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Court documents reveal motives for deposing SNAP

by Joshua J. McElwee

KANSAS CITY, Mo. -- Attorneys seeking the deposition of the director of the Survivors Network of those Abused by Priests (SNAP) argued the group had colluded with an attorney representing an abuse victim in violation of a court gag order, and also worried that the advocacy group could be "routinely advising" victims to evade statutes of limitations, according to court filings.

The documents, dated Nov. 18 but first reported yesterday in a blog post by author Dave Pierre, relate to a county court case involving allegations of sexual misconduct against Kansas City diocesan priest Fr. Michael Tierney.

The case made headlines earlier this month when it became the first where lawyers sought the deposition of a SNAP leader, and requested that the organization hand over some 23 years of internal records, correspondence and email.

David Clohessy, SNAP's director, submitted himself for the deposition Jan. 2, but said afterwards that he had refused to answer many of the lawyers' questions and to submit many of the documents.

The Nov. 18 filing was made by Tierney's lawyers and was in opposition to a filing made by Clohessy to Jackson County, Mo., Judge Ann Mesle, asking her to prohibit the deposition, citing Missouri state law protecting rape crisis centers, and U.S. constitutional protections of freedom of speech and assembly.

While some of the information revealed in the November filing has already been reported, it also gives more background to the reasons Tierney's lawyers say they thought Clohessy's deposition necessary.

The filings confirm earlier reports that Tierney's attorneys were concerned that a lawyer representing plaintiffs in abuse cases had violated a court gag order by giving information to SNAP. Tierney's lawyers allege the plaintiffs' lawyer gave SNAP information about two separate lawsuits hours before each were

officially filed in court.

In one case, Tierney's lawyers allege that a press release issued by SNAP some six hours before a lawsuit was filed against the priest contained information that could only have been known by the plaintiffs' lawyer.

'There is simply no way that the SNAP press release was made without the assistance of plaintiff counsel since the lawsuit was publically filed hours AFTER the press release was issued,' reads the filing.

Tierney's lawyers also allege that SNAP and the plaintiffs' lawyer 'are working in concert to vilify Tierney and the diocese, and 'have made it difficult, if not impossible, for [them] to receive a fair trial.'

Beyond allegations regarding the information contained in SNAP press releases, Tierney's lawyers also argue in the filing that they are entitled to depose Clohessy regarding his contact with victims who allege they were the victims of clergy sexual abuse, but that they had repressed the memories for years.

In the filing, Tierney's lawyers seem to allege that Clohessy could be coaching the victims to lie about when they recovered their memories in order to evade statutes of limitations for lawsuits.

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'SNAP, through Mr. Clohessy, could be routinely advising plaintiff and others to claim repressed memory to evade the statute of limitations,' reads the filing. 'Defendants are entitled to discovery on that issue.'

'In addition, the plaintiff in this case and others ' may have corresponded with SNAP prior to alleged recovery of their memory, and defendants should be entitled to such correspondence to refute the claim of repressed memory,' the filing continues.

Regarding SNAP's insistence that it is protected from answering questions in the deposition, or from submitting documents, under Missouri state law protecting confidentiality for rape crisis centers, the November filing states frankly that 'SNAP is not a rape crisis center.'

Missouri law, the filing states, 'requires rape crisis center to maintain confidentiality of any information related to the advocacy services it provides. SNAP does not maintain such confidentiality -- in fact it issues press releases regarding persons for whom it advocates, including press releases that identify the alleged victims' identity.'

At this point it is unclear what legal consequences Clohessy could face for his refusal to answer some of the questions, and to submit some of the documents requested, at his Jan. 2 deposition.

Links to each of the filings in the back and forth exchange between Clohessy and Tierney's lawyers on the subject of the SNAP leader's deposition are available at the SNAP website. The Nov. 18 filing can be found here.

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Editor's Note: For more *NCR* coverage of SNAP's subpoenas, see:

- **SNAP director may be forced to testify in abuse case**, Dec. 29
 - **SNAP leader: Testimony was 'fishing expedition'**, Jan. 3
 - **SNAP receives second subpoena request for documents**, Jan. 5
 - **SNAP, Catholic League leaders talk abuse scandal on radio show**, Jan. 6
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