jurisdiction as it relates
24 to the amount of money flowing from California residents to LPJ.

25 In opposition, LPJ contends Seryani has conducted extensive discovery, and his
26 counsel represented to the court at the April 6, 2021 hearing that the "last piece of the
27 puzzle" would be "financial information about transfers from [the Equestrian Order of the
28 Holy Sepulchre, Western Lieutenancy] to LPJ." LPJ notes that Seryani's counsel also
stated that he "would narrowly confine the deposition ... to those very limited financial

1 means,” and that he would “narrowly focus [the deposition] to only find out the
2 information to follow-up the Equestrian Order’s financial contributions.” [See, Declaration
3 of David P. Colella (“Colella Decl.”), ¶ 4; Exh. 1, 4/6/21 Hearing Transcript, 2:8-16, 4:24-
4 26, 6:13-15, 11:23-12:1.] According to LPJ, however, Seryani’s deposition notice sought
5 to cover 68 subjects and demanded the production of documents in 66 separate
6 categories. [Colella Decl., ¶ 5, Exh. 2.]

7 LPJ notes that although it objected to the deposition notice, it produced Asfar as
8 its designated PMK witness. [Colella Decl., ¶ 6, Exh. 3.] As argued by LPJ, the deposition
9 is complete because Asfar presented testimony that was reasonably within the narrow
10 focus of subject matter stated by Seryani’s counsel. LPJ states that Asfar testified that
11 funds from the Equestrian Order of the Holy Sepulchre, including the Western
12 Lieutenancy, go to Rome—not LPJ or AUMC. LPJ contends it is from Rome where it gets
13 funding from the Grand Magisterium—not from the Western Lieutenancy—and LPJ has
14 no control over the funds provided or the Grand Magisterium’s fundraising efforts. LPJ
15 also notes that Asfar does not have any knowledge about the finances of the Grand
16 Magisterium. [*Id.* at ¶ 7; Exh. 4, Deposition of Anton Asfar, 24:24-26:12.]

17 As a result, LPJ contends there are no documents to be produced, and the
18 connection between the Grand Magisterium and LPJ or AUMC is irrelevant and beyond
19 the scope stated by Seryani’s counsel. [Colella Decl., ¶ 10.] According to LPJ, Seryani is
20 now trying to change the “last piece of the puzzle” by arguing that the transfer of funds
21 from the Grand Magisterium to LPJ must be discovered. However, LPJ argues that
22 whether it obtains funds from non-party Grand Magisterium, which is based in Rome, is
23 irrelevant to this court’s determination regarding jurisdiction. Therefore, LPJ contends
24 that since Asfar fully testified as to any transfers from the Western Lieutenancy to LPJ,
25 no further deposition testimony is warranted.

26 In reply, Seryani contends LPJ is misrepresenting what occurred at the April 2021
27 hearing, and he did not agree to restrict the scope of the PMK deposition to “financial
28 information about transfers from [the Equestrian Order of the Holy Sepulchre, Western
Lieutenancy] to LPJ.” Instead, Seryani argues that his counsel has repeatedly stated that

1 LPJ's funding comes from each of the worldwide Lieutenancies to the Grand Magisterium
2 in Rome, and from there, it is distributed to LPJ and its subsidiary charities. Moreover,
3 Seryani contends his counsel clearly stated during the April 6, 2021 oral argument that
4 the deposition of LPJ's financial controller was needed to establish that the Grand
5 Magisterium provides the bulk of LPJ's funding and that he was seeking information about
6 the Equestrian Order of the Holy Sepulchre of Jerusalem as a whole. Seryani also asserts
7 that LPJ's counsel knows the funds transferred to the Grand Magisterium are not
8 segregated and that the bulk of the money donated to the Western Lieutenancy goes to
9 the general fund to cover LPJ's overall expenses.

10 According to Seryani, he needs to obtain testimony from Asfar regarding this issue,
11 but LPJ's counsel improperly refused to agree to a continuation of the deposition. Seryani
12 notes there were several breaks, as well as extensive argument and frivolous objections,
13 initiated by LPJ's counsel during the deposition. Lastly, Seryani argues that the disputed
14 deposition questions and documents are within the narrow scope agreed upon by the
15 parties.

