



# Diocese of Santa Rosa

## Chapter 11 Reorganization Q&A

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**March 10, 2023**

### **Dear People of the Diocese of Santa Rosa,**

As we announced in December of 2022, filing for chapter 11 reorganization has become necessary for the Diocese in light of the reopening of the statute of limitations for abuse that occurred in the past. After months of preparation the Diocese is now prepared to initiate chapter 11 proceedings. The current plan is to file with the court on Monday, March 13, 2023.

While answering all possible questions is not feasible, we do want to provide, in this Q and A, responses to a number of the common questions that may arise. We ask for God's grace and wisdom in this challenging time.

### **Why is the Diocese of Santa Rosa reorganizing under chapter 11?**

After much consideration, prayer, and discernment about the current situation, we have come to the conclusion that we will be unable to meet our financial obligations with the resources that we have. The amounts of money being sought far outweigh our current resources.

The chapter 11 reorganization process is the only way that we can see to continue the operation of our ministries, continue to support our Catholic community, and address claims in a fair and equitable manner. The process will allow us to handle all the claims in a collective process. We believe that this process will also allow us to pursue greater financial stability into the future.

### **How can a Diocese be bankrupt?**

The Diocese of Santa Rosa has a budget just like every other organization and we have the funds to continue our normal operations and some investments for any out of the ordinary need. However, the claims that we are currently facing are much more than our financial resources. Our financial statements are posted on our website for anyone to review. Though there is no set figure, in general claimants often seek large judgments. We have received notice of 160 claims and we have information that perhaps more than 200 claims have been filed against the Diocese. We do not

have the resources to adequately deal with this volume of cases.

### **How did this situation happen?**

Sadly, we have had priests, religious, and lay persons commit evil and immoral acts against the youth which were of a sexual nature. We know that those who have been harmed in these ways may never be fully healed. No one can undo what was done to them. In California, a survivor of abuse has until the age of forty (40) to file a claim for damages. However, beginning January 1, 2020, the State of California created a special three-year window in the statute of limitations for such lawsuits. That window closed on the 2nd of January, 2023. A look back window means that people can sue for damages even though the statute of limitations had already expired. Some of the incidents for which present lawsuits are allowed occurred as long as sixty years ago. During this three year look back window, many people have come forward.

Some have come to the Chancery wanting their story to be heard. Some request financial assistance. Others have decided to file lawsuits.

### **Didn't this happen before?**

Yes, in 2003 the State of California did create a similar look back window to permit people to sue private institutions for such harm. At the time, the Diocese did have a number of claimants come forward, but we were able to handle that situation financially. This time is different, mostly because of the higher number of cases. Further, Diocesan resources were severely impacted in 2003. California decided to do a second look back window, because the first one did not allow people to sue schools or hospitals for such abuse. This time, people can sue those institutions as well as the Church.

### **Couldn't this happen again?**

Yes, the State of California could create more look back windows or even propose to eliminate the statute of limitations entirely for these types of crimes. At the present time the statute in California gives persons who were harmed as children until the age of 40 years to sue for damages, or five

years after they realized that those childhood events caused harm. Previously, survivors had until they reached the age of 28 years.

However, people cannot bring forward lawsuits of this nature from the distant past after this reorganization. This is the 'protection' provided by bankruptcy. Part of a chapter 11 reorganization is the establishment of a date prior to which claims may not be brought. It is the only way to get all of the claimants to the table at once and negotiate an agreement that works for all parties. A thorough process is required, and will be undertaken, to notify the public of this action and to assure that any survivors of child sexual assault have an opportunity to file claims.

### **Isn't there some other way out of this situation?**

We have studied other ways of handling the situation, but we have not found another that would allow us to fairly and equitably distribute assets to those who have been harmed. This type of reorganization will allow us to examine what is possible in an open and frank manner with a judge and plaintiffs' attorneys. This is the only way to get all of the parties together to generate an agreement to bring this situation to a close. We seek to be equitable with the resources that we have.

### **What will bankruptcy provide for the claimants?**

It will allow their claims to be evaluated fairly and honestly in a legal process that will be presided over by a judge and worked out with their attorneys. All those who have come forward will be represented in this process and will have a voice. This is the only way to allocate assets to claimants while balancing the reality of what the Diocese possesses and the nature of their claims.

### **How does this process work?**

Representatives of the Diocese, representatives of claimants, representatives of insurance companies, and a mediation judge will negotiate together to establish what is possible for the Diocese to provide. Eventually, the parties agree on something that works for everyone and that is within the Diocese's ability to provide. This is what is known as the settlement fund. The settlement closes off the process. After that date, the Diocese could only be liable to pay more for events that occur after the bankruptcy. Lawsuits for occurrences prior to that date would be prohibited, but claimants would be able to present new claims to the settlement fund.

During the reorganization process, we anticipate that the Diocese will be able to continue general operations, though we know that there will be some

areas of ministry affected more than others. During this process, the financial state of the Diocese will be assessed by outside experts who will be able to ascertain a full picture of what can happen. The Diocese will negotiate a settlement that is within our capacity to accomplish.

