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As it settles claims with survivors of clergy abuse, St. John's Archdiocese prepares to fight its insurance company in court

Guardian Insurance Company of Canada says archdiocese's insuance policy was voided

Tara Bradbury · Reporter | Posted: a day ago | Updated: a day ago | 4 Min Read

Mount Cashel Orphanage in St. John's. - File photo

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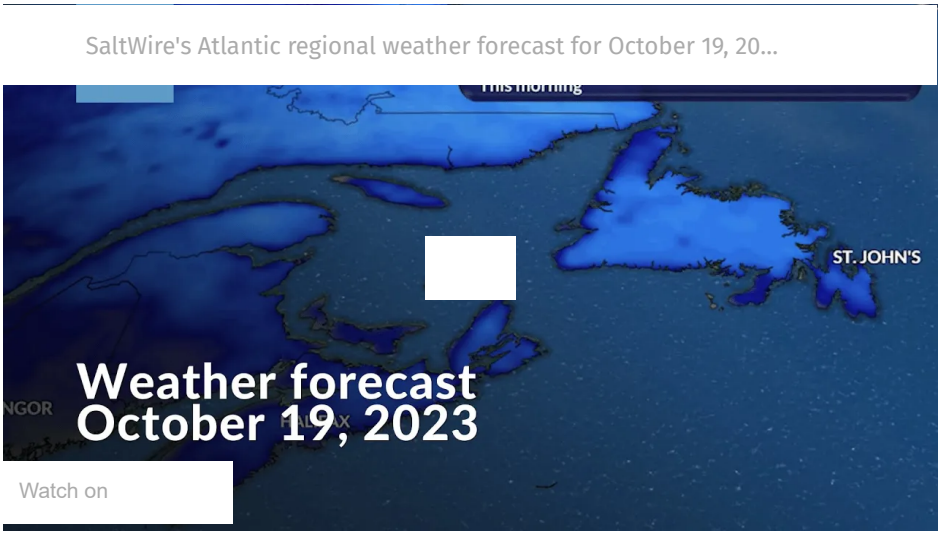

ST. JOHN'S, N.L. — The court is expected to hear evidence from the archbishop, a former child welfare director, and the former seminarian who first reported Father James Hickey's sexual abuse of boys as the St. John's Roman Catholic archdiocese continues fighting its insurance company over the settlement of clergy abuse claims.

Lawyers for the Roman Catholic Episcopal Corporation of St. John's (RCECSJ), Guardian Insurance Company of Canada and survivors of sexual abuse who are in the midst of a settlement process with the church were in Newfoundland and Labrador Supreme Court Tuesday afternoon to plan details of the upcoming trial.

Suing insurance

The RCECSJ has been in bankruptcy protection for two years as it sells off churches, schools and other assets to raise money to settle the claims of survivors of sexual abuse by Christian Brothers at Mount Cashel Orphanage and other Roman Catholic clergy in St. John's, for which it has been found vicariously liable.

As the settlement process unfolds, the RCECSJ is suing Guardian for failing to defend and cover it related to the claims.

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Compensation process for survivors of abuse at Mount Cashel orphanage in St. John's gets underway

The story so far

The issue was first brought to court in 1989 when a claim was filed against the archdiocese for damages from the sexual abuse of Father James Hickey, who was convicted of 20 offences involving boys while he was a parish priest in St. John's and on the Burin Peninsula.

Guardian denied liability, saying the RCECSJ had failed to inform them of concerns about Hickey, thereby voiding the insurance policy.

Guardian later agreed to sign an order requiring them to defend the archdiocese in the claims and settled with it out of court.

In 2009, Guardian refused coverage to the RCECSJ on the same basis when another person came forward with an abuse claim involving Hickey. The church took the matter back to court, and Guardian argued it should not be bound by the previous order as it had received new information about the extent of church officials' knowledge of Hickey's actions.

The RCECSJ won its case at trial but lost on appeal; it applied for leave to appeal to the Supreme Court of Canada but was dismissed.

Back in court

The issue returned to court with the most recent claims.

RCECSJ lawyer Chris Blom told Justice Peter Browne he intends to call two witnesses: current St. John's Archbishop Peter Hundt and a retired insurance company executive from Ontario, who will provide expert evidence by video.

Philip Buckingham, representing Guardian, indicated he plans to call Marilyn McCormick, a former social worker and provincial director of Child, Youth and Family Services, along with two retired insurance company executives and Randall Barnes, a former seminarian named by Guardian in previous court documents as having informed former archbishop Alphonsus Penney in 1980 that Hickey had sexually assaulted boys.

That's if Barnes can be located, Buckingham said.

What happens next

Hundt is set to testify first when the week-long trial begins on Nov. 3

At issue is whether the RCECSJ's failure to disclose its knowledge about Hickey's actions to Guardian was relevant to the validity of its insurance policy.

Lawyer Geoff Budden is expected to support the archdiocese in its arguments that the policy remained valid.

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