

Article - Insurers call for church records

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By FRED CONTRADA

PITTSFIELD - With 57 claimants awaiting the outcome, the Roman Catholic Diocese of Springfield faced off against seven of its insurance carriers yesterday over the disclosure of 7,500 pages of church documents.

Berkshire Superior Court was full of lawyers debating issues such as spiritual counseling privilege, Constitutional religious rights and attorney-client privilege. The diocese is suing the insurance companies to get them to provide coverage for claims by 57 people who said they were sexually abused by priests. In 2004, the diocese settled a suit involving 46 other claimants for more than \$7 million.

The insurers argue that the documents will enable them to see how the diocese has historically handled claims of sexual abuse by its priests and whether it fulfilled its own obligations to protect the public.

"The operative question is: What did the diocese know about clergy sexual abuse, and when did it know it?" said John Egan, who is representing Lloyds of London. "Were these claims 'accidents' as defined in the policies?"

According to lawyers, the documents involve the laicization of some priests and show how the diocese counseled those priests and handled complaints of sexual abuse. John J. Egan, a lawyer for the diocese, said the 7,500 pages fall under a state statute protecting the right to spiritual counseling. Egan told Judge John A. Agostini that the counseling pertained to the sacrament of Holy Orders because some of the priests faced the prospect of being defrocked.

"You're talking about internal church records involving the release from sacramental vows," he said.

Egan said the documents are also Constitutionally protected under the free exercise of religion.

Mark A. Darling, who represents Interstate Fire and Casualty Co., said the diocese has failed to show that the documents have anything to do with a spiritual counseling privilege.

"They can't simply assign a moniker and a document and say, 'You can't look at it,'" he said.

Kevin D. Withers, another diocese lawyer, said some of the documents involve people who have not filed claims and priests who are not named in any lawsuits. "They're simply not relevant in any way," he said.

But Joseph C. Tanski, who represents the Massachusetts Insurers Insolvency Fund, said the insurance companies have a right to know some details of the diocese's internal operations.

"The information we're seeking bears on the issue of if the diocese reasonably expected harm would come from putting priests in particular positions," he said. "If the bishop wants coverage, he has to disclose the information."

Agostini said he would take the matter under advisement and issue a ruling. Afterward, Greenfield lawyer John Stobierski, who represents 17 of the claimants, suggested that the money spent in paying lawyers' fees could have been put toward resolving the claims.

"There's an enormous waste of resources in fighting over these matters," he said.