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January 8, 2020, 3:00 AM MST

# Catholic Church Shields \$2 Billion in Assets to Limit Abuse Payouts

Dioceses are aggressively moving and reclassifying holdings to shrink the value of their bankruptcy estates.



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2002, sparking public outrage at how clergy had protected their own. From 1950 to 2002, 4,392 priests were accused of abuse, according to a study by John Jay College of Criminal Justice.

The pace of lawsuits escalated as public awareness grew, and besieged church leaders looked to a new option: bankruptcy. When a church district that's been sued files for Chapter 11 and then reaches a bankruptcy settlement, a percentage of its assets are divvied up by victims. Like Fortune 500 executives—and more recently the Sacklers, the family that owns OxyContin maker Purdue Pharma LP—church leaders see bankruptcy as an attractive solution because it provides a controlled process for settling a large number of lawsuits while holding on to as many assets as possible.

Another benefit is secrecy. Lawsuits and trials lead to testimony and publicity. Bankruptcy ensures a quieter mass settlement that forces an end to existing lawsuits and blocks new ones. “It provides a clean slate,” says Robert Kugler, a lawyer who represented abuse victims in the St. Paul and Minneapolis archdiocese. Dioceses have gone this route more than 20 times.

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By Josh Saul

For most of the 20th century, the Catholic Church in the U.S. minimized the damage wrought by pedophile priests by covering up the abuse. When the bishop of the Davenport, Iowa, diocese was told in the mid-1950s that one of his priests was sexually abusing boys at a local YMCA, he kept it secret. “It is consoling to know that no general notoriety has arisen, and I pray none may result,” he wrote to a priest, capturing the strategy of the era.

Cover-ups worked when victims and their families could be intimidated or shamed into silence. But in the 1980s and '90s, victims started filing civil lawsuits against the dioceses where the alleged incidents took place. Church leaders across the country kept these suits quiet by settling out of court and demanding nondisclosure agreements in return. Church leaders paid out about \$750 million from the early '80s through 2002, according to [BishopAccountability.org](https://www.bishopaccountability.org/), a nonprofit that tracks clergy sex

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▲ A statue at Our Lady of Guadalupe in Santa Fe. PHOTOGRAPHER: WILLIAM LEGOULLON FOR BLOOMBERG BUSINESSWEEK

More dioceses are filing for bankruptcy now that rules are changing about how much time a victim has to sue over abuse. Seven states and the District of Columbia passed laws in 2019 that suspend the statute of limitations on civil sex abuse suits, and at least three other states are considering them. Known as “window statutes,” they’ve become popular in the wake of the #MeToo movement and public outcry over abuse by men in power. Until recently, only a half-dozen states had them. Window statutes caused churches to declare bankruptcy in San Diego, Wilmington, Del., and cities throughout Minnesota.

After New York state’s law went into effect in August, almost 430 sex abuse victims immediately filed lawsuits, most of them against dioceses. The diocese of Rochester declared bankruptcy in September; bishops in Brooklyn and Buffalo announced that they

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gotten that money, and they didn't," says Terry McKiernan, president of BishopAccountability.org. "The Catholic Church has behaved like a business. It hasn't behaved like a religion that lives by the rules it espouses."



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itself. The number rose to about 375 by the June 2019 deadline that the bankruptcy court had set for victims to file claims. New Mexico doesn't have a window statute.

In court papers, the archdiocese reported owning \$49 million in real estate, cash, and investments. That figure included its Albuquerque headquarters, corporate and municipal bonds, a half-dozen cars and pickup trucks, and an unspecified amount of gold and silver. By contrast, the church's 1951 incorporation papers put its estimated value at \$40 million, or \$396 million in today's dollars.

To arrive at that \$49 million figure, church leaders said at least \$178 million in cash and property associated with the archdiocese was owned by parishes or held in a trust or foundation and thus wasn't eligible for inclusion in the estate. Lawyers for victims, saying there's no real separation between the archdiocese and its parishes, argue that the \$178 million should be included in the available funds. That would raise the value of the estate to as much as \$227 million.