16 Merits. Seryani's arguments are not well taken. As noted by LPJ, during the April
17 6, 2021 hearing, there was extensive discussion about the necessity and scope of a
18 deposition of LPJ's PMK. [See, Colella Decl., Exh. 1.] On these issues, Seryani's counsel
19 made several statements and representations regarding the proposed scope of the
20 deposition. First, Seryani's counsel noted he was simply following up on the court's earlier
21 order regarding the Equestrian Order of the Holy Sepulchre of Jerusalem wherein the
22 court was allowing Seryani "on a limited basis to obtain financial information about
23 transfers from [the Equestrian Order] to LPJ." [*Id.*, at 2:8-12.] Counsel went on to state:
24 "We would like to take his deposition for the remainder that he is receiving funds from
25 that Order, and that really – we would narrowly confine the deposition of the archbishop
26 to those very limited financial means." [*Id.*, at 2:13-16.] After asserting that the
27 deposition would be relatively short and he did not "seek to invade any more than is
28 necessary," Seryani's counsel again stated, "We will narrowly focus this to only find out

1 the information to follow-up on the Equestrian Order's financial contributions." [*Id.*, at
2 4:20-22, 5:13-15.] Notably, Seryani's counsel then states:

3
4 In the past, we had had these broader questions, I understand.
5 We don't believe we have got truthful answers to them, but in
6 any event, they were broader questions about the church
7 transferring money. We feel that because of this complex circuit
8 of money, they have plausibly denied our previous
9 interrogatories with regard to funding from the church basis [*sic*]
10 in California, and they plausibly deny it because it all gets mixed
11 together, and then it goes to the Vatican, and who knows where
12 is goes from there. [¶] The Equestrian Order is a different
13 organization, as we showed in our paperwork in that motion.
14 That entity, that organization, is solely committed for funding
15 the Latin Patriarch [*sic*] of Jerusalem. So we don't have these
16 more complex issues of where the money goes, in which pot,
17 and so on and so forth, that we have been frustrated getting
18 good answers to. This is a very narrow transfer of money, which
19 has been shown that the Equestrian Order received \$2,000,000
20 every year in donations that are sent directly to the Latin
21 Patriarch [*sic*] of Jerusalem. So have a very specific source of
22 funds, we have a very specific purpose, we have a very narrow
23 train of financial assistance of \$2,000,000 a year from California
24 to LPJ. We're focusing in now on exactly what we need in order
25 to be able to support jurisdiction.

18 [*Id.*, at 6:16-7:12 (emphasis added).]
19

20 Therefore, according to the representations made by Seryani's counsel, the
21 Equestrian Order—i.e., Western Lieutenancy—is the source of funding for LPJ, not the
22 Grand Magisterium, and the Western Lieutenancy is a "separate organization." There is
23 nothing in this discussion indicating that Seryani's counsel also sought testimony
24 regarding any fund transferred between the Grand Magisterium and the Western
25 Lieutenancy or between the Grand Magisterium and LPJ. Moreover, the statements made
26 by Seryani's counsel at the hearing seemingly contradicts the assertions made in the
27 current motion—i.e., that LPJ's funding comes from the worldwide Lieutenancies through
28 the Grand Magisterium. Indeed, even the meet and confer emails exchanged between
Seryani's counsel and LPJ's counsel before the deposition notice was served seems to

1 suggest that Seryani's counsel intended to limit the deposition to transactions between
2 the Western Lieutenancy and LPJ. [*See*, Spitz Decl., Exh. 1.] Therefore, it appears that
3 Seryani's counsel attempted to expand the scope of the PMK deposition beyond that
4 which he had previously stated to the court and to opposing counsel.

5 Accordingly, regarding the disputed deposition questions, it appears they go
6 beyond the agreed-upon scope of the testimony to be provided by LPJ's PMK. As for the
7 disputed requested documents, although the requests appear to be worded more broadly
8 than the agreed-upon scope of testimony, they do include the production of
9 correspondence and documents regarding money transfers between the Western
10 Lieutenancy and LPJ. Since these documents are within the scope agreed upon by the
11 parties, then LPJ should be compelled to produce them. Therefore, based on the
12 discussion above, the motion as to LPJ will be granted in part, and denied in part.

13 **III. Sanctions**

14 The Discovery Act, as stated in the Code of Civil Procedure, generally provides that
15 monetary sanctions are imposable against any party who unsuccessfully makes or
16 opposes a discovery motion, unless it is found that the one subject to the sanction acted
17 with substantial justification or that other circumstances make the imposition of the
18 sanction unjust. (See, Code Civ. Proc., §§ 2024.050, subd. (c), 2025.450, subd. (g)(1).)

