

Springfield Diocese Offers All Its Abuse Documents To Insurers

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Springfield – The Diocese of Springfield has handed over counseling records of church employees accused of sexual misconduct, and of those who reported abuse, to its insurers. This was a response to most of the Jan. 3 ruling by state Superior Court Associate Justice John A. Agostini.

The diocese has given to Judge Agostini other documents that may be relevant to a civil dispute about the diocese's handling of misconduct complaints.

Judge Agostini is hearing all outstanding matters related to alleged sexual abuse by church employees in western Massachusetts. He is expected to rule on whether the second group of documents, which the church contends may be subject to different types of professional privilege, should be given to the insurers.

At the same time, the diocese has offered to hand over all remaining documents requested by the insurers, provided that they are not disclosed to third parties before a trial. The companies, who have refused to compensate the diocese for the \$7.7 million it paid to settle sexual abuse claims in 2004, have so far refused to accept the diocese's offer.

In a Jan. 24 court filing to Judge Agostini, Diocesan Attorney John J. Egan reported that Travelers Property Casualty Co., Centennial Insurance Co., Colonial Penn Insurance Co., and a state agency responsible for the obligations of a bankrupt company, have "without explanation, eschewed the protective order options."

Under Egan's proposal to the judge, copies of original documents connected to the church's handling of sexual misconduct by its employees over the last 30 years would be made available to the insurers, persons who have brought allegations of misconduct to the diocese, and experts and attorneys representing those parties.

Since the diocese maintains that at least some of the documents are subject to various types of privileged confidentiality, those subject to the proposed order could not disclose the contents of the documents to third parties, such as the media.

In the everyday workings of the legal system, sensitive information obtained by either side in a dispute during a pre-trial "discovery" process is generally not shared with outside parties until it has been deemed admissible in open court. But attorneys and parties involved in the process are generally under no legal obligation to maintain confidentiality, unless specifically ordered by a judge.

Egan's latest court motion argues that a "protective order of confidentiality" would speed a resolution of the dispute by confidentially letting the insurers know what evidence there is to substantiate their position that the diocese improperly handled misconduct cases.

There would be no need for the diocese to appeal parts of Judge Agostini's last ruling on privilege issues to a higher court, so the parties could move on to trial or an out-of-court settlement, Egan argued.

Egan's latest proposal is based upon a Dec. 29 ruling by the state Supreme Judicial Court, which established a new procedure to deal with sensitive material developed in the discovery process for criminal trials.

Under the new judicial rules, trial judges can avoid the duty of reading voluminous pretrial materials if prosecutors and defense attorneys agree to share discovered materials confidentially.

While in part designed to lessen the workload of judges, the new procedure will also have the effect of keeping some materials out of the public domain before trial.

Before 2002, most material that was either legally privileged or potentially prejudicial to a future jury pool was generally unavailable to the media. But in that year, Superior Court Judge Constance Sweeney established a new legal precedent when she ruled in favor of The Boston Globe's access to pretrial documents provided to the court in misconduct cases against the Archdiocese of Boston.

In an apparent allusion to Judge Sweeney's ruling, the editor of *The Republican* newspaper said in his publication's Jan. 25 edition that he might try to convince Judge Agostini that "evidence in the public interest is being kept secret."

In a Jan. 28 letter published in *The Republican*, diocesan spokesperson Mark E. Dupont refuted that claim. "Many of these victims do not want their names shared with the press or other lawyers," Dupont said. "And just as the press asserts its right to confidentiality of sources, so then must we all be afforded some latitude in honoring our commitments."

The Jan. 18 filing by the diocese was technically a request for the judge to give the church more time to comply with his earlier ruling.

In opposing an extension, the insurers accused the diocese of disobeying Judge Agostini's earlier order. They also revived an old theory that the late Springfield Bishop Christopher J. Weldon, who retired in 1977, once destroyed church abuse records.

In 2003 Father James Scahill, pastor of St. Michael Church in East Longmeadow, told media outlets that former Springfield Bishop Thomas L. Dupre had once confided to members of the presbyteral council that he (Bishop Dupre) had heard that Bishop Weldon had destroyed records.

Bishop Dupre responded by giving a sworn legal deposition denying that he had ever made such a comment. All members of the priests' council except Father Scahill confirmed the bishops' account.

After Bishop Dupre resigned amid accusations that he had himself abused minors, Hamden District Attorney William Bennett convened a grand jury to investigate Bishop Dupre's alleged misconduct, and the church's overall handling of misconduct.

At an October 2004 press conference announcing that Bishop Dupre would not be prosecuted for his own conduct due to the expiration of the criminal statute of limitations, Bennett said that he found no evidence that "(Bishop) Dupre personally destroyed or illegally concealed evidence of sexual misconduct by other church officials."

While Bennett only indirectly addressed questions about the church's handling of abuse matters, his statement essentially confirmed Bishop Dupre's sworn testimony in a 2003 deposition about the diocese's recordkeeping practices.

It also, in Bennett's view, debunked the contention that current diocesan chancellor Msgr. Daniel P. Liston or former part-time diocesan archivist Richard Meehan knew anything about any document destruction.

As part of this Jan. 3 ruling, Judge Agostini ordered the diocese to provide "a log listing and describing to the extent possible any documents it has destroyed within the last thirty years which relate to...allegations of sexual abuse."

In response, Egan told the judge Jan. 18 that the diocese has made further inquiry and responds that no such documents were destroyed."