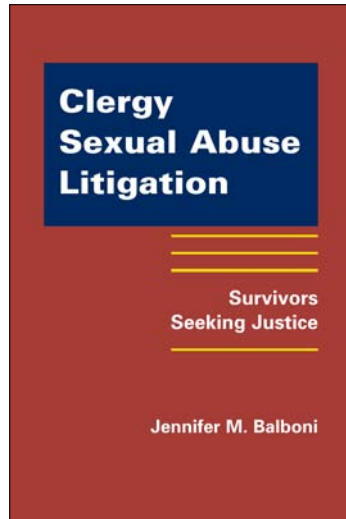


EXCERPTED FROM

Clergy  
Sexual Abuse Litigation:  
Survivors Seeking Justice

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ISBN: 978-1-935049-37-1 hc



**FIRSTFORUMPRESS**

A DIVISION OF LYNNE RIENNER PUBLISHERS, INC.

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Boulder, CO 80301  
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# 1

## Introduction

George<sup>1</sup> is a middle-aged, single man, a survivor of clergy sexual abuse spanning several years when he was a child into adolescence. He has moved many times in his life, and worked sporadically. Like many other survivors, he could not find the words to tell his family about what was happening to him during the time it occurred, although he bitterly states that his acting out behaviors should have signaled red flags to his family that he was being abused. When George disclosed as an adult, people who knew him would comment frequently that they had some idea that the priest molested children—“fiddling and diddling”—as some put it. These admissions, he tells me, may have been more painful than the actual abuse. At points, he reports that he has been filled with rage that no one intervened to help him or the other children, and that adults blithely turned their heads, tacitly acknowledging what was happening when they remarked, “There goes Father X on his ice cream run.” It is that indifference, perpetrated not only by those in the community, but also particularly by officials within the Church, that is at once baffling and painful to him.

As an adult, George initially called the Church in hopes that it would pay for therapy, which it initially did. After a few months of therapy, however, the funding was terminated. “At that point in healing, you’re standing on the edge of a cliff; you’re looking into an abyss that threatens to kill you. You can commit suicide at any point in your therapy, because you’ve done some work, you’re ready to do deeper work.” At this point, he started writing the Church, petitioning it to continue paying for his therapy, a mostly unsuccessful campaign that would ultimately drag on for years. With each refusal to pay and brush off, he tells me he felt re-wounded by the Church. He joined litigation only after another denial, where a Church representative suggested to him that if he was unhappy with their decision he could hire a lawyer—a challenge which he took.

## 2 Clergy Sexual Abuse Litigation

When I ask him whether litigation did what he set out to accomplish, his answer is enlightening and captures what many survivors might feel about litigation being beside the point:

“What I wanted to accomplish? I don’t even look at it in those terms. [laughs] Surviving ... Trying to survive ... You try to get through a day [laughs] without turning to booze or drugs or a gun to [your] head or whatever escape that people use ... Because I [at points] considered it ... a journey within to my own wholeness and healing my broken heart, or my own woundedness ... I wouldn’t use the word ‘accomplishment’—I would use ‘fulfillment’, some sense of harmony or peace or acceptance might be used. So, when I finished the settlement, because I was speaking from that place, and I was living from that place, there was a sense of healing. Stepping into that vulnerability again and healing. So whether I got 50 bucks or 500,000 bucks, it’s all part of a bigger picture that is kind of a sidebar to the journey, to the real journey.”

George’s journey morphed many times during the course of litigation. At points, it was about getting therapy paid for; at other points, it was about making the Church tell the truth about its role in the abuse. At still other moments, it was about healing, or perhaps even getting revenge. For many clergy sexual abuse survivors, motivations were often a moving target.

In some respects, George was lucky. He came to see the litigation as one way to rebuild his life—not through money or settlement, but by assigning responsibility and unloading the pain of his past. Many other survivors didn’t fare nearly as well.

### **Survivors Seeking Justice**

As I write this in the summer of 2010, stories of Catholic clergy sexually abusing children with tacit approval by a complicit hierarchy have once again bubbled up in the international media. The stories are familiar; only the geography has changed: priests who preyed on children, warnings that went unheeded, and lives irrevocably changed. By now, with new reports from Ireland, Germany, and Australia, (Gilgoff 2010) it is abundantly clear to most people that the Catholic hierarchy not only allowed this type of systemic abuse to occur, but also in many cases, the hierarchy’s benign neglect permitted this abuse to flourish.

To be very clear, sexual predators exist in every occupation. They are teachers, ministers, scout masters, accountants; they exist in all walks of life. What makes this story different is that in the Catholic

Church, these people were harbored in ways that other organizations were unable or unwilling to do. Although members of the Church have issued different apologies over the last decade, real accountability—via the criminal justice system—is often out of reach in these cases. This leaves much of the business of justice to the realm of civil litigation.

