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## Lawyers concerned over delay as insurance company wants '11th hour, 59th minute' involvement in St. John's archdiocese abuse claim process

Northbridge General Insurance Corporation was only notified of its involvement in December 2023, says it has concerns

**Tara Bradbury - Reporter** | Posted: May 10, 2024, 7:42 p.m. | Updated: May 10, 2024, 7:42 p.m. | 4 Min Read



Lawyers representing the Roman Catholic Episcopal Corporation of St. John's and survivors of abuse at Mount Cashel prepare to leave Newfoundland and Labrador Supreme Court after proceedings Tuesday, May 30, 2023. TARA BRADBURY · THE TELEGRAM

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ST. JOHN'S, N.L. — A court hearing over the compensation claims of survivors of abuse by members of the Roman Catholic Archdiocese of St. John's (RCECSJ) took an unexpected turn Friday, May 10, with the late participation of an insurance company that says it wasn't notified of its involvement in the claims until last December.

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Northbridge General Insurance Corporation says it received a letter on Dec. 22, 2023, from lawyers for the RCECSJ, identifying at least 28 survivor claims for abuse suffered between 1985 and 1990.

During that time, the archdiocese held an insurance policy with Northbridge's predecessor, Continental Insurance Company.

The RCECSJ indicated it may make claims against that policy as it settles with the abuse victims.

At that point, the deadline for abuse claims to be filed had passed and the claims process, which had been under discussion for over a year, was well underway.

Northbridge said it was not aware of this and had never been contacted before it received the letter.

## Insurance not given chance to participate

Almost 370 claims have been filed against the archdiocese and are now in the hands of an independent adjudication panel tasked with determining a liability and value for each one.

The adjudication process was initially expected to have been completed by the end of 2023 but has been delayed until the end of June 2024 due to the volume of claims.

Northbridge's lawyer, David Ullman, argued in court Friday that the insurance company wasn't given an opportunity to participate in the drafting of the claims procedure order and said it has concerns with it.

"Our concern is that the claims process, as constituted, will negatively impact the rights of the RCEC to make claims against the insurance," Ullman, appearing in Newfoundland and Labrador Supreme Court by video, said.

"We are actually here on what I consider to be a white knight mission, because the insurer is being very proactive. We are trying to address a potential coverage issue before that issue becomes irrevocable."

## 'Not hard asks': lawyer

Ullman, who said the company has not yet decided whether it will cover the claims, asked Justice Garrett Handrigan for a case management conference to discuss Northbridge's concerns and determine whether amendments should be made to the process.

The issue could be resolved, Ullman proposed, by either allowing Northbridge access to all the claims to satisfy itself with the way they are being handled or a court order stating claims determined under the current process are not binding on the insurance company.

"This may end up helping the claimants. From my perspective, these are not hard asks and they can be dealt with," he said.

## '11th hour, 59th minute' request

Lawyers for the RCECSJ, the complainants and court-appointed insolvency monitor Ernst & Young expressed concerns over Northbridge's "11th hour, 59th minute" request and the delay it could cause.

Some suggested case management isn't appropriate at this point, considering the insurance company hasn't even decided on coverage of the claims.

Others pointed out the court process had begun decades ago with the claims of former Mount Cashel Orphanage residents, and Northbridge's predecessor had been involved by defending one of the claims.

## 'Ample opportunity' already

Northbridge's involvement only came to light as the current claims process unfolded, said archdiocese lawyer Geoffrey Spencer.

Representing 91 of the claimants, lawyer Bob Buckingham accused Northbridge of attempting to usurp and delay the compensation process.

"They had ample opportunity any time in the last 25 years to become involved in the process in one form or another," Buckingham argued.

The judge asked Northbridge to make a formal application with its requests.

The matter will return to court June 6.

## Long history

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.

In the meantime, RCECSJ is suing another insurance company, Guardian Insurance Company of Canada, for failing to defend and cover its related to the claims.

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.

## Previously denied liability

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.

The issue returned to court with the most recent claims.

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