

**Connecticut Supreme Court Upholds Attorney McNamara's Verdict  
Against The Archdiocese of Hartford**

*Doe v. Hartford Roman Catholic Diocesan Corp., 317 Conn. 357 (2015)*

In 2012 Attorney Thomas McNamara won the first clergy sexual abuse case to go to trial against the Archdiocese of Hartford, resulting in a verdict of \$1,354,450.00. The suit was brought in counts of negligence and recklessness on behalf of Jacob Doe, who alleged abuse by Reverend Ivan Ferguson. The Archdiocese appealed the verdict on certain evidentiary grounds and by claiming that Connecticut General Statutes §52-577d violated the Archdiocese's right to substantive due process under the Connecticut State Constitution. In a unanimous decision, the Connecticut Supreme Court found that there were no evidentiary errors by the trial judge.

As to the Constitutional defense, the Court found that a defendant does not have a vested right in the lapsing of a statute of limitations and said that the legislature did not act unreasonably or irrationally in determining that the revival of child sexual abuse victims' previously time-barred claims serves a legislative public purpose in a reasonable way.

Had the Archdiocese been successful in its Constitutional argument, the result would have trampled not just on the rights of victims of clergy sexual abuse, but of *all* victims of sexual abuse in Connecticut. The decision has been lauded as a significant victory for victims of sexual abuse everywhere and has been cited by victims' lawyers and Courts as persuasive authority in other states where defendants have attempted similar defenses. Due to the post judgment interest, which applies if the defendant loses an appeal, the final amount owed by the Archdiocese was \$1,661,413.50.

*See Connecticut Law Tribune article below*

# Supreme Court Upholds \$1 Million Priest Abuse Award

Justices reject archdiocese challenge to expanded statute of limitations

By CHRISTIAN NOLAN

The Connecticut Supreme Court has upheld a \$1 million jury verdict in a priest sexual abuse lawsuit filed against the Archdiocese of Hartford. The 57-page majority ruling also shot down several challenges that the state's expanded statute of limitations for bringing sex abuse claims was unconstitutional.

"Given the unique psychological and social factors that often result in delayed reporting of childhood sexual abuse, which frustrated the ability of victims to bring an action under earlier revisions of the statute of limitations, we cannot say that the legislature acted unreasonably or irrationally in determining that the revival of child sexual abuse victims' previously time barred claims serves a legitimate public interest and accomplishes that purpose in a reasonable way," wrote Justice Richard Robinson.

For many years, such lawsuits had to be filed within two years of the alleged victim reaching the age of 18. Then in 1991, Connecticut lawmakers extended the statute of limitations to age 35. In 2002, during a long-running scandal involving priests in the Diocese of Bridgeport, lawmakers extended the age again, this time to 48.

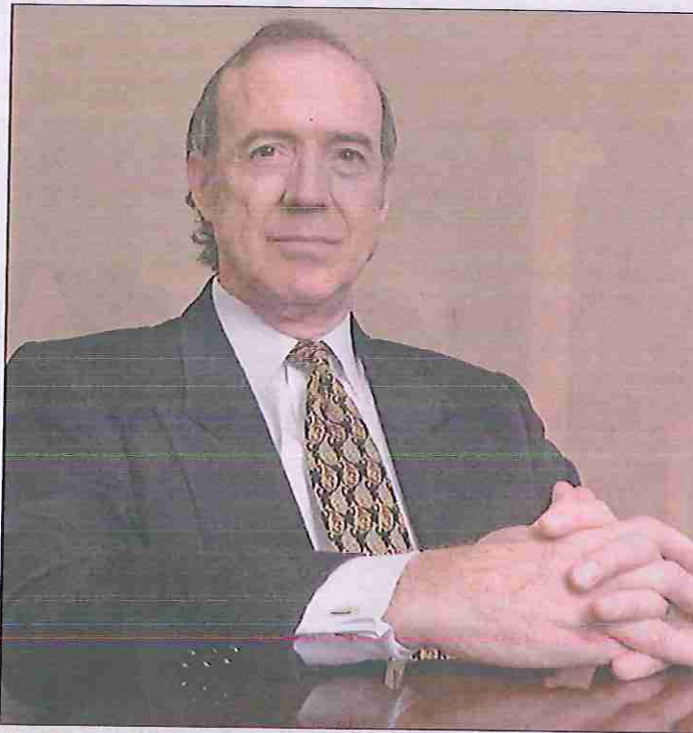
Since then, plaintiffs lawyers in Connecticut have brought dozens of claims and netted millions in settlements in cases that would have never been brought if not for the age extension.

