

# Diocese settles suit for \$2,000

## Parents claimed priest inappropriate

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The Pembroke parents who accused a Concord priest of making inappropriate sexual comments to their son during the sacrament of confession will be paid \$2,000 to settle the lawsuit they filed in February, according to a spokesman from the Roman Catholic Diocese of Manchester.

The settlement, reached Wednesday, stipulates that the money will go to future educational costs of the 14-year-old boy, who is a student at St. John Regional School.

*The parents accused the priest of asking the boy whether he had "engaged in watching pornographic material and masturbating."*

Spokesman Kevin Donovan said the settlement is not an admission of guilt by the Rev. George Desjardins, who was accused of talking about pornography and rape in a December 2012 confession held during the school day. Donovan called the payment "minimal" and a "means to an end, so the community can move on."

The parents, who are not being named to protect the name of their son, maintain that Desjardins's comments were unacceptable, their lawyer, Peter Hutchins, said. In the lawsuit filed at Hillsborough County Superior Court, they accused Desjardins of asking the boy whether he had "engaged in watching pornographic material and masturbating." When the boy said that he hadn't and that he had a girlfriend, Desjardins told the boy to use "rubbers" and warned him to be careful because a girl can "yell 'rape'" during sex, the lawsuit continued.

The parents also accused Desjardins, who is an assisting retired priest at Christ the King Parish, of attempting to grab the boy twice as the student tried to avoid him.

Donovan has said that physical contact was nothing more than a handshake after Mass.

Yesterday, he said the diocese still believes the lawsuit had no merit.

But in a motion to dismiss the lawsuit filed last month, the diocese took a different route when it neither denied nor admitted that Desjardins made the comments and instead argued that the suit should have been thrown out because it interfered with the church's

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First Amendment rights.

Gordon MacDonald, the diocese's lawyer, argued that the topics Desjardins was accused of discussing – including pornography, masturbation, premarital sex and rape – all are considered sins under Catholic doctrine. And he said resolving the case would require a judge or jury to examine the appropriateness of those doctrines as well as whether the alleged discussion was in line with tenets of the Catholic faith.

"A civil factfinder would become enmeshed in determining whether a Catholic priest may discuss pornography, masturbation, sexual intercourse out-of-wedlock, and rape with a penitent during the Sacrament of Penance and whether those subjects are consistent with Catholic doctrine and the Catholic faith's overall mission," MacDonald wrote in the motion.

He said the First Amendment of the U.S. Constitution and also the state Constitution "prohibit this type of intrusive inquiry into the doctrinal affairs of the church."

The family sued specifically for breach of contract, saying the diocese failed to provide their son with the safe learning environment promised in the school's handbook. In the motion to dismiss, MacDonald also claimed that document isn't a contract.

The handbook – which includes a mission statement and sections on, among other things, school rules and student responsibilities – doesn't include contractual promises, MacDonald said. He said the family accused the diocese of violating "a series of aspirational policies," not binding promises.

Hutchins said yesterday that he disagrees that a student handbook doesn't act as a contract in a private school setting.

"It's our position that absolutely all of those materials that basically promise what the school's going to do and also gives the responsibility to the students and parents (create a contract)," he said. "It goes both ways. Here are your obligations; here are ours. It's

a contract. Period."

He also disputed the diocese's stance that the lawsuit violated its First Amendment rights, saying the suit focused "on the conduct, not the religion."

Hutchins, who has been involved in litigating more than 150 child abuse cases against New Hampshire clergy, said the church is not immune to being held accountable for violations of secular law, such as state statutes or local ordinances. He said a breach of contract falls into that category.

"We do not focus on, criticize or try to change religious beliefs or religious procedures," he said. "Those are protected."

Hutchins is a longtime friend of the father who filed the lawsuit, and yesterday he said he is not collecting attorney's fees for his involvement. He said the family decided to sue the diocese after feeling their concerns, which they raised with school administrators shortly after the confession, weren't taken seriously.

Hutchins said diocese officials called Desjardins's conduct "innocuous" and did nothing to put the family at ease or tell Desjardins that the comments were inappropriate.

"It shouldn't have happened in the first place, but once it did happen, they should have had a much more pastoral and immediate human response to it," Hutchins said.

Donovan said the diocese takes all allegations against priests seriously and places them on leave if officials believe the accusation rises to the level of misconduct. That wasn't the case here, he said, so Desjardins wasn't removed from his role as chaplain at the school after the parents went to administrators.

He said Desjardins did decide to take a leave of absence from the school after the lawsuit was filed in February. He was unsure whether the priest would be returning next school year.

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