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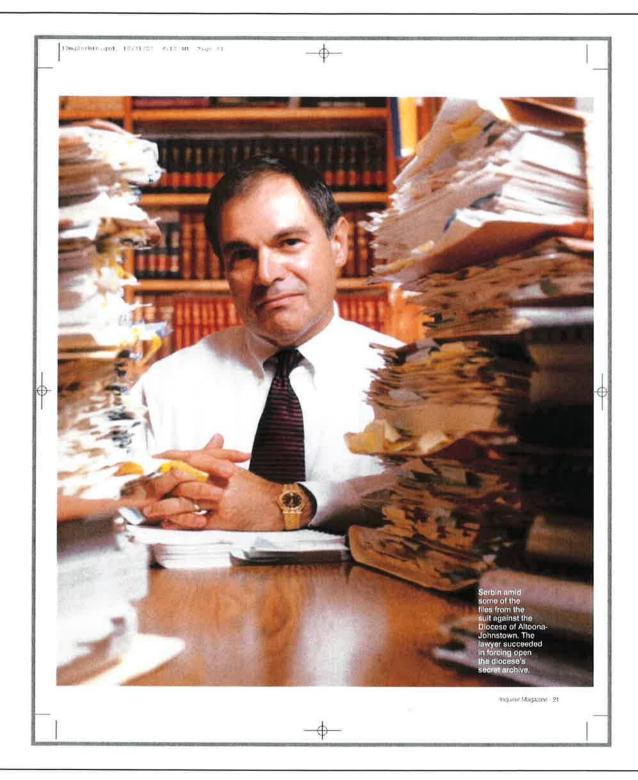
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## SERBIN

about trying to "win the lottery" by

suing the church.

The legal brushfire seems under control. The Supreme Court declined to postpone the appeal.

Serbin says he doesn't believe Mark Hutchison's new story — or that his trumabout will affect the trial ver-

After all, in October 2001 the Diocese of Altoona-Johnstown paid Michael and his mother, his legal guardian, the jury's award of compen-satory damages — by then swollen with interest from \$519,000 to \$1.2 million --- after the Supreme Court ruled that trial evidence supported the jury's verdict

And ultimately, Serbin says, only two people really know what goes on

"The good thing about the verdict," Serbin says, "is that this jury very clearly believed Michael."

Serbin says the diocese's 11th-hour filing is just another instance of the take-no-prisoners tenacity that Al-toona church officials have exhibited since the day Mary Hutchison mer with then-Bishop James J. Hogan in May 1987 to ask the prelate to help pay for psychiatric therapy for her emotionally disturbed son.

The legal fight would take Serbin and the Hutchisons through Pennsylvania's appeals courts three times be-fore the lawyer's Supreme Court appearance this warm September morn-

Serbin calls the sad fissure hetween Mark Hutchison and his moth-er another example of how sexual abuse continues eating at a family decades after the abuse ends.

"I knew this was going to be tough," Serbin says, "but I never thought we'd still be fighting this case 15 years later."

n Pennsylvania, the case of Hutchi-on a Laddy is unique -- the only civil lawauit against a priest and diocese involving allegations of pedophilia to have gone to trial, let alone resulted in a verdict of punitive dauages against the church.

Nationwide, there are only three other cases, from Minnesota and California, that have involved punitive damages

There is a dearth of such cases for good reason. As the last few years have shown, the Roman Catholic Church regularly offered cash in exchange for silence to settle sexual-abuse complaints against its priests

It was a bargain often welcomed by victims and families, many of whom feared their names and stories' becoming public if they sued. But all this is hindsight.