While these stories may present “more of the same” of what the American public has now come to accept, this awareness was not always so widespread. When I began my research in 2003, the realization that thousands of children were routinely ignored by the Catholic Church hierarchy was very new. Many Catholics—including myself—found themselves lost trying to understand how such incredible disregard could have happened by men charged with managing the Church. The linchpin for this shift in understanding was the civil litigation that more than 550 survivors in Boston initiated in 2002. What happened then changed the rules of engagement for not only survivors of abuse and leaders of the Church, but also for Catholic laity as well.

Although many lawsuits had been filed in prior years, through 2001 the litigation generally centered around one or two serial sex offenders and most often resulted in settlements that included secrecy clauses that isolated and separated victims and minimized media attention. In contrast, the litigation explosion that ensued in 2002 involved multiple perpetrators, victims, dioceses, and countries. Furthermore, the settlements did not include provisions that hushed victims into silent submission. These events proved pivotal in the world’s understanding of the Church’s role in the abuse. Survivors around the globe now disclose to a different cultural audience than they did a decade ago; they may find more acceptance and be believed more often than they had in the past. This is due in no small part to the litigation that took place in 2002, primarily in Boston. Most major news outlets in America and Europe have covered this crisis repeatedly, and most have done so with some empathy toward survivors and with a critical eye toward the Church which not only failed to stop the abuse, but also knowingly put reputed sex offenders in contact with thousands of children. The impact of this litigation cannot be underestimated.

Still, while this litigation was immensely consequential, its impact on those involved has yet to be fully understood. Reflecting on the impact of the clergy sexual abuse scandal, leading child abuse researcher David Finkelhor writes:

... One of the topics this scandal has raised and which deserves much more discussion in the child maltreatment field is the role of lawsuits and litigation. There is no doubt that the plaintiffs’ attorneys played a

#### 4 *Clergy Sexual Abuse Litigation*

heroic leadership role in bringing this issue to the fore and forcing the crucial disclosures that allowed the scope of the problem to be appreciated fully. Many of the victims might have never come forward without the support of these attorneys ... But their activities raise some questions ... The process of litigation on behalf of survivors has not been subjected to the same kind of scrutiny that say, police investigators, child welfare investigators or mental health providers have received. For example, how are the plaintiffs recruited? What kinds of informed consent procedures are undertaken with them? What are the traumatizing portions of the litigation process, and how are these stresses managed and mitigated? ... It definitely signals the need for more scrutiny of the process and best practice standards for civil litigation. It signals the need for more study about the impact of this process on survivors, their families and their recovery process (2003, p. 1226).

The research presented in this book attempts to answer some of these questions, and conveys the survivors' back-stories, which received much less attention from the media.

When I set out in my research, I wanted to qualitatively understand why so many victims had waited so long to come forward and what they were trying to achieve. Were they interested in retribution? Reconciliation? Restitution? And why had so many victims chosen civil litigation over other alternatives? Did life go on as usual during the litigation, or was the suit a catalyst for important life changes? This research chronicles why survivors litigated, and it speaks to some of the theoretical and practical debates about motivations in civil litigation. It also examines what survivors accomplished through that litigation, and how litigation sometimes transformed pieces of their lives.

The second chapter will explore the history and context of clergy sexual abuse within the Catholic Church. This section outlines the long history of sexual abuse by priests and the Church's response to it; it also provides a context with which to understand this type of abuse. I detail how a constellation of taboos makes this abuse particularly complex and consequential for survivors. I have also tried to frame the litigation within larger societal shifts (e.g., victim advocacy, Catholic doctrine), as well as note the historical implications of this litigation. Finally, the last section of this chapter outlines the interdisciplinary theoretical foundation which guided this research; the research is grounded in the law and society tradition, but is complemented with theoretical perspectives from victimology, psychology, and justice studies.

Chapter Three delves immediately into the rich tapestry that the survivors wove about who they are. It details what the survivors had in

common, as well as their differences, and examines their complicated relationship with the Church. Chapters Four, Five, Six, Seven and Eight walk through the process of litigation from the survivors' perspectives, from disclosure of the abuse to initiating litigation and finally through settlement. These accounts provide powerful testament to the complexity of this type of litigation, examining its successes and failures. Finally, in the last chapter, I try to summarize what can be learned from these survivors' journeys, including the mistakes that were made and the victories that were won.

I must caution the reader that although I did interview attorneys and other legal advocates, the focus of this book is *clergy sexual abuse survivors in the civil justice system*, not legal strategy or ethics. Although I do make some recommendations about legal practices that particularly helped or hindered survivors, I do so primarily based upon what the survivors shared with me, with significant input from experts in the field.

My sense at the outset of this research was that the litigation wasn't about the money. This book is about what it really meant to survivors—what their conceptions of justice were, and whether they achieved them. I have tried to bear as truthful a witness as possible to the meaning of this litigation for survivors. I am honored they shared their stories with me.

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<sup>1</sup> All names of the survivors, advocates, offenders, and Church officials have been changed.