

Lawyers: Milwaukee archdiocese didn't consult us before filing bankruptcy plan

Marie Rohde | Feb. 19, 2014

Milwaukee bankruptcy

Milwaukee

Lawyers representing people with claims against the Milwaukee archdiocese complained to a judge Tuesday that they were not consulted before the archdiocese filed [its bankruptcy reorganization plan](#) [1] last week.

The claimants' lawyers also asked bankruptcy Judge Susan V. Kelley not to rule on the plan until an appeals court rules on the status of a hotly contested cemetery fund, which the archdiocese says is off limits but the claimants want made available in the bankruptcy settlement.

Kenneth Brown, one of the lawyers representing those who filed claims against the archdiocese, argued that the "disclosure statement" -- the list of assets and liabilities that is the basis for the reorganization plan proposed by the archdiocese -- could be radically different if a federal appellate court overturns a decision related to the multimillion-dollar fund meant to provide the perpetual care of archdiocesan cemeteries.

Allowing the archdiocese to eliminate the cemetery fund before the higher court rules would be the equivalent of "allowing Bishop ListECKI to settle litigation against Bishop ListECKI," Brown said. Jerome ListECKI is archbishop of Milwaukee.

James Stang, the lead lawyer for the committee of claimants, urged Kelley to delay the confirmation of the disclosure statement until after the appeal is completed.

"No way," Kelley responded, noting that it could take years for the appellate court to issue a decision.

New York Cardinal Timothy Dolan was accused of transferring approximately \$57 million into the protected cemetery fund in 2005, when he was archbishop of Milwaukee. The transfer occurred shortly after the Wisconsin Supreme Court ruled that some sexual abuse lawsuits could proceed despite falling outside the statute of limitations. Seventeen cases were being prepared for trial and others were in the wings when Dolan's successor, ListECKI, filed for bankruptcy in January 2011, citing the potential high cost of claims of the sexual abuse lawsuits.

The fund now stands at about \$243 million, according to lawyers for both sides.

Parishes, schools and other third parties would also be protected from future lawsuits based on an agreement that the archdiocese worked out with its insurer, lawyers for the archdiocese said Tuesday during a telephone hearing with the bankruptcy judge.

Stang noted that an earlier court-sanctioned decision requires that the committee of claimants -- not the archdiocese -- must make the decision on the cemetery trust fund. Kelley agreed, but archdiocese bankruptcy attorney Daryl Diesing countered that the court has the right to rescind that decision.

Stang also complained that the proposed reorganization plan lacked critical information needed before he could ask those who filed claims to vote on it. Key issues are how a \$4 million fund for survivors would be allocated and how a therapy plan would be administered. Only 128 survivors, 20 percent of those who filed claims, would be eligible for compensation under the archdiocesan plan.

Stang, who has represented survivors in 11 bankruptcy proceedings involving other Catholic dioceses or religious orders, said he did not see the plan or the disclosure statement before it was filed despite the judge's "admonition" that it be shared before being filed.

"We did not get the courtesy of a phone [call] from the diocese that it was about to be filed," Stang said. "We learned about it the same way the survivors and their families learned of it -- from media reports."

Diesing said, "We thought we were going to get their input."

Stang said Diesing tried to elicit comments on portions of the plan before it was completed but said he declined to do so unless he saw the entire document. Based on the comments made by Diesing, "I anticipated a very cheap settlement for survivors."

Stang also said the lawyers for the creditors had not been paid anything in at least 15 months, despite a rule that the archdiocese pay lawyers for the claimants as well as their own lawyers. "They say they don't have the money," he said. "They say all the money they have is for restricted uses."

Kelley told lawyers for the archdiocese to provide additional information on the insurance settlement, how the therapy plan would work and how the fund for the abuse survivors would be distributed to lawyers for the claimants. The next hearing will be held April 17.

[Marie Rohde is a freelance journalist based in Milwaukee.]

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