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Sex abuse settlement surprises Wisconsin plaintiffs

by Marie Rohde

The Green Bay, Wis., diocese agreed March 19 to pay \$700,000 to two brothers who said they were sexually abused by a Catholic priest decades ago. The settlement came unexpectedly as the brothers prepared for trial.

The church was accused of committing fraud by knowingly allowing a pedophile priest to continue in ministry without alerting parishioners, a first in Wisconsin.

The settlement surprised the brothers and their attorneys, they said.

"In mediation before the trial, [the diocese] offered to donate \$5,000 to charity if we would write a letter of apology for dragging the church through all of this," said Todd Merryfield, one of the brothers.

One of his lawyers, Michael Finnegan of St. Paul, Minn., said he was uncertain why the case was settled: "We don't know why they agreed to the stipulation. They don't have to tell us."

Although Fr. John Feeney was convicted and sent to prison for the abuse in 2003, the church fought the civil lawsuit for five years, denying responsibility. A jury awarded the brothers \$700,000 in May 2012, but a judge threw out the verdict and scheduled a new trial after a juror's impartiality was called into question.

No new trial date had been set, but the possibility of future appeals could have prolonged the case.

The diocese did not respond to the question of why it had settled the case now. A spokeswoman sent a copy of a press release in which Bishop David Ricken and Deacon Tim Reilly, general director of the diocesan curia, apologized for Feeney's abuse. Reilly also said he wanted "to extend my heartfelt compassion to them for the difficult years of this litigation as both parties searched for the truth."

Finnegan and other lawyers said it's more difficult for abuse victims to sue the church in Wisconsin than in most other states. In 1995, the Wisconsin Supreme Court ruled that the church could not be sued for negligently supervising priests, a common cause of action in other states. In 2007, the same court opened the door a bit with a ruling that the church could be sued for fraud if they knew of credible allegations of misconduct against a priest and failed to warn parishioners.

Todd Merryfield and his brother, Troy, sued the Green Bay diocese in 2008. Thirty years earlier -- when they were 12 and 14 years old -- they were abused by Feeney, their parish priest.

After learning of the abuse, their mother, Sharon, went to then-Bishop Aloysius Wycislo. Church officials asked her not to go to the police and she complied when she was promised Feeney would not be put in a position where he could harm other children.

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When Sharon Merryfield learned the diocese moved Feeney to another small-town parish, ministering to unsuspecting families, she went to the police and filed a complaint. David Prosser, then the Outagamie County district attorney, went to the Merryfield home with a Catholic deacon. According to court documents, Prosser told the mother that a court trial "would be too hard on the boys."

Although Prosser said in 2008 that he had met with Wycislo, he said he did not know of other abuse victims. In a 1979 letter contained in the court file, Wycislo noted that Prosser was not a Catholic but came to the diocese "as is usual in such cases and out of respect for the position of the church and in order to prevent unnecessary scandal." Wycislo died in 2005.

Todd Merryfield said children at the parish school taunted him and his brother after the incident was reported and Feeney was forced to leave. Before his departure, Feeney met with a number of leading families in the parish, St. Nicholas in Freedom, Wis. "Feeney told the people in the parish that the Merryfields were liars," Finnegan said. "It was a bad situation for the Merryfields. Feeney swore on a Bible that they had lied." Todd Merryfield said he did not discuss the abuse with anyone for many years. "I didn't tell anyone about it. I didn't tell my ex-wife or my kids about it."

In 2002, Todd Merryfield was working at his desk in his home office when he got a call from Vince Biskupic, then the Outagamie County district attorney. News stories of sexual abuse by priests were breaking all over the country. Biskupic ordered local police departments to scour their files for records of complaints that had been filed but not prosecuted. Sharon Merryfield's complaint was found.

"It was like a kick in the stomach," Todd Merryfield said of Biskupic's call. "We didn't talk about it but it was always there."

Todd Merryfield said he knew that agreeing to help Biskupic prosecute Feeney would be difficult. "I didn't want to wear like a big neon sign in front of my face. I understand why victims do not report. But I also remember what I was taught about how you have to do the right thing."

Todd Merryfield said he decided to go public to put a human face on abuse allegations. He also speaks to Boy Scout groups about pedophilia and his abuse. "If I can save just one child from abuse, then it's worth it."

The Green Bay diocese's decision to move Feeney out of state made it possible to bring criminal charges many years after the statute of limitations would have expired if he had remained in Wisconsin. Under Wisconsin law, the clock on the statute of limitations stops ticking while a perpetrator is out of state. In 2002, Feeney was convicted by a jury and sentenced to 15 years in prison. He served eight.

In a 1978 letter to a diocesan personnel committee chairman that is part of the court file, Wycislo wrote that he had to move Feeney out of the state. In the letter to Feeney, Wycislo expressed exasperation with the priest. "Again and again there were so many assignments," Wycislo wrote. "In my case I am capable of forgetting about all this and writing a good letter of recommendation for you to a new bishop and I hope and pray you will find one."

Feeney found a willing bishop and moved to the Reno-Las Vegas diocese in 1984. He was assigned to a parish but was accused of another assault on a boy.

(At a jury trial in Nevada in November 2012, a judge ordered the Green Bay diocese to pay a Nevada man \$500,000 in damages. Feeney sexually assaulted the victim, then a child, in 1984. An Illinois man who was assaulted by Feeney in Wisconsin as a child testified at the trial; he has not filed a lawsuit seeking damages.)

Feeney was then assigned to work as a jail chaplain in Nevada where he was accused in 1986 of smuggling in drug paraphernalia and pornography in exchange for sexual contact with inmates, according to court documents.

Feeney was sent to two treatment programs, first in Maryland in 1987 and then in New Mexico in 1989. He served in local parishes while in treatment. In 1991 he was listed as retired but it was not until 2005, while he was serving his jail term in Wisconsin, that he was laicized. Currently, Feeney is living at the Vianney Renewal Center in Dittmer, Mo., according to the national sex offender registry.

Todd Merryfield will receive \$225,000 of the settlement while his brother, Troy, will receive \$475,000.

The brothers attended a press conference outside the diocesan headquarters March 22. After all the media left, a woman who Todd Merryfield said did not identify herself approached the Merryfields and gave them letters from the Green Bay bishop, inviting them to meet privately. In the letter Ricken also asked for forgiveness.

"He apologized for what Feeney had done but he didn't apologize for the cover-up by the diocese," Todd Merryfield said. "He asked for a private meeting. Our trial was in public. If we are going to meet, that will be in public as well."

Todd Merryfield said he is asking the diocese to release the names of all priests who have been credibly accused of sexual misconduct. He noted that the John Jay College of Criminal Justice completed a report on priests who had abused minors in 2004. The report listed 50 priests from the Green Bay diocese. Those

priests have not been publicly named.

Finnegan noted that Fr. John Doerfler, the chancellor of the Green Bay diocese, admitted in a 2010 deposition that all documents related to priests accused of sexual abuse who had been laicized or dead for more than a year had been shredded. Finnegan said those documents "included all of the then-pending cases."

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