

Lawyer: Los Angeles abuse documents could see release by year's end

| Jul. 26, 2012

Hundreds of plaintiffs involved in a historic sex abuse settlement more than five years ago with the Los Angeles archdiocese may be coming to the end of a long struggle to gain access to thousands of pages of documentation detailing the conduct of church officials in handling the scandal.

On July 18, a California Appeals Court denied the latest petition of the archdiocese to restrict access to priest personnel files sought by attorney Anthony De Marco as part of a current abuse lawsuit he has filed against the archdiocese.

The significance of the recent decision, however, goes beyond the case in question, De Marco said in a phone interview Tuesday. He said California Superior Court Judge Emilie H. Elias looked over the 25 files in question in the current case, some of which overlap those sought as part of a \$660 million settlement in 2007. He said she told attorneys on both sides that she would use the request as a "test case" and that if the appeals court is satisfied with what she was agreeing to release, that the same criteria would be used for the rest of the documents being sought. She said if the archdiocese's petition to keep the records sealed is denied, she would rapidly go through the rest of the documents in question.

Tod M. Tamberg, director of media relations for the Los Angeles archdiocese, disagrees with De Marco's assessment. The denial of the church's petition "does not affect release or publication of documents," he said in an email response to questions from *NCR*. "The issue was only whether certain materials could be disclosed to the plaintiff's lawyer in one specific case."

He said the court maintains the importance of preserving the privacy rights of the priests involved, who were not party to the current action. He said that guarding those rights, "while the extent of their protection is still the subject of litigation, constitutes an overriding interest that overcomes the right of public access to the documents." Tamberg further argued that the materials to be turned over to De Marco will be "subject to a protective order" and sealed in the public record.

De Marco responded that once the documents are introduced at trial, they become part of the public record and are available for public scrutiny. He also disagreed with Tamberg, saying that in every instance in which a judge has been asked to rule on whether the documents should be made public, the public interest has outweighed the right to privacy and the judges have ruled for disclosure, with redactions of names of some individuals and agencies to protect privacy.

The ruling that these documents "can be produced to someone other than the church," De Marco said, means "they are no longer going to be secret."

When the archdiocese, under since-retired Cardinal Roger Mahony, agreed to the historic settlement with 508 plaintiffs alleging abuse by more than 150 priests, the church agreed to a process that would ultimately release thousands of pages of documentation. Some of the plaintiffs agreed to the mass settlement -- which allowed the archdiocese to avoid court procedures that would have involved lengthy discoveries and would have placed

Mahony on the witness stand -- because the agreement included release of the personnel files. At the time of the settlement in August 2007, the church had already fought the release of the documents for four years.

Five years after that settlement, the documents remain under seal, but De Marco believes they may soon be released.

The process has dragged on for this long partly because the court required that a retired judge look through all the documentation to decide what could be made public and when. The first judge to take on the job ultimately recused himself, setting back the process.

The archdiocese has also used every legal maneuver at its disposal to fight full disclosure.

According to an April 28 report in the *Los Angeles Times*, retired Federal Judge Dickran Tevrizian had ruled more than a year ago that "the personnel files should be released, but with the names of church officials who dealt with the abuse claims blacked out. Victims cried foul, but Tevrizian said the church had reformed and did not deserve further scorn. Besides, the public can figure out who's responsible, he said."

The church has released thousands of documents in other cases in Southern California.

In October 2010, a judge ordered the release of some 10,000 documents relating to sexual abuse of children by priests in the San Diego diocese. The release was a provision of a settlement as ordered two years earlier by Elias.

The Orange diocese followed up a court-approved \$100 million settlement in December 2004 with the release of more than 10,000 pages of documents showing how diocesan officials protected predator priests, harassed victims and their families, and stonewalled inquiries into their handling of abuse.

Another 8,500 pages of documents and files were obtained by plaintiffs in a settlement in 2006 with Franciscan priests and brothers in the Province of Santa Barbara.

The Franciscan order fought release of the documents through several levels of court before the California Supreme Court declined to review an appeals court decision and allowed the release of the documents.

In some instances, the Franciscan documents have been heavily redacted, with the name of superiors and other managers blacked out, but there remains a rather detailed picture of the abuse of children and the protection of abusers by Franciscan superiors over several decades. The documents now are available on the online depository BishopAccountability.org [1].

De Marco said it was the rationale used in arguing for release of the Franciscan documents that he employed in seeking release of the 25 files he requested for use in his current case. In his filing he said there was no substantial difference between the requests for the Franciscan files and the objections of the order, which were denied, and his request and the objections raised by the Los Angeles archdiocese. He believes that since the state supreme court has already ruled on the issues ? and since Elias has spoken her intent to follow the lead of the appeals court, which rejected the archdiocese's petition to keep files secret -- full disclosure of documents sought in the 2007 settlement could occur by year's end.

[Tom Roberts is *NCR* editor at large. His email address is troberts@ncronline.org.]

Source URL (retrieved on 01/26/2015 - 05:46): <http://ncronline.org/news/accountability/lawyer-los-angeles-abuse-documents-could-see-release-years-end>

Links:

[1] <http://www.bishopaccountability.org>