

LOCAL NEWS

Judge sends Archdiocese of Baltimore bankruptcy to critical mediation phase



Jerry Jackson/Baltimore Sun

The Archdiocesan Building (center), headquarters of the Archdiocese of Baltimore, stands at the corner of Cathedral Street and Mulberry Street in downtown Baltimore.



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UPDATED: July 31, 2024 at 3:28 p.m.

Mediation in the Archdiocese of Baltimore’s bankruptcy case will “begin as soon as reasonably possible,” a judge has ruled, thrusting the proceeding into its most critical phase.

During the forthcoming negotiations, attorneys and mediators will work together to determine how much money the diocese and its insurers have to contribute to settle hundreds of allegations of sexual abuse committed by Catholic clergy and others in the church’s employ. They also will work toward developing a plan to prevent child sex abuse from occurring again.

Three mediators will facilitate negotiations: Robert J. Faris, chief judge of the U.S. Bankruptcy Court in Hawaii; Brian J. Nash, an attorney who specializes in mediation; and a third person to be named by the insurance companies involved in the case. Lawyers for the church and a committee of sex abuse survivors will have an opportunity to object to that person.

During mediation, the archdiocese and its lawyers, the survivors’ committee and its counsel, and the insurance carriers and their attorneys are expected to be in separate rooms — whether in person, or by video conference, said attorney Jonathan Schochor, who represents victims in the case, including a member of the survivors’ committee.



“The mediators will utilize shuttle diplomacy, going back and forth between the parties, trying to reach an agreement,” Schochor told The Baltimore Sun.

U.S. Bankruptcy Judge Michelle M. Harner's mediation order late Monday night advances the high-profile case that began when the Baltimore diocese, America's oldest, [filed for bankruptcy Sept. 29](#), two days before a new Maryland law erasing previous time limits for child sex abuse lawsuits took effect.



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Lawmakers passed the [Child Victims Act](#) following the release of a groundbreaking [report by the state's attorney general](#) that detailed the torment of more than 600 children by 156 clergy and other officials in the Baltimore diocese. The report said the abuse dated to the 1940s and spanned the diocese's jurisdiction of Baltimore and nine counties in Central and Western Maryland.

Instead of filing lawsuits against the church in state court, survivors of clergy abuse in the diocese had to repurpose their stories into claim forms filed in the bankruptcy case. The [May 31 deadline](#) for such claims came and went with [hundreds filing in the case](#), though the exact number has not been disclosed and is subject to mediation.

"We approximate the number to be 940," Schochor told The Sun, adding that the number could rise with people who file claims late and are allowed into the proceeding at Harner's discretion.

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The [archdiocese had sued its insurers](#) alleging breach of contract for indicating they would not provide coverage for claims of sexual abuse of minors. The survivors' committee, also at odds with insurance companies, sought standing in that lawsuit. Insurers pushed back on the survivors' request, and asked the case to move from bankruptcy court to the U.S. District Court.

Part of the [11th-hour agreement](#) between insurers, the church and the survivors' committee that paved the way for Harner's mediation order involved shelving the diocese's lawsuit. The deal included a provision that said that if the church re-filed its complaint, the survivors' committee would have limited standing in the case, uncontested.

Though tensions with insurers have become subdued, they are likely to resurface during mediation, Schochor said. Insurance companies typically fight to pay as little as possible in such cases, he said, and there will be highly-detailed debate over which carriers were responsible for coverage during different periods of the eight decades the abuse occurred.

There's also the lingering question over how much money the church must contribute.

"The value of the assets that the archdiocese has available could be an area of contention," Schochor said. "But that's what mediation is for."

Archdiocese spokesman Christian Kendzierski said in a statement that the church "is committed to working with the survivors committee and the court-appointed mediators to establish a fair and equitable compensation plan for victim-survivors of child sexual abuse."

"Together with the survivors committee," Kendzierski continued, "the archdiocese looks to build an environment of mutual trust to facilitate constructive collaboration and agreement. During this process the archdiocese continues to acknowledge the courage of victim survivors of child sexual abuse that have come forward. This process will not end the moral responsibility of the Archdiocese to respond compassionately to those who have been harmed."

The mediation process also involves the exchange of documents. According to Harner's order, the church must, for example, share personnel files for any "alleged perpetrator" in claims filed in the case and "all summaries presented to" the diocese entity tasked with reviewing allegations of sexual abuse "relating to any alleged perpetrator" in the case.

By the conclusion of mediation, Schochor said he hoped there would be an agreed amount of money to settle survivors' claims and a financial reorganization plan for the diocese. The plan should include "protocols put in place, created, instituted and carried through to see to it and prevent future generations of children, youngsters, young adults from being sexually abused, including present generations, because there are children in the church everyday."

That plan will be presented to Harner or another bankruptcy judge for approval before claims can be paid. But don't expect this to happen anytime soon, with Schochor estimating that mediation would span "many months."

"This is not going to be a sit down and a resolution," Schochor said. "This is going to take time, because it is so, in a sense, complicated."

Originally Published: July 31, 2024 at 1:28 p.m.

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