

May 24, 2007 - Judge opens church up to huge payout
Los Angeles Times, by John Spano, Staff writer

Four people who allege sex abuse by a priest can seek punitive damages from L.A. Archdiocese, which could face more pressure to settle cases.

Citing an alleged misrepresentation by Cardinal Roger M. Mahony, a judge ruled Wednesday that four people can seek punitive damages against the Los Angeles Archdiocese for failing to protect them from a priest they accused of sexual abuse.

The ruling, the first of its kind in the Los Angeles clergy sexual abuse scandal, could increase pressure on the archdiocese to reach a settlement with its accusers.

More than 500 people have alleged that they were abused by priests in the archdiocese, and many also have alleged that the church knew about the danger but failed to act.

If all of them are granted permission to seek punitive damages, Mahony could face a potentially enormous payout.

The first of the cases is set to begin trial June 11. The judge also ordered the archdiocese to submit to extensive interrogation and disclosure about its finances. "The risk is that 500 punitive damage awards could bankrupt the church," USC law professor Greg Keating said. "The church has a lot of valuable real estate, but not that much cash. It could force them to liquidate a lot of assets."

Church lawyers did not oppose the accusers' motion for punitive damages. Tod M. Tamberg, a spokesman for the archdiocese, downplayed the ruling's significance.

"The decision today neither decides nor influences the ultimate issue of whether such damages are appropriate in these cases," he said.

Punitive damages are awarded on top of compensatory damages, to punish or make an example of a wrongdoer for actions motivated by fraud or malice.

The ruling from Los Angeles County Superior Court Judge Haley J. Fromholz came in the case of Father Lynn Caffoe, 61, who is accused of molesting children in the period from 1975 to 1991, when he was withdrawn from the ministry and sent for psychological treatment. The trial over his alleged abuse is set for August.

In making his decision, Fromholz cited Mahony's alleged misrepresentation of a videotape that was discovered in Caffoe's bedroom in 1992.

Mahony wrote to then-Cardinal Joseph Ratzinger, now the pope, that Caffoe had videotaped "partially naked" boys in a state of sexual arousal. The tape was "objective verification that criminal behavior did occur," Mahony wrote, according to papers filed in the Caffoe litigation in Los Angeles County Superior Court.

Six months later, Mahony told parishioners, in a written report which he described as the "fullest possible disclosure" about the sex abuse scandal, that the videotape depicted "improper behavior" with high school boys. But Mahony then said that the boys were "fully clothed" and that there was no sexual activity.

Fromholz also cited complaints from at least six priests about Caffoe's familiarity with children over the course of his ministry in parishes in Garden Grove, Sepulveda, La Cañada Flintridge and Redondo Beach, as well as reports from parents and church school officials of misconduct.

If the case goes to trial, a jury would decide whether the church should be punished for the actions of its disgraced priests. Fromholz, however, found that the evidence that the accusers' lawyers had presented so far "establishes a substantial probability that plaintiffs will prevail on the punitive damages claim."

"Certainly the judge's ruling today on this motion really gives added incentive to the defense to settle," USC law professor Jody Armour said. "He's clearly signaling to both sides, especially the defense, that a jury is likely to find there is malice, fraud or oppression just on what he has seen at this point."

Fromholz and his predecessors had spent years trying to get the church and plaintiffs' lawyers to resolve the claims without trials.

The archdiocese settled some cases in December, paying \$60 million to 45 victims.

Earlier this year the Diocese of San Diego filed for bankruptcy protection on the eve of its first sexual abuse trial. The decision came after Fromholz ruled that the church must face a punitive damage claim.

Several lawsuits in a group of clergy abuse cases involving eight Roman Catholic dioceses in Northern California were tried to jury verdicts. Those verdicts established benchmark values for the damages suffered by the victims.