The church in Santa Fe began reorganizing in 2012. In

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Archdiocese of Santa Fe Real Estate Corp. and began transferring hundreds of properties into it.

Romero says that when she raised her hand and asked how the separate incorporations would affect the parishes, Salgado said the move wouldn't change day-to-day operations. "It's just to protect us from the pedophile lawsuits," he said, according to Romero. Salgado declined to comment.

Incorporating parishes separately allowed the archdiocese to take about \$91 million off its books. The first \$34 million came from moving 120 properties in Santa Fe, Taos, and other areas into a trust it says it holds on behalf of its parishes. The properties include churches, cemeteries, and a building with a cafe and a yoga studio. (The real value of the properties is likely much higher: The archdiocese assigned a value of zero for many of them, and for others it used the assessed value the local authorities assign for tax purposes instead of the appraised value, or what the property could be expected to command in a sale.) Another \$57 million worth of property owned by the parishes, including cemeteries in Santa Fe and a mobile home in Taos where a priest lives, is

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James Stang, lead lawyer for the alleged clergy abuse victims in the bankruptcy, wrote in a June court filing that the incorporations and transfers were made with the intent to “hinder, delay, or defraud” the claimants. J. Ford Elsaesser, an archdiocese lawyer, disputes accusations that the archdiocese shuffled assets to keep money from claimants. The relationship between the church and its parishes is like that between an adult child and an elderly parent who can no longer handle his affairs, he says: “The property is yours in name, but it’s not your money.” He says that bankruptcy is the best venue for settling large numbers of

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priests and the retirement of older ones. Church lawyers say the foundation is not part of the bankruptcy estate.

But victims' lawyers say the foundation is listed as a "subordinate organization" of the archdiocese with the Internal Revenue Service, a designation it needs to be exempt from federal taxes, and its holdings should be included in the estate. "Let's be very clear what this foundation is," Stang said at an August hearing. "It's the fundraising arm of the archdiocese."

Incorporation documents for four parishes *Businessweek* reviewed show that the archdiocese has kept tight control. Salgado is listed as the point of contact for the parishes, and half of the board of directors for some parishes are listed as archdiocese staff. The articles of incorporation for each parish, which lay out corporate and tax information, can't be changed without the archbishop's approval.

Parishes continue to pay 12.5% of their Sunday collection plates to the archdiocese, according to a 2018 deposition from Father John Daniel, who at the time worked in archdiocese administration. Parish payments provided the vast majority

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The largest bankruptcy settlement from an archdiocese came in the Chapter 11 filing of St. Paul and Minneapolis. The smallest was in Milwaukee.


When the Archdiocese of St. Paul and Minneapolis filed for bankruptcy in 2015, it said it didn't own the parishes, the schools, or the 10 cemeteries within its territory. "They took a paintbrush and went to every cemetery and painted over the name

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In Milwaukee, then-Archbishop Timothy Dolan sent a letter to the Vatican in 2007 asking for permission to shift almost \$57 million into a trust fund earmarked for maintaining cemeteries. The letter appeared to acknowledge that the purpose of the move was to shield the assets. “By transferring these assets to the Trust, I foresee an approved protection from any legal claim and liability,” Dolan wrote. The Vatican approved the transfer, levying a tax of \$100 for itself without explaining why. When Milwaukee’s church leaders declared bankruptcy four years later—Dolan was by then cardinal of New York—they claimed assets of \$10 million to \$50 million. Victims’ lawyers didn’t make their own estimate, but they fought successfully to include the cemetery trust in the estate’s assets. After a nearly five-year fight in which the Milwaukee archdiocese tried to get virtually all of the claims dismissed by a judge, about 350 victims got an average of \$60,000 each.