During this time, the Diocese's normal financial transactions will continue, however, we will need to get permission from the court for anything that is out of the ordinary. We have spoken to people in leadership positions from other dioceses that have gone through this process. In nearly all cases, their ministries were not affected greatly and disruptions to parish operations were minimal.

### **Will parishes or schools be forced to close because of this process?**

In filings by other dioceses, creditors have challenged the status of these separate corporations. That is why our pastors and other religious entities of the Diocese have sought independent legal counsel to represent parish interests in this process.

Our parishes were separately incorporated in 2016, but we have not transferred the property to these new corporations. We do not anticipate that this action will cause parishes to close. The parishes are not filing for this reorganization protection, it is the Diocese of Santa Rosa.

However, they may be able to participate in this process so that they can attain the same protection benefits. In every instance of a diocesan bankruptcy, the courts have honored the general structure found in canon law and civil law which gives juridic personality to parishes. Our legal counsel is aware of this as are our pastors.

### **Could the Diocese get money from the Vatican to avoid this process?**

Though people talk about this, it is not really possible. Firstly, the Vatican itself has been running at a deficit for the last few years. Secondly, diocesan contributions are the primary funding mechanism for the Vatican, not vice versa.

### **Will the Diocese have to sell the chancery building or other property?**

The property and real estate of the Diocese of Santa Rosa may have to be sold to raise funds. At the same time, the Diocese actually owns very little property that is not held in trust for the parishes or other entities. We will have to examine how best to proceed forward as the process unfolds. Catholic Charities owns the chancery office building and they generously let us share the building with them.

**Will insurance cover most of these costs?**

We anticipate that insurance will be required to make contributions. For some years, we may have limited or no liability insurance coverage or it has been exhausted in previous settlements. For some years there were "Abuse Exclusions." Some insurance companies have gone out of business, thus there may be limited or no insurance in those instances. These insurance policies have deductibles, just like car insurance, and we may be required to meet those before insurance participates. The amount of those deductibles ranges significantly. Deductible payments alone for this number of cases could be an unmanageable burden on the Diocese.

**Is this process a way to hide assets from victims?**

No. This chapter 11 filing is the opposite of hiding assets. This process is the only way that we can conclude a transparent and honest negotiation in which all sides participate and agree. This is the only way to equitably provide compensation and settle these claims with the resources that we have.

**Is this process a way to hide information about abusive priests from survivors and their attorneys?**

No. All of the records connected with claims already filed against the Diocese have been turned over to survivor's attorneys. If there are additional claims filed prior to the filing for bankruptcy, then files related to those claims would be provided as requested. In fact, in 2019 the Diocese of Santa Rosa published an exhaustive list of clergy accused of abuse.

**What will happen to the parishes, missions, and schools during this process?**

In reviewing how this process has played out in other Dioceses in the United States, courts have respected the canonical and civil law understanding that parishes are separate entities from the Diocese. When an ecclesial entity, like a parish or a school is created, it acquires, canonically, a *juridic personality*, meaning it is recognized by the Church as its own organization distinct from the Diocese. Schools are mostly owned by parishes but act financially independently from their parishes. Some schools are independent Catholic schools that are certified Catholic by the Diocese without any financial relationship; they are totally separated by corporate structures. We do not expect our schools to be adversely affected much during this process. Mission churches are generally the property of a parish, though there are some exceptions.

**What about the Caritas Village and Catholic Charities?**

The Diocese of Santa Rosa and Catholic Charities are financially separate and have been for a long time. We do not believe that any of the work that they do will be affected at all. The operation of Catholic Charities and Caritas Village should not be affected in any way by this filing.

**Is the money given for the Annual Ministry Appeal used just for ministries or could that money be used in this settlement?**

The funds raised by the Annual Ministry Appeal are received and held in trust for ministries that are supra-parochial, in other words, bigger than a parish. For instance, we have a Detention Ministry for those who are incarcerated, we have a Marriage Tribunal for those seeking clarity on a previous marriage, and we have a Department of Religious Education for the education of our youth in the faith. No one parish could do these ministries on their own.

The Annual Ministry Appeal collects funds for all the designated ministries and these funds are distributed to each ministry in proportion to each ministry's total expenses. The Diocese cannot legitimately use this money for some other purpose.

**What about the Catholic Community Foundation?**

The Catholic Community Foundation (CCF) is a separately incorporated entity and the funds deposited there are held in trust either for the parishes or foundations according to the stated purpose within investment agreements made directly with the CCF. The CCF has its own board of trustees separate from the diocese and courts have honored legally formed and operated foundations in other dioceses.

**How long will this process take?**

We cannot say with certainty. In looking at what has happened in other dioceses that have made this type of filing, the hope and expectation is that the process could be completed in 2 to 3 years. Lengthy delays use up resources, which are already limited, and thus delays are not desirable for either the Diocese or the survivors.