

## Background on a Washington diocese's decision to enter into mediation

| Jul. 10, 2012

- On Dec. 6, 2004, the Diocese of Spokane filed for bankruptcy and submitted a Plan of Reorganization, which provided a fund of \$48 million to compensate victims of sexual abuse.?
- The Bankruptcy Court set March 10, 2006, as the deadline or "Bar Date" for filing of future claims for persons who have claims of sexual abuse occurring before Dec. 6, 2004.?
- Under certain conditions, a person who did not meet the March 10, 2006, Bar Date may still make a claim of sexual abuse as a "Future Tort Claimant." The Plan defines such a claimant as a person who was not aware that he or she was abused or harmed prior to the Bar Date. Future claims can be made until 2016.?
- A future claims fund was created by setting aside \$1 million of the total \$48 million bankruptcy settlement. In the event that future claims and the awards exceeded \$1 million, the diocese was required to recapitalize the future claims fund so that it did not dip below \$200,000.?
- Given the poor state of the diocese's finances, its settlement obligation needed to be secured, which came in the form of putting up as collateral all the real estate of the Catholic parishes and their schools in Spokane County. The exception was the parish in Deer Park.?
- The diocese and the parishes agreed to this provision, anticipating that future claims would be few and manageable. This estimation was based on the belief that the Plan set forth clear criteria for awarding future claims, and that the wide-spread publicity about the bankruptcy and the appeal for victims to identify themselves would have reached most victims by the Bar Date.
- Last year [2009], the diocese became concerned about an unexpectedly large number of future claim awards. It asked the bankruptcy court to review if these awards were being made outside of the scope of the criteria established in the Plan. The court refused to conduct this review. The diocese has appealed this refusal to the Ninth Circuit Court of Appeals.?
- As the diocese continued to seek resolution of its case on several fronts, it incurred a good deal of unbudgeted legal expenses, which have seriously jeopardized its ability to carry out the Church's mission.?
- Meanwhile, the future claims fund has been eroded considerably. Besides awards to victims, the future claims fund is used to pay for costs associated with administering the fund, as well as litigation. In fact, it is anticipated that additional future claim awards will require a significant recapitalization of the future claims fund.?
- As the diocese does not have such funds, the likelihood that it would soon be declared in default, thus triggering the foreclosure of one or more parishes, was growing each day.?
- As it became clear that the present trajectory of events and the stalemate were unsustainable, the diocese initiated discussions leading to the decision by all parties to begin a period of mediation.

*Source: Diocese of Spokane*

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