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As a very rough guide, an archdiocese in bankruptcy will settle with clergy abuse victims for roughly half the value of its estate. If the Santa Fe archdiocese settles for half the value of the \$49 million it says it owns, the 375 victims will each get roughly \$65,000, about one-fifth of the \$300,000 they would get if the archdiocese hadn't taken \$176 million off its ledger.

The difference matters. Victims of childhood sexual abuse face increased mental and physical health problems and lower lifetime earnings. The cost to a victim can be more than \$280,000 over a lifetime, according to a 2018 study by the Johns Hopkins Bloomberg School of Public Health. (The school is supported by Michael Bloomberg, founder and majority owner of Bloomberg LP, the owner of *Businessweek*.)

High rates of poverty and devout obedience to local priests left some New Mexico children particularly vulnerable. Mary, v

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The area around Our Lady is poor, with ramshackle trailers and yards full of junked cars, shopping carts, and firewood. Now 51, Mary lives not far from Our Lady in a home with a tall fence, a surveillance camera, and three pit bulls. “I’ll probably be seeing a therapist for the rest of my life,” she says. “What amount of money is going to give me my life back?”

Isaac Casados, another creditor, grew up in the small town of Española wanting to be a priest. Casados says that when he was a 10-year-old altar boy, fresh off his first communion at Holy Cross Catholic Church, Father Marvin Archuleta molested him. Archuleta was charged in February with raping a first-grade boy at Holy Cross in the mid-’80s; a jury trial is slated to begin in January. His lawyer denies that allegation and those of Casados.

Living now in Santa Fe, where he owns a small medical technology company, Casados, 38, suffered in the decade after he was abused from alcoholism and depression. He says he attempted suicide. “Money would have helped me find the resources to rectify the internal issues I was dealing with,” he says. After decades of listening to sermons about responsibility and h

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represented victims in 15 church bankruptcies, says he's been in settlement negotiations in which bishops have told him they're in touch with the Holy See. "I've had bishops say, 'I can't do this without Vatican permission,'" Manly says.

In late December, in a nod toward greater transparency, Pope Francis abolished the "pontifical secrecy" rule, which church officials had used to withhold information about sexual abuse from civil authorities. The Vatican didn't respond to a request for comment for this story. A spokeswoman for the U.S. Conference of Catholic Bishops wrote in response to questions, "A decision on whether to seek Chapter 11 protection in a given case is the diocese's alone."

The Archdiocese of Santa Fe and victims' lawyers started court-ordered mediation in September. Every church bankruptcy so far has ended in a settlement, but the aggressiveness of the archdiocese's asset shielding has increased the possibility that there won't be one this time.

At a court hearing in early December, the federal judge overseeing the case asked Stang if he was satisfied with how

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there's a risk for the archdiocese that the judge could lift the shield protecting it from lawsuits. That would open it up to trials and the possibility of enormous jury awards. Other possible scenarios include the archdiocese dragging out the fight until exhausted victims agree to a low settlement, as they did in Milwaukee, or the judge assigning an outside financial expert to untangle the archdiocese's accounting and pressuring church leaders into a more generous settlement, as happened in San Diego.

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
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to make the June deadline, say victims' lawyers. "That will leave out a significant portion of people who are still too ashamed, too wounded, too fearful to come forward," says Robert Weisz, a Santa Fe psychologist who's treated clergy abuse victims for 15 years.

That doesn't mean the archdiocese will necessarily be done with the issue. Hector Balderas, New Mexico's attorney general, is disturbed about the archdiocese's history of paying off victims and making them sign nondisclosure agreements to stay silent. In late 2018 his office demanded personnel and financial records related to clergy abuse, and his agents served search warrants at archdiocese headquarters. The investigation is ongoing, and Elsaesser says the archdiocese is cooperating.

One focus of the probe is whether church leaders paid off individuals to preserve their ability to raise money, Balderas says. He's disturbed by church leaders who may have prioritized the wealth of the archdiocese over making victims whole. "The bankruptcy code should not be used to revictimize victims," says Balderas, himself a former altar boy. "They are really just trying to shield assets."

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