Plaintiffs lawyers say the extra time is warranted because of how difficult it is for the child victims to come to grips with what happened and then come forward as adults. Lawyers for the Archdiocese of Hartford, however, argue that the clergy who allegedly committed the sexual acts and their supervisors are often deceased and unavailable to testify by the time the lawsuits are brought. This, they say, makes the cases more difficult to defend.

The archdiocese was represented by John "Jack" Sitarz, of Cooney, Scully and Dowling. Sitarz did not respond to an interview request. Sitarz was assisted in the appellate work by Wesley Horton, of Horton, Shields & Knox in Hartford.

The archdiocese issued a statement following the decision.

"The court's decision will make it extremely difficult for a person or entity to defend itself against very old claims after people familiar with the claims are dead and pertinent



Law Tribune File Photo

Plaintiff's attorney Thomas McNamara said it was 'reprehensible' that the Archdiocese of Hartford suggested it would have to reduce its charitable efforts if it had to keep paying awards for priest sexual abuse.

records have been destroyed under a facility's file retention program," the statement said. "A nonnegligent defendant in that situation is at a great disadvantage and is vulnerable to an adverse jury verdict."

The archdiocese, in opposing the constitutionality of the Connecticut law, has noted that other states had rejected retroactive expansion of statute of limitations for the filing of lawsuits alleging sexual abuse.

Thomas McNamara, of McNamara & Goodman in New Haven, represented the alleged sexual abuse victim, "Jacob Doe." After the ruling, McNamara was critical of the statement issued by the archdiocese.

The same factors that "disadvantage a de-

fendant" who is sued decades after the alleged wrongful conduct "are applicable to a plaintiff but to an even greater extent as the plaintiff has the burden of proof," said McNamara. "I am reminded of the archdiocese's objection to increasing these statute of limitations age limits in sex abuse cases where it wrote to the legislature that if the age limit [for plaintiffs] were increased, its charitable work would be compromised by having to pay out monetary verdicts. That is just reprehensible. Will they ever admit their past policy of moving the offending priest to another parish? Will they ever admit their mistakes and say that they are sorry?"

Doe is a former altar boy who claims he and a friend were abused by a Catholic priest in the early 1980s. He alleged that the archdiocese was negligent and reckless in placing the priest in a coed school in Derby despite previously admitting to sexually abusing two other boys when living in a rectory in Sims-

bury in 1979. The priest, Ivan Ferguson, died in 2002.

The lawsuit also accuses then-Archbishop John Francis Whealon of knowing Ferguson was a pedophile and not taking reasonable action based on what was known. Whealon, too, is deceased, passing away in 1991.

**In 2002, during a long-running scandal involving priests in the Diocese of Bridgeport, lawmakers extended the age again, this time allowing plaintiffs to file suit until they reach 48.**

Ferguson was sent for alcohol treatment after admitting to the abuse in 1979. The psychiatrist/priest at Saint Luke Institute in Massachusetts wrote to Whealon in 1981 that: "As you are aware, it is my professional opinion that the other issues that brought Father Ferguson to us for treatment will be in control as long as the disease of alcoholism is in control."

For a time, Ferguson was placed at an all-girls school in Milford. But in a letter from Saint Luke's to Whealon, those treating Ferguson indicated he had expressed a desire to work at an all-boys school instead.

After the suit was filed, McNamara said he was unsure why the archdiocese opted to take the case to trial rather than settle. In 2005, the archdiocese agreed to a \$22 million settlement with 43 people who claim they were abused by Ferguson and 11 other priests since the 1960s.

Because the jury also found that the archdiocese's conduct was reckless, a judge later awarded attorney fees and costs that raised the verdict to \$1,354,450. ■

verdicts & settlements

Notice of defense or plaintiffs' verdicts or settlements, along with the names of the parties and their lawyers, the amount and date of the verdict or settlement, the jurisdiction/venue, and other relevant facts, can be submitted to The Law Tribune by emailing [tpussman@alm.com](mailto:tpussman@alm.com).