19 Here, in the current motion, although both parties have requested the imposition
20 of sanctions, neither request should be granted since neither party was entirely successful
21 in making or opposing the motion. Therefore, no sanctions will be imposed.

22 23 **AMERICAN UNIVERSITY OF MADABA**

24 **I. Statement of the Law**

25 California Code of Civil Procedure section 2025.450, subdivision (a), allows a party
26 who served a valid deposition notice to move for an order to compel the deposition of
27 the individual and production of any duly requested documents when the individual failed
28 to appear at the deposition and/or failed to provide the requested documents. Section
2025.450(a) provides:

1 (a) If, after service of a deposition notice, a party to the
2 action or an officer, director, managing agent, or employee
3 of a party, or a person designated by an organization that is
4 a party under Section 2025.230, without having served a
5 valid objection under Section 2025.410, fails to appear for
6 examination, or to proceed with it, or to produce for
7 inspection any document or tangible thing described in the
8 deposition notice, the party giving the notice may move for
9 an order compelling the deponent's attendance and
10 testimony, and the production for inspection of any
11 document or tangible thing described in the deposition
12 notice.

13 (b) A motion under subdivision (a) shall comply with both of
14 the following:

15 (1) The motion shall set forth specific facts showing good
16 cause justifying the production for inspection of any
17 document or tangible thing described in the deposition
18 notice.

19 (2) The motion shall be accompanied by a meet and confer
20 declaration under Section 2016.040, or, when the
21 deponent fails to attend the deposition and produce the
22 documents or things described in the deposition notice,
23 by a declaration stating that the petitioner has contacted
24 the deponent to inquire about the nonappearance.
25 (Code Civ. Proc., § 2025.450.)

26 If the court grants the motion to compel compliance with the deposition notice,
27 then the court shall impose monetary sanctions in favor of the party who noticed the
28 deposition and against the deponent or the party with whom the deponent is affiliated,
unless the court finds that the one subject to the sanction acted with substantial
justification or other circumstances make the imposition of the sanctions unjust. (Code
Civ. Proc., §2025.420(c)(1).)

29 **II. Analysis**

30 On March 23, 2021, Seryani served a Notice of Deposition for the Person Most
31 Knowledgeable for American University of Madaba Company ("AUMC"). The notice stated
32 the deposition would take place on April 27, 2021. AUMC never served any objections to
33 the notice. [Declaration of Robert J. Spitz ("Spitz Decl."), ¶ 2. Exh. 1.] On April 6, 2021,
34 AUMC's counsel emailed Seryani's counsel's office and stated he was prepared to produce

1 a PMK deponent for the entity known as American University of Madaba, but not for
2 AUMC. AUMC's counsel asked for clarification on which entity was to be deposed, but he
3 never stated he would not produce a PMK deponent for AUMC. [*Id.* at ¶ 3; Declaration of
4 Adam Jeffery ("Jeffery Decl."), ¶ 1, Exh. 2.] On April 9, 2021, Seryani's counsel's office
5 emailed AUMC's counsel to clarify that the deposition notice sought the deposition of
6 AUMC's PMK, not another related entity. However, AUMC's counsel did not respond to
7 the email. [Spitz Decl., ¶ 4; Jeffery Decl., ¶ 2, Exh. 3.]

8 On April 22, 2021, Seryani's counsel's office emailed AUMC's counsel for an update
9 regarding the AUMC PMK deposition. The next day, AUMC's counsel responded and stated
10 he would "continue to work on" finding an appropriate PMK for AUMC. [Spitz Decl., ¶ 5;
11 Jeffery Decl., ¶ 3, Exhs. 4 and 5.] However, there was no further communication from
12 AUMC's counsel regarding the availability of a PMK, and no such person was ever offered
13 to appear at the deposition. [Spitz Decl., ¶ 6; Jeffery Decl., ¶ 4.]

14 Seryani contends that in order to conclude his discovery on the jurisdiction issues,
15 AUMC must be compelled to produce a PMK to appear for deposition. As argued by
16 Seryani, AUMC's failure to appear has caused him severe prejudice and is in direct
17 contravention of this court's orders.

