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'Not your typical bankruptcy' filed by Montana diocese

Dan Morris-Young | Jan. 31, 2014

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The diocese of Helena, Mont., filed for Chapter 11 reorganization in U.S. Bankruptcy Court for the District of Montana on Friday as a major tactical step in achieving a global settlement for 362 sexual abuse claims against "diocesan priests, religious community priests, women religious and lay workers who have served in the diocese," states a diocesan press release issued Friday morning.

If approved, the bankruptcy terms would make $15 million "available to compensate the currently identified victims with additional settlement funds for other unknown victims," the press release said.

"This is not your typical bankruptcy," emphasized the diocese's lead attorney, Michael Patterson, describing the filing as "a consensual, prepackaged bankruptcy."

According to Patterson, about a fourth of the claims in the Helena cases are against members of the Ursuline order which was long active in Montana; about 12 percent are against diocesan personnel; and the balance is ?primarily Jesuit related.? The Ursulines are not part of the negotiated settlement underway and have opted not to settle at this time, he added. *

Once filed, the proposed settlement will be subject to the vote of both victims and creditors, said attorneys for the diocese and plaintiffs.

According to Patterson, the bankruptcy terms would:

- Provide just settlement amounts to victims;
- Exclude and not financially endanger parish and school properties;
- Protect the diocese from future sex abuse claims by establishing funds for them and requiring such claims be channeled through the bankruptcy court.

While the bulk of the settlement will be funded by insurance carriers, $2.5 million will be required from the diocese of Helena, Patterson said, adding that pulling together that amount is already being addressed by the diocese and could include existing funds combined with the sale of non-essential real estate.

"We did not choose to have the diocese file for bankruptcy protection, however, we believe that the bankruptcy process will provide the most efficient resolution for our clients, rather than years of litigation and trials with uncertain outcomes," said Molly K. Howard, an attorney with Datsopoulos, MacDonald & Lind, P.C., in a press release also issued Friday morning.

"Given the age and ill health of many of the victims, this is in their best interest," Howard stated.

Datsopoulos, MacDonald & Lind, P.C. and a four-firm legal team represent 271 of the 362 victims in the global negotiations. The group of plaintiffs filed their case in Lewis and Clark County District Court in Helena in September 2011.

Howard underscored that "the majority of victims in this case came forward to protect future generations of children," and added: "Any resolution will include non-monetary terms to protect future generations of children and respect the abuse survivors."

Both Patterson and plaintiffs' attorneys told *NCR* they hoped a final settlement would be in place by June.

Some claims date to the mid-1930s but the bulk are from the 1950s through 1970s, attorneys said.

In the diocesan press statement, Helena Bishop George Thomas said "none of those who have been credibly accused remain in active ministry."

?On behalf of the entire Diocese of Helena, I express my profound sorrow and sincere apologies to anyone who was abused by a priest, a sister, or a lay Church worker,? Thomas said.

Following a press conference earlier today, Thomas told *NCR* he has met with a number of abuse victims, including a man last week who had been abused 40 years ago:

?I told him that I am profoundly sorry for happened in his life. He and others want to know I believe them and that we want to care for them. In every situation like this that I have encountered, the pain is in the present tense and the scars and wounds are real.?

The diocese has a board to review abuse claims. Members include a mother, a pastor, a deputy prosecutor, a retired law enforcement officer, social workers, and a counselor, a diocesan spokesman said.

Thomas said meetings had been held earlier this week with clergy, consultors and the diocesan finance council to keep them abreast of the case.

?I think the priests have been universally relieved about the possibility of reaching a resolution,? Thomas said. ?They and the people at large have strongly endorsed the pastoral care and mediation approach over long, prolonged and expensive litigation. We were looking here at the potential of 30 years of trials given 362 cases.?

In 2011 the Oregon Province of the Society of Jesus ? which includes Montana -- reached a $166 million settlement with nearly 500 plaintiffs. The Province filed bankruptcy.

More than 100 of the plaintiffs in the Helena proceedings were also parties in the Jesuit settlement. Under Montana law, financial awards stemming from a settlement with the Helena Diocese will be offset by the amount he or she received in the Jesuit case, attorneys said.

Thomas and the diocese were lauded by many ? including Patterson and plaintiffs' attorneys ? when the decision was made early on to employ ?victim-centered resolution? that promotes ?pastoral care and outreach to victims? over confrontational litigation.

Last April Timothy Kosnoff, a well-known sex abuse case attorney, said cooperation between the diocese, its legal team and plaintiffs' lawyers was ?unprecedented? and that he would ?give the diocese an A? grade for transparency ?within the parameters we agreed upon.?

If a global resolution were to be finalized, Kosnoff said at that time, ?it could become the standard bearer for how these cases are handled by the church across the country, and perhaps worldwide.?

Transparency and forthrightness have characterized some other dioceses' efforts as well, according to Patrick J.

Wall, an often-consulted expert on the abuse crisis.

Wall said Thomas and the Helena diocese ?are following a minor church tradition? of such openness. He cited the handling of clergy sex abuse cases by retired Bishop Tod Brown and the Orange Diocese as one example.

In early 2005, Brown apologized to 87 alleged victims of sexual abuse and announced a settlement of $100 million following two years of mediation.

In general, Wall indicated, the more forthcoming and transparent a diocese remains in addressing sex abuse claims, the more likely it is to reach settlements, resolve them, and move on.

When mediation began, attorneys for the Helena diocese and plaintiffs hoped bankruptcy would be avoided.

However, according to this morning's press release and Thomas, more than the sex abuse settlement figured into the reorganization filing.

When he was installed as bishop about 10 years ago, Thomas said, the diocese was already in a ?precarious financial situation? having ?lost almost all reserves to previous (sex abuse) settlements.?

With the national economic ?meltdown? added to that equation along with increasing financial demands including litigation, the diocese has been forced to seek a reorganization respite, he said.

The diocesan press released said financial hardship has led to "reduction in staff and services provided by the diocese as well as curtailing many parish building projects."

[Dan Morris-Young is *NCR* West Coast Correspondent.]

** An earlier version of this story incorrectly stated that the Ursulines were a part of the negotiation settlement.*

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