



Dear Brothers and Sisters in Christ,

Whenever there is news on our Chapter 11 bankruptcy proceeding, I try to keep you updated. I don't want to overwhelm you with constant emails, but I am trying to be mindful of the need for the people of the archdiocese to have up-to-date information directly from me.

Several things have happened over the past weeks. A variety of motions have been filed and media has reported about the creditors trying to expand their demands onto parish assets and monies.

The parishes are separately incorporated entities and have been since the 1800s. The separate incorporation status and structure of parishes is actually directed by Wisconsin State Statutes, originally adopted in 1876, so any attack on them is frivolous. That being said, it's not surprising that these efforts are underway since the assets of the archdiocese are very limited. It is the cost of these legal maneuvers that is disappointing. It is the parishes that have to absorb the added expense of acquiring legal counsel for something they had nothing to do with.

The way bankruptcy works is the “debtor” (in this case, the archdiocese) pays the lawyers on both sides. Every time the creditors' committee files a motion, we are obligated to respond. Then a hearing is scheduled, discovery or research is undertaken, “experts” are hired by the creditors' committee, and witnesses are called to testify. So while the case drags on, the archdiocese is forced to spend literally millions of dollars on attorney fees for the lawyers representing the archdiocese, as well as those representing the creditors' committee.

Typically in a Chapter 11 proceeding, the creditors' committee legal fees are about 20 percent of the total fees of the proceeding because it is the debtor that directs the

majority of the process. However, in this proceeding, the creditors' committee attorneys and their experts have already tallied more than \$4 million in fees. That's more than 50 percent of the \$7 million-plus already spent on legal and professional fees.

Some have said this wouldn't be the case if the archdiocese wasn't fighting the creditors at every opportunity. But here's the truth. The creditors' committee is represented by attorneys from California who have followed a similar legal strategy in other diocesan bankruptcies across the country. Also involved is Jeffrey Anderson, a tort attorney from Minnesota who has been suing the Catholic Church for decades. He will receive his 40 percent contingency fee from whatever is the final settlement.

Some people have said we should simply pay people a settlement. Arriving at a settlement figure was one of the reasons we entered into mediation earlier this fall and also back in 2010 before we were forced to file for Chapter 11. Before Chapter 11, we offered 15 claimants \$4.6 million dollars. Suffice it to say, today the demands have grown. Simply put, we cannot pay money we don't have or attempt to use money that doesn't belong to us in order to meet the demands of the creditors' committee. Even the creditors' committee attorneys have acknowledged the limited and dwindling resources of the archdiocese.

The crime of sexual abuse is a heinous one and the actions of the priests who committed these crimes were horrific. That such abuse was perpetrated by priests and that some of these priests were reassigned was covered extensively in the media in the 1990s, long before the frenzy of media coverage re-emerged in 2002.

We understand the effects of the abuse people suffered are long lasting. Even though the abuse claims would not have stood the test of the statutes of limitations,

the archdiocese voluntarily instituted an independent mediation system (in 2004) to provide support and attempt to bring resolution to those who had been harmed. Many abuse survivors (almost 200) received spiritual, therapeutic and financial assistance. In fact, one of the first motions filed by the archdiocese in the Chapter 11 proceeding was to ask the court for permission to continue to pay therapy costs and structured settlements for abuse survivors.

Our faith called us to provide this support to those who were harmed. Out of compassion, our natural human inclination is to want to help people; heal people; restore people. But still, I do not feel it is justified that the archdiocese be held accountable for everyone who has ever worked in church ministry, such as lay employees of a parish or school; or members of religious orders. The accountability for the actions of such individuals does not rest with the archdiocese.

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Archbishop Jerome ListECKi

As a matter of justice, our rights as a Church should be subject to the same legal standards used for any other organization or public institution. What we are legally bound to do and what we are morally bound to do are two different things.

Based upon our moral standards I have insisted that any plan of reorganization in the Chapter 11 proceeding establishes a therapy fund for abuse survivors that will provide ongoing therapy and counseling. We do this voluntarily, just as we did when the initial outreach program was established more than 20 years ago (in 1989) or when we established the independent mediation system (in 2004). These are acts of justice, charity and compassion, not ones forced upon us in litigation.

We will continue to examine every possible legal avenue that moves us toward a resolution of the Chapter 11. Here are three examples:

First, we will rigorously oppose any attempt by the creditors’ committee to gain standing in court to sue the parishes in the name of the archdiocese. A hearing on this issue will be held December 6. As I said, such a lawsuit is frivolous and a waste of time and money.

Second, we will pursue lawsuits against archdiocesan insurance companies, in an attempt to receive any available financial coverage under our policies. This is an important aspect of any attempt by the archdiocese to pursue legitimate sources of funding to meet the financial demands of the creditors’ committee.

Third, because we were unable to reach a resolution in the court-ordered mediation a few months back and because the creditors’ committee attorneys have now chosen this path of attacking parishes and other established trusts, I have few options left. Our only recourse now is to determine who has a valid, legal claim under the bankruptcy law. With the few assets we have remaining, we will continue to challenge claims from a legal perspective by filing objections with the court. This includes objecting to claims from individuals who have previously reached legal settlements with the archdiocese prior to the Chapter 11. I don’t believe those who have already received a settlement should be entitled to another payment.

I have found that the virtue in this proceeding is patience. Yes, the proceeding is taking longer than anyone expected. Our job is to pray and continue our mission as Church – to proclaim the Gospel. We remain vigilant in our efforts to keep children safe. I ask for your prayers and assure you of my prayers for you and the Church in the Archdiocese of Milwaukee, and ask that, in everything we do, we LOVE ONE ANOTHER.

Sincerely yours in Christ,

Most Reverend Jerome E. ListECKi
Archbishop of Milwaukee

This column originally appeared as the November 13, 2012 “Love One Another” email sent to Catholics throughout the Archdiocese of Milwaukee by Archbishop ListECKi. If you are interested in receiving these emails, please visit <http://tinyurl.com/ListECKi> to sign up for this free subscription.