

January 25, 2007 - Diocese documents in dispute

By MARLA A. GOLDBERG, The Republican (MA)

SPRINGFIELD - A major legal fight is brewing between the Roman Catholic Diocese of Springfield and several insurance companies that don't want to reimburse the diocese for settling with people who allege they were sexually abused by priests.

In a Jan. 18 filing in Hampden Superior Court, insurers accuse the diocese of destroying records involving sexual abuse claims over the last 30 years, an allegation the diocese denies.

The diocese, which settled 46 claims against priests for \$7.7 million in 2004, filed suit in 2005 against its several insurance carriers who refused to pay, including Travelers Property Casualty Co., Centennial Insurance Co. and Colonial Penn Insurance Co. "They took our premium money and provided us with insurance ... to protect us from a variety of ... negligence risks, and these cases are suing us for negligent supervision (of priests)," said the diocese's lawyer, John J. Egan, yesterday. He said insurers should cover "a substantial portion" of the \$7.7 million.

There are approximately 40 more cases against the diocese, which Egan said "can't be settled until the situation with the insurance companies is resolved."

On Jan. 3, Judge John A. Agostini ordered the diocese to produce documents for his private view. Agostini will determine if they qualify under laws protecting confessions to religious leaders, attorney-client privilege and communication between psychotherapists and patients. The diocese previously justified withholding 107 documents, but Agostini found no legal support "for the Diocese's sweeping assertion," that statements involving a priest are protected.

Agostini also ordered the diocese to provide "a log listing and describing to the extent possible any documents it has destroyed within the past thirty years and which relate to ... allegations of sexual abuse."

In a motion filed Jan. 18, the diocese stated it "has made further inquiry and responds that no such documents were destroyed."

The insurers, also in a Jan. 18 filing, accuse the diocese of disobeying Agostini's order and state there are several documents that the diocese "apparently has no intention of ever producing." Those records "presumably set forth in detail the reasons why the Diocese sought the Vatican's approval to laicize certain priests ... accused of sexually abusing children."

In June, Richard F. Meehan became the diocese's second priest to be defrocked following allegations of sexual misconduct. Richard R. Lavigne, who was accused by more than 20 men of abusing them as minors, was defrocked in 2003.

Court records indicate the diocese turned over a box of documents to Agostini last week and that other material was given to lead counsel for the insurers.

Egan said a grand jury investigated the diocese's records in 2004, "and the district attorney made a statement that there's no evidence that any documents were destroyed or concealed."

Egan was apparently referring to an investigation leading to the 2004 indictment of former Bishop Thomas L. Dupre on two counts of child rape. District Attorney William M. Bennett announced shortly after the indictments were docketed on Sept. 27, 2004, that he wouldn't prosecute Dupre, because the alleged crimes fell outside the statute of limitations. At the time, Bennett said there was no evidence that Dupre altered or destroyed records to hide abuse allegations against himself or others.

However, testimony from diocesan witnesses "suggest a pattern of document destruction that began under Bishop (Christopher J.) Weldon (1950-1977) and continued well into the 1980s," the insurers stated.

They cite a July 7, 2003, letter from Father (now Monsignor) Daniel P. Liston to Dupre, in which Liston wrote, "as we have long suspected, Bishop Weldon's files were all destroyed by Monsignor David Welch since Bishop Weldon unwisely kept those files apart from the vault in the Chancery."

The insurers also reference a January 1993 memo from Dupre to the late Bishop John A. Marshall that discusses creation of "privileged files," to contain "only those materials which are truly private and personal ... these are some questionable areas ... letters of complaint against the priest. Perhaps it should be in the 'privileged file,' if handwritten, and kept in the regular file if typed ..."

Liston, according to the insurers, also testified at a deposition in March 2003 that Meehan was assigned to "clean and organize" the diocese's files and destroyed certain documents in 2000 and 2001.

Egan said only Weldon's personal papers were destroyed, when his family decided they didn't want them, and all privileged files were among the 80,000 pages turned over to the grand jury. Meehan didn't destroy records, Egan said, although some papers were photocopied and replaced because originals were "falling apart."

Yesterday, the diocese filed an emergency motion, seeking a "protective order," allowing it to give documents directly to counsel for the insurers, rather than to the judge first. Documents in question "contain highly personal and sensitive information, including sexual abuse descriptions," along with psychiatric information and claims against "deceased individuals who never had the opportunity to respond," the diocese's motion states.

Under the diocese's proposed order, lawyers would be barred from disclosing information and would have to return or destroy documents within 30 days after the case ends. Such an order would prohibit public or press access to records.

"Lawyers for The Republican are studying the case to ascertain whether we will file a motion to intervene if it is determined evidence in the public interest is being kept secret," said Executive Editor Wayne E. Phaneuf.