

## Settlement leaves largest questions unanswered

By Paul Pringle and Jean Guccione, The Los Angeles Times, December 2, 2006

### **The process of releasing long-sought personnel files might show how officials handled molestation complaints.**

The sexual abuse settlement announced Friday resolves all current civil claims involving molestations that occurred during Cardinal Roger M. Mahony's 20-year tenure as head of the Roman Catholic Archdiocese of Los Angeles.

But it leaves unanswered for now the biggest questions raised by the scandal: how the cardinal and other church officials handled molestation complaints against priests, and whether the archdiocese will bear any criminal responsibility for their actions.

Mahony has acknowledged leaving 16 priests in the ministry after parishioners complained about inappropriate behavior with children. Five of the priests went on to molest children, including Michael Baker, who was criminally charged with molestation after confiding to Mahony in 1986 that he had abused two boys.

The cardinal has released truncated summaries of those cases, but the full accounts reside in confidential files that the archdiocese has withheld. Mahony waged a years-long battle to keep the files from a county grand jury, finally losing before the U.S. Supreme Court.

Plaintiffs' demands that the church release the personnel records on accused priests were a major stumbling block during the almost four years of negotiations that led to Friday's pact. As part of the settlement, the two sides have agreed to let a retired judge, former California Supreme Court Justice Edward Panelli, decide which of the files may be opened.

The procedure for releasing the documents is closely patterned after one used in the Diocese of Orange settlement last year.

The priests could object to the unsealing and a hearing would be held.

In the Orange Diocese case, a judge allowed disclosure of files involving only dead priests and those who did not object. That judge said he was powerless under the law to do otherwise.

But plaintiffs' attorneys say the disclosure rules in the Los Angeles suit are different and that more documents may come to light.

"We are very confident that most, if not all documents, we're going to get," said John Manly, who represents two plaintiffs.

"This has been an utter dogfight," Manly said.

Raymond P. Boucher, the lead counsel for the plaintiffs, said he believes the retired judge, citing "good public policy," will order the church to disclose many of the records.

Mahony attorney J. Michael Hennigan said the judge is free to apply the rules as he sees them.

An attorney for the priests, however, believes the documents will remain sealed.

"I don't think legally these things would come out. I honestly believe the law prevents public disclosure of private files," said attorney Donald Steier, who represents 11 accused priests.

Steier sued the church on behalf of several priests to stop the archdiocese from even releasing summaries of the files.

He won, but archdiocese lawyers later made much of the information in the documents available on the church's website.

Mahony argued that he could not release the files because state law forbids disclosure without the priests' consent, which they did not give. He reiterated that stance Friday and downplayed his authority in the matter.

"If I took someone's file and released privileged information, I could be sued," he said. "The argument isn't with me, it's between the priests who own the files and the plaintiffs and the judges."

He also said many of the files would yield "very little" information. But a plaintiffs' lawyer said they could be explosive.

"From what I have seen in Los Angeles and what I know to be the case in Stockton, with documents that are totally devastating and reveal despicable conduct, I do not believe that the cardinal has changed his approach at all," said Larry Drivon, who won a \$30-million jury verdict against the Diocese of Stockton for alleged clergy sexual abuse while Mahony was bishop there.

Under the Los Angeles settlement, the priests and plaintiffs waived their right to appeal the retired judge's ruling on the documents.

Most of the priests accused of molestation on Mahony's watch face additional civil claims that could also force the church to disclose personnel files.

Lawyers said they continue to try to reach an out-of-court settlement.

In the meantime, Dist. Atty. Steve Cooley has an ongoing criminal investigation into priests accused of molestation. Investigators also have sought to determine whether archdiocese leaders engaged in a conspiracy to cover up reports of abuse.

Mahony has denied any wrongdoing, although he apologized for the handling of some cases, including that of Baker.

A Cooley spokesman declined to comment Friday. But someone close to the investigation said it has not implicated Mahony or other senior church officials and added that it would be "problematic" to pursue a conspiracy case for a variety of reasons, including the passage of time.

Legal experts said that a conspiracy charge would require more than simply showing that a church official did not inform authorities of reports that a priest had been a molester.

"A passive negligence or omission is not going to be enough to rope senior members of the Catholic archdiocese," said Dana Cole, a criminal defense attorney.