

Exclusive: Mount Cashel civil case moves closer to trial

Barb Sweet (barbara.sweet@thetelegram.com)

Published: Jun 12, 2015 at midnight

Updated: Sep 30, 2017 at 4:56 a.m.

A long and tangly civil case against the Catholic Church and the Christian Brothers involving alleged victims of physical and sexual abuse at Mount Cashel from the 1940s and '60s has taken another turn, The Telegram has learned.



The Mount Cashel orphanage, shown above in a file photo. — Telegram file photo

According to the lawyer for those alleged victims, the case clears the last hurdle to give them their day in court.

“Our plan is to bring this to trial as soon as possible — we anticipate this coming fall, lawyer Geoff Budden told The Telegram Friday.

“We’re ready for court. Let’s do it, if there is to be a trial.”

A decision handed down this week scores a procedural win for the victims’ side in the pretrial saga.

The Supreme Court of Newfoundland and Labrador has ruled against the first defendant Roman Catholic Episcopal Corp. of St. John’s.

Thomas O'Reilly, lawyer for the Episcopal Corp. did not have much comment on the case Friday.

"The judge didn't agree. That's fine," O'Reilly said, adding the application wasn't an unusual procedure.

The second defendant is the New York-based Christian Brothers Institute Inc. — which ran the now infamous former boys' orphanage — but because that organization declared bankruptcy in 2011, the plaintiffs are only proceeding now against the church entity.

Money was paid out to victims out of the Brothers' bankruptcy.

But it was not enough compensation to cover the alleged abuse and damages, Budden said.

The Episcopal Corp. sought a process of severing the issue of liability — called bifurcation — but the court denied that in this week's decision.

Basically, the church entity wanted an initial trial to determine if it is even liable in the case. If it won on liability, it could be the end of the case for the alleged victims.

But Justice James Adams said requiring the plaintiffs — the alleged victims — to testify twice would be embarrassing and unjust to them.

"These are very old allegations of sexual and/or physical abuse stretching back over seven or eight decades ago when the plaintiffs were children," Adams said.

"These men are now in their 60s, 70s or 80s. Quite apart from being unjust for them to have to testify two or three times in this matter ... if bifurcation were permitted their cases might never be fully adjudicated if their testimony is not heard soon. As already stated, one of the plaintiff representatives has died."

Adams also said if the issue of liability is severed, any outcome would likely lead to appeals, further lengthening the trial and might deprive plaintiffs of testifying due to illness or death.

"This would be most unjust," Adams said.

"Severance could only lead to multiple trials and become a burden on the court system."

The Catholic Church sought bifurcation because it maintains it is not liable or negligent for any Christian Brothers' actions, nor was it aware of any abuse going on.

Church lawyer O'Reilly said time and money could be saved in the case if bifurcation was allowed.

But lawyers arguing the alleged victims' case — Budden's associates William Hiscock and Paul Kennedy — argued the church showed no substantive plan how money or time would be saved.

The case began in 1999 and there remains more than 100 unresolved claims involving various lawyers.

Budden attributed most of the delays over the years to the Brothers, rather than the Episcopal Corp.

None of the allegations have been proven in court.

bsweet@thetelegram.com