June 8, 2007 – SanDiego Diocese in Turmoil: Creditors get OK to challenge transfers
By Jeff McDonald, UNION-TRIBUNE STAFF WRITER

Creditors suing the Roman Catholic Diocese of San Diego will be permitted to challenge property deals and other transactions that church officials approved in the months and years leading up to the February bankruptcy filing, a federal judge ruled yesterday.

But for the time being, those challenges will be limited to a handful of properties whose ownership is already being formally disputed.

The decision from Judge Louise DeCarl Adler represents a significant victory for more than 150 people suing the diocese for alleged sexual abuse committed by San Diego area Catholic priests in cases dating back decades.

It was welcome news to attorneys who for years have battled the San Diego diocese, the largest of five Catholic dioceses across the country to seek bankruptcy protection in the wake of the abuse scandal.

“The court order recognizes that there is evidence suggesting the debtor (diocese) may have engaged in improper transfers,” said attorney Andrea Leavitt, who represents seven people. “The victims will have the right to pursue the issue of fraud in other transfers of assets, including cash and property.”

Church officials reiterated again in parish bulletins on Sunday their claim that they have not been hiding or illegally transferring assets.

Under yesterday's ruling, tens of millions of dollars in real estate and other assets eventually could be added to the diocese estate, greatly enhancing the pool of money available to settle the lawsuits.

The debtor and creditors have been locked in a bitter legal battle over whether the 98 local parishes operated by the Catholic Church are individually owned or the property of the diocese.

A trial scheduled in U.S. Bankruptcy Court this year will determine the ownership of four “test cases” that will help determine whether churches, schools and other assets belong to the parishes, as church officials contend, or to the diocese.

Four parishes – All Hallow's in La Jolla, St. Mark's in San Marcos, St. John of the Cross in Lemon Grove and St. Margaret's in Oceanside – were selected as a representative sample of the 98 parishes across the diocese.

Attorneys working for the diocese and its parishes said that the bankruptcy case is barely 100 days old, and that it was far too early to grant creditors the authority to challenge property ownership and asset transfers.

“Expediency doesn't justify this drastic remedy,” said Tucson attorney Susan Boswell, the diocese's lead counsel in the bankruptcy case. “Let's not take away rights that Congress so carefully gave.”

At yesterday's hearing, Adler also outlined conditions for dealing with claims from victims that have not yet been submitted. Potential creditors will have to file claims within six months of a notification program the diocese will have to develop, she ruled.

The public notification will have to stretch beyond print advertisements, Adler said, suggesting that televised public-service announcements might help spread the word about damages being available to clergy-abuse victims. Notices also must be presented in languages other than English, including Spanish and Vietnamese, she said.

Also, the proposed claim form submitted by the diocese will have to be greatly simplified so any potential victims are not dissuaded from pursuing cases, the judge said.

The diocese sought bankruptcy protection minutes before midnight on Feb. 27, just hours before the first of four civil trials was scheduled to begin in state court. The filing placed all civil proceedings on hold while the bankruptcy case is settled.

Throughout the reorganization, plaintiffs' lawyers have accused church officials of repeatedly understating the value of diocese holdings, limiting the damages their clients might eventually collect.

For example, the diocese filed a report to the court that valued its assets at $97 million. At a hearing in April called to examine the church's finances, Bishop Robert Brom acknowledged the initial accounting was off by many millions of dollars.

The victims' attorneys also have questioned a series of transactions approved by church officials in the weeks and months before the bankruptcy filing, alleging that the diocese deliberately low-balled its holdings to minimize potential payouts to their clients.

As evidence, they cited a pending sale of the former University of San Diego High School in Linda Vista to William Lyon Homes.

The developer had agreed to pay $65 million in cash for the property. But in an amendment dated Feb. 27, the same day of the bankruptcy filing, terms were changed to defer payment of $40 million of the sale price for several years.

Church officials offered $95 million to settle the cases this spring, an amount that plaintiffs' lawyers said was ridiculously low based on the value of such cases elsewhere in California. Half of that proposed settlement would come from diocese assets and the other half from a mutual insurance company.