

LOCAL NEWS

Tensions with insurers mount in Archdiocese of Baltimore bankruptcy case



Ed Caldie, left, and Robert T. Kugler, attorneys for the creditors committee, leave federal court after a judge ruled that survivors of child sexual abuse will have until May 31, 2024 to submit claims against the Archdiocese of Baltimore in bankruptcy court. (Lloyd Fox/Staff photo)



By **ALEX MANN** | amann@baltsun.com

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Tensions are growing in the Archdiocese of Baltimore's bankruptcy case around the role of the church's insurers.

Baltimore's arm of the Catholic Church, America's oldest archdiocese, has sued its insurers for alleged breach of contract in one legal battle. In another argument, the insurers sought to block the committee of abuse survivors in the case from hiring certain experts, suggesting the diocese eventually could back out of bankruptcy.

The archdiocese's lawsuit alleges its insurers are withholding information about insurance policies that could help cover sexual abuse claims filed in the bankruptcy case. The insurers have to cover at least some claims of child sexual abuse, the church says, but the companies have failed to acknowledge their responsibility to do so.

"The controversy is of sufficient immediacy and magnitude to justify the issuance of a declaratory judgment," attorneys for the archdiocese wrote.

None of the insurance companies have responded to the lawsuit yet, but the litigation comes as the insurers put forth an argument in the case suggesting the bankruptcy may fall apart.

In filings earlier this month, three insurance companies said that the archdiocese should back out of bankruptcy depending on a forthcoming ruling from Maryland's highest court on the constitutionality of the state's Child Victims Act — an escalation of what is often a power struggle between insurance companies, the

“My view of it is the insurance companies are saying ‘You want to fight? Alright, we’ll fight,’” Marie T. Reilly, a professor at Penn State Law who studies archdiocese bankruptcy cases, told The Baltimore Sun.

Maryland’s child victims law, which eliminated time limits for people sexually abused as children to sue their abusers and the institutions that enabled their torment, [took effect Oct. 1](#). Anticipating hundreds of child sex abuse lawsuits that would be brought under a new state law, the archdiocese [filed for bankruptcy](#) Sept. 29.

While sex abuse complaints targeting churches, schools and correctional institutions flooded Maryland court dockets last fall, claims against the archdiocese had to be filed in the U.S. Bankruptcy Court in Baltimore. As of Wednesday, 170 of the so-called “proof of claim” forms had been filed, according to court documents. The deadline for survivors to file is [May 31](#).

Insurers raised the prospect of the church backing out of bankruptcy in response to a March request from the creditors committee — seven survivors tasked with representing the interests of all victims in the bankruptcy proceedings — to hire experts to help evaluate sex abuse claims and determine how much money the insurance companies have to contribute to the bankruptcy.

That type of request “usually is not controversial,” Reilly said. “But it has become a flashpoint in this case.”

Lawyers for the committee say they need outside expertise at a critical juncture in the case when they are beginning to evaluate the claims that have been filed and are working to calculate how

The church is required to pay for attorneys and experts for the survivors committee, and the insurance companies contended that experts are a costly, unnecessary expense to incur while the fate of the child victims law that prompted the church to declare bankruptcy hangs in the balance.

The insurers seized on an April 1 ruling by Montgomery County Circuit Judge Jeannie Cho deeming the child victims law unconstitutional, saying her decision “calls into question whether the CVA will ultimately withstand constitutional scrutiny.”

Before Cho, judges in Prince George’s and Harford counties found the law constitutional.

Expecting such arguments in court, Maryland lawmakers included in the Child Victims Act an opportunity for mid-lawsuit appeals. That provision already is coming into play, with requests for the state Supreme Court to hear appeals from the pending Prince George’s and Harford cases. The plaintiff in the Montgomery County case also pledged to challenge Cho’s ruling.

The state Supreme Court already accepted a question on the victims act’s constitutionality from a federal judge in an abuse lawsuit against the Church of Jesus Christ Latter Day-Saints.

If Maryland’s top court finds the law unconstitutional, “this entire Chapter 11 case may no longer serve any purpose,” attorneys for two insurers wrote. “Even if the Debtor stays in bankruptcy, any reorganization plan will be dramatically different if the vast majority of the potential abuse claims fail as a matter of law.”

Baltimore Archbishop William Lori previously described the church's motivation as twofold as it considered bankruptcy: “the healing of victim-survivors who have suffered so profoundly” and continuing “the many ministries of the Archdiocese that provide for the spiritual, educational and social needs of countless people — Catholic and non-Catholic — across the state.”

But insurance companies said the Child Victims Act was the archdiocese's “sole reason” for declaring bankruptcy, citing a church official's comment during an earlier bankruptcy proceeding.

Archdiocese spokesperson Christian Kendzierski did not directly address a question about whether the church would remain in bankruptcy if the law was declared unconstitutional, but reemphasized previously stated motivations for entering bankruptcy.

“The Archdiocese entered bankruptcy reorganization proceedings with the goals of providing equitable compensation to victim-survivors and allowing the Archdiocese to move forward more securely in its mission of ministering to the people of the Archdiocese,” Kendzierski said in an email. “We continue to hope and expect a negotiated, court-approved resolution in the bankruptcy case that meets these goals.”

Kendzierski added that the church was “glad to hear from insurance carriers in the most recent meeting that they share a strong desire to participate in mediation within the bankruptcy case.”

The chair of creditors' committee deferred comment to the committee's legal team, which declined to comment.

Attorney Jonathan Schochor, who represents a member of the creditors' committee, called the insurance companies' objection to the committee's request to hire experts "nonsensical" and "frivolous." He said the argument fits with broader delay tactics by the insurers.

The longer insurance companies can postpone paying claims, the more time they have to generate income on the investments they made with the church's money, Schochor said.

"The whole approach by the insurance industry is delay, delay. Don't pay," he said. "Just say no."

Two of the insurance companies later withdrew their objection, but maintained concerns over the experts proposed by the creditors committee, particularly as it pertained to the insurance expert. They said that expert had participated in previous archdiocese bankruptcies and had a record of asking insurers to contribute too much money, jeopardizing the proceedings.

Attorneys for those insurance companies did not respond to requests for comment.

In the court filing withdrawing their objection, those two companies cited the bankruptcy of the Catholic Diocese of Rockville Centre, New York, as an example of a case in which the insurance experts advised a creditors' committee. That diocese recently [asked to leave bankruptcy](#) after the creditors' committee rejected a proposed plan for reorganization including \$200 million to settle 590 claims.

While Schochor is confident that the insurers would sit down with the archdiocese and survivors to work out a mutually agreeable resolution to the case, the two insurance companies that withdrew

In their filing, the companies said they reserve all of their rights, including their “rights under its policies to deny coverage if the Debtor refuses to cooperate with it in seeking to defend and resolve the asserted abuse claims.”

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