

Insurers win access to church documents

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The Roman Catholic Diocese of Springfield, seeking coverage for dozens of claims of sexual abuse by priests, suffered a major setback in its lawsuit against several insurance carriers with a judge's decision that the diocese must turn over most of nearly 7,700 pages in church documents.

Superior Court Associate Justice John A. Agostini, in an 11-page decision, rejected that documents were protected from disclosure under several arguments, including the First Amendment, priest-penitent privilege, religious autonomy and psychotherapist-patient privilege. Agostini, who heard arguments in Berkshire Superior Court in December, did rule in favor of the diocese in arguing some documents were protected by attorney-client privilege.

Greenfield lawyer John J. Stobierski, who represents more than 20 people with abuse claims, said the decision was "a significant repudiation" of the positions taken by the diocese in its efforts to keep documents secret.

"There were a lot of creative legal arguments that were made and not accepted by the court," he said yesterday.

Adam Simms, a lawyer for one of the carriers, North Star Reinsurance Corp. of Stamford, Conn., had positive words for Agostini's decision.

"Speaking for myself, I think you could say we were very pleased," said Simms, who practices in Boston.

Mark E. Dupont, a spokesman for the diocese, said an appeal may be forthcoming.

"We still are reviewing the entire matter and haven't determined if we will appeal certain aspects of it," he said.

Asked which aspects of the ruling would be honored by the diocese, Dupont said, "I'm not free to say at this point."

Stobierski also said the Springfield diocese has continued to fight on while other dioceses have settled sex abuse cases.

"Nearly every other diocese in the country has been able to negotiate these very same issues with their insurers," Stobierski said.

The diocese sued the carriers and the Massachusetts Insurers Insolvency Fund to obtain coverage for dozens of abuse claims and to recoup \$7.7 million paid in 2004 in the settlement of a lawsuit involving 46 claimants represented by Stobierski.

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

In the decision dated Jan. 3, Agostini wrote that in some instances the diocese raised a religious autonomy-First Amendment privilege to withhold disclosure of documents "which are, on their face, not confidential ... or which are devoid of substance."

"Privacy mandates by ecclesiastical authorities are not, standing alone, binding on this court," Agostini also wrote.

In addition, Agostini firmly rejected the argument that a psychotherapist-patient privilege precluded disclosure of some information.

"The Diocese argues that where ... the documents from and relating to the accused priests' treatment were placed in a confidential file accessible only to the bishop and his designees, the psychotherapist privilege applies and precludes their disclosure. This assertion is at odds with the statute and the case law."

Dupont said the diocese felt it needed to be compelled by the court to disclose that information.