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## Suit Says 42 Were Abused by Clergymen

By Anthony DePalma  
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A lawyer representing 42 adults who say Roman Catholic clergy members in Brooklyn groped, raped and abused them when they were children filed a civil complaint in State Supreme Court yesterday.

The suit, against 12 priests, one religious brother and the Diocese of Brooklyn, is thought to be one of the largest clergy sex abuse cases brought in the state in the number of victims and clergy members.

The plaintiffs, most of them former altar boys, relate a litany of sexual abuse that they say took place over decades in churches and rectories and on weekend retreats.

The suit asserts that Bishop Thomas V. Daily and predecessors, going back at least 50 years, threatened and misled victims and their families, effectively preventing suits from being filed until now, when church officials across the country have begun to acknowledge problems.

For that reason, the suit seeks to get around the state's statute of limitations on such claims, which requires a person who claims he was abused as a minor to file suit no later than the age of 21. Legal experts say this type of approach has been used effectively by consumers who sued tobacco companies and other corporations that deliberately withheld information. But the theory of "fraudulent concealment," as it is called, has never been successfully used in New York in an abuse case, although it has been allowed in California and Minnesota.

The lawyer representing the 42 people, Michael G. Dowd, said that the recent clergy abuse scandals have made courts more likely to believe that church officials deliberately hid abuses.

At a news conference yesterday, Mr. Dowd said the Catholic Church's pattern of suppressing the truth means officials "have no legal right to avail themselves of the statute of limitations to avoid responsibility for the acts of the people they let run loose as sexual predators in the Diocese of Brooklyn for 40 to 50 years."

Frank DeRosa, a spokesman for the diocese, declined to comment on the suit, saying diocesan lawyers had not yet reviewed the court papers.

Mr. DeRosa said Bishop Daily had been told of the filing but had not had time to prepare a statement. He said the bishop's "consistent concern has been that the policy of the diocese is followed so that officials meet with people who have been abused and address their concerns."

The diocese, one of the largest in the country, covers parishes both in Brooklyn and in Queens, where the suit was filed.

The adults named in the suit declined to appear at yesterday's news conference or to speak with reporters. Mr. Dowd said some had never told their families about the abuse, but were encouraged to come forward after reading about other cases of abuse by clergy members.

Twenty-six of the 42 claimed to have been abused by the Rev. James T. Smith, now 71, either at Holy Trinity Parish in Queens or one of several other parishes where Father Smith was assigned from 1960 to 1977. Most were boys, but his accusers also include four women who attended Catholic

schools and said they had been abused when they were as young as 7.

Father Smith has denied the allegations.

Mr. Dowd said he would try to prove that Bishop Daily and his aides had known of abuse complaints against Father Smith for almost 20 years. But that did not stop them from transferring Father Smith from parish to parish, he said. Nor did they notify the Queens district attorney's office, where Father Smith worked in the domestic violence unit until being placed on administrative leave last April, after he was removed from a Queens parish.

Several other priests named in the suit have also been removed from their church posts. They include the Rev. James Collins, 57, who was placed on administrative leave from Bishop Kearney High School in Brooklyn after abuse complaints involving several boys surfaced last April, court papers said. The Rev. Joseph P. Byrns, 59, was removed as pastor of St. Rose of Lima Church in Brooklyn in July after being accused of sexually abusing Timothy J. Lambert, who became a priest.

Father Collins and Father Byrns have denied the abuse allegations.

Mr. DeRosa said other priests named in the suit have not worked in the diocese for decades and have died or are no longer priests.

Victims' advocates say statutes of limitations have been the biggest obstacle to bringing charges against abusive priests.

Jeffrey R. Anderson, a lawyer in St. Paul, who has represented many victims of clergy members, said he had successfully argued against the statutes of limitations in three cases, one in Los Angeles and two in Minnesota, that resulted in jury verdicts for the victims of up to \$30 million, but he had been blocked in New York. In 1991, he tried to sue the Rev. Bruce Ritter of Covenant House on allegations of sexual abuse. Courts rejected the suit, he said "because we didn't have sufficient basis to prove the fraudulent concealment."