18 In opposition, AUMC contends Seryani's deposition notice was overbroad,
19 "unreasonably intrusive," and covers matters that are irrelevant to the jurisdiction issue.
20 According to AUMC, its counsel did previously raise objections to the enumerated
21 deposition topics when they were originally proposed by Seryani's counsel, but no
22 meaningful narrowing of the topics occurred. [Declaration of David P. Colella ("Colella
23 Decl."), ¶ 6.] AUMC contends that the PMK for The Latin Patriarchate of Jerusalem ("LPJ")
24 has already been deposed on these topics, and testified as to the absence of financial
25 transfers between the Grand Magisterium in Rome and American University of Madaba in
26 Jordan ("AUM"). Moreover, AUMC argues that financial transactions between the Grand
27 Magisterium and AUM are irrelevant to the jurisdiction issue in this litigation, and there is
28 no justification for compelling deposition testimony or documents regarding financial

1 transfers between LPJ and AUMC. As a result, AUMC contends no further depositions are
2 appropriate. [Colella Decl., ¶ 8, Exhs. 4-6.]

3 AUMC's arguments are unavailing. As noted by Seryani, although a deposition
4 notice was properly served, AUMC did not serve any written objections to the notice.
5 Accordingly, any objections are waived. AUMC also did not seek to stay the deposition or
6 quash the deposition notice. Therefore, AUMC will be compelled to provide a PMK to
7 appear for deposition and produce the requested documents.

8 **HIS BEATITUDE FOUAD TWAL**

9 **I. Statement of the Law**

10 As noted above, California Code of Civil Procedure section 2025.450, subdivision
11 (a), allows a party who served a valid deposition notice to move for an order to compel
12 the deposition of the individual and production of any duly requested documents when
13 the individual failed to appear at the deposition and/or failed to provide the requested
14 documents.

15 If the court grants the motion to compel compliance with the deposition notice,
16 then the court shall impose monetary sanctions in favor of the party who noticed the
17 deposition and against the deponent or the party with whom the deponent is affiliated,
18 unless the court finds that the one subject to the sanction acted with substantial
19 justification or other circumstances make the imposition of the sanctions unjust. (Code
20 Civ. Proc., §2025.420(c)(1).)

21 **II. Analysis**

22 On April 1, 2021, Seryani served a Notice of Deposition on His Beatitude Fouad
23 Twal ("Twal"), for his deposition to take place on April 20, 2021. [Declaration of Robert
24 J. Spitz ("Spitz Decl."), ¶ 2, Exh. 1.] On April 6, 2021, counsel for Twal emailed Seryani's
25 counsel's office to state he was not available on April 20, 2021, but that Twal's deposition
26 could be rescheduled. [Spitz Decl., ¶ 3; Declaration of Adam Jeffery ("Jeffery Decl."), ¶
27 1, Exh. 2.] On April 22, 2021, Seryani's counsel's office emailed Twal's counsel for an
28 update. The next day, Twal's counsel responded and stated he had "yet to get dates" for
Twal's rescheduled deposition, but he had requested them. [Spitz Decl., ¶ 4; Jeffery Decl.,

1 ¶ 2, Exhs. 3 and 4.] Seryani's counsel attests, however, that there has been no further
2 communication from Twal's counsel regarding Twal's availability. [Spitz Decl., ¶ 5.]

3 Seryani contends Twal's deposition testimony is vital on the issue of jurisdiction in
4 this litigation. Seryani notes that Twal was the Latin Patriarch, i.e., the most senior official
5 of The Latin Patriarchate of Jerusalem ("LPJ"), and was personally involved in the creation
6 and funding of American University of Madaba ("AUM"). According to Seryani, he and
7 Twal worked closely together in the early stages of establishing the AUM and its Jordanian
8 campus. Seryani states that the parties agreed to limit Twal's deposition to information
9 regarding money transfers from California residents to the Equestrian Order of The Holy
10 Sepulchre of Jerusalem (including the Western Lieutenancy in California and its governing
11 body, the Grand Magisterium at the Vatican), and from the Equestrian Order to LPJ.
12 Seryani argues that Twal's testimony must be compelled because it will reveal information
13 about those same funds being transferred from the Grand Magisterium to LPJ—
14 information that is needed to show that substantial funds from California residents
15 regularly flowed to LPJ, and thus establish jurisdiction over LPJ and other defendants.
16 Seryani claims he has been severely prejudiced by Twal's failure to appear for his
17 deposition.