In June 1987, when Mary Hutchi-on walked into Serbin's small Altoona law firm, stories about priests' sexually molesting children were too bizarre for

most people to believe. Today, Serbin struggles to recall details of his first meeting with the diminutive woman whose case would consume much of his professional ca-

He was 19 He remembers that another Blair County lawyer referred the case to him. He remembers her emotion as she told how three of her sons had been molested by their parish priest, a priest who had befriended her troubled family when they moved to Altoona and who later became the three boys' godfather. He remembers her anger at being rebuffed by dioce-san officials when she sought money for psychiatric help for her second son, Michael, after she learned of the events that she now believes were the reason his life spun mysteriously out of

"She came here almost hysteri-cal," Serbin recalled "She was crying and could not believe that she had lit erally run into a stone wall and no one would help her."

Serbin went to Ohio to visit



Michael, then 10, who was in prison

for violating parole.
"I left convinced that what his mother had told me was true," Serbin said... "She had gone to the church, honestly not anticipating that she would have to suc. She was proceed-ing, again, perhaps naively, from the notion that right is right and wrong is

Mary Hutchison's lawsuit was fraught with potentially fatal legal problems. The most serious was Pennsylvania's statute of limitations, which requires that a lawsuit regarding a sexual offense he filed no later than five years after the last incident. Plainly, Mark Hutchison's experiences with Luddy were far outside that five-year limit. And Michael's were almost.

Only the last two incidents in which Michael claimed Luddy had pressured him into having sex, Serbin told his clients, would get them through the courthouse door. But they had to move fast: The statute of limita tions for one incident, in 1982, would expire within weeks.

The fact of the matter was that I had very little to go on," Serbin recalls. Still, he drafted civil lawsuits on behalf of Michael and of his younger brother, Samuel, who also alleged that he had been moiested by Father Luddy.

The battle had begun

the Hutchison lawsuit is the only Pennsylvania case involv ing allegations of sexual abuse by a priest to go to trial and verdict, and the significance of the ruling by the state's highest court has not been

lost on the legal community.

A ruling for the diocese on the punitive-damages issue would affect every future suit brought in Pennsylva-nia on behalf of minors claiming to have been molested by clergy. But members of the legal community say the ruling, either way, will go far be-yond church cases and affect anyone suing an organization or employer over conduct of a rogue employee.

"Limiting, across the board, the right to punitive damages would be a very dangerous public policy," said Jeffrey R. Anderson, the St. Paul, Minn., lawyer who is the only lawyer other than Serbin to have won punitive damages against the Catholic Church in sex-abuse cases. "The threat of punitive damages is the only club we have under the law that really has an

The diocese has equally dire warnings should the high court rule against it in the appeal. In oral argu-ments on Sept. 9, attorney Louis C.

Long maintained that the trial judge m Hutchison v. Luddy simply got it wrong and that Pennsylvania law has never allowed punitive damages in negligence cases. For the Supreme Court to do so now, Long argued, would be a "monumental shift in the law of Pennsylvania."

The Pennsylvania Catholic Conference, the lobbying arm of the state's 10 Catholic dioceses, also weighed in, filing an amicus brief urging the Supreme Court to strike punitive

damages from the Hutchison case. The Catholic Conference's brief argued that punitive damages would amount to an unconstitutional interference into the right of a religious organization to select, retain, assign and manage its corps of priests, It would also, the conference warned, make it possible for juries, "when charged with the responsibility to 'make an example' of a particular church, to include their religious prejudices.

Trancis E. Luddy Ir. - he was officially laieized, or defrocked, in 1998 -- could not be reached for comment for this story and did not respond to a letter left at his residence.

He is now 60. His last known ad-dress is an Albuquerque, N.M., suburb, near a former Catholic-run clinic for pedophile priests where he was sent in 1987 after the Hutchisons confronted Bishop Hogan, then head of the Altoona-Johnstown diocese.

For years, until he was forced to return to Pennsylvania for the Hutchison trial in 1994, Luddy apparently lived there quietly, working as a computer-typist for the clinic where he was

It was a sad, obscure end for a man who seemed destined for success in the priesthood.

Born in Altoona, he was the oldest six children in a devout family. Two of his mother's brothers were priests.

Though Luddy's parents relocated to Philadelphia when he