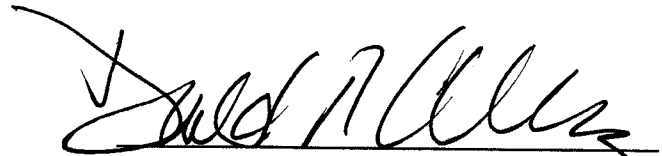
18 In opposition, Twal contends that Seryani served the first deposition notice on
19 November 19, 2020, and Twal served objections to that notice on December 8, 2020, on
20 the grounds the document requests were overbroad and beyond the scope of
21 jurisdictional discovery. [Declaration of David P. Colella ("Colella Decl."), ¶¶ 5, 6; Exhs. 2
22 and 3.] Although Twal admits that Seryani re-noticed his deposition on April 1, 2021,
23 Twal does not state that he served any new objections to the new deposition notice.
24 Instead, Twal's counsel attests that he and Seryani's counsel met and conferred regarding
25 the scope of Twal's deposition, and the parties agreed to limit the deposition to the
26 financial connection between the Equestrian Order and LPJ. [Colella Decl., ¶ 8, Exh. 5.]
27 However, Twal now contends that after the deposition of LPJ's PMK, no further
28 depositions were appropriate because the LPJ PMK deposition addressed this financial
connection. [*Id.* at ¶¶ 10-12, Exhs. 7-9.]

1 Twal's arguments are unavailing. Although a new deposition notice was properly
2 served, Twal did not serve any written objections to the new notice. Accordingly, any
3 objections are waived. Twal also did not seek to stay the deposition or quash the
4 deposition notice. Therefore, Twal will be compelled to appear for his deposition, and
5 produce the requested documents.

6 **DISPOSITION**

- 7 1. The court will GRANT in part, and DENY in part the Motion to Compel Further
8 Deposition of The Latin Patriarchate of Jerusalem's PMK. GRANT the motion as to
9 the production of documents in response to Request Nos. 13 and 21, but DENY
10 the motion as to compelling the PMK to answer the disputed questions. No
11 sanctions will be imposed.
- 12 2. The court will GRANT the Motion to Compel the Deposition of the American
13 University of Madaba Company's PMK.
- 14 3. The court will GRANT the Motion to Compel the Deposition of His Beatitude Fouad
15 Twal.

16
17 Dated this 8 day of October, 2021

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21 DONALD ALVAREZ
22 Judge of the Superior Court
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27
28

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT, CIVIL DIVISION

TITLE OF CASE (ABBREVIATED): In the Matter of

JENJAMIN SERYANA v. THE HOLY SEE, et al,

CASE NUMBER: CIVDS1925212

DECLARATION OF SERVICE BY MAIL

My business address is: San Bernardino Superior Court, 247 West Third Street, San Bernardino, California 92415.

I hereby declare that I am a citizen of the United States, over the age of 18, employed in the above-named county, and not a party to nor interested in this proceeding. On October 12, 2021, I deposited in the United States mail at San Bernardino, California, a sealed envelope (postage prepaid) which contained a true copy of the attached:

NAME OF DOCUMENT:

RULING ON 3 MOTIONS TO COMPEL: 1) PMK Disposition of Latin Patriarchate; 2) PMK Deposition of American University; 3) Deposition of His Beautitude Fouad Twal

Name and Address of Persons Served:

**LAW OFFICES OF ROBERT J. SPITZ
204 North San Antonio Avenue
Ontario, CA 91762**

**CLARK & TREVITHICK
445 South Figueroa Street, 18th Floor
Los Angeles, CA 90071**

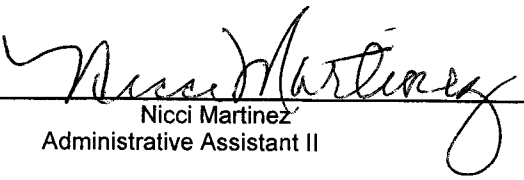
**FULLERTON LEMANN SCHAEFER &
DOMINICK, LLP
215 North D Street, First Floor
San Bernardino, CA 92401-1712**

At the time of mailing this notice there was regular communication between the place of mailing and the place(s) to which this notice was addressed.

I declare under penalty of perjury the foregoing to be true and correct.

DATED: October 12, 2021

by


Nicci Martinez
Administrative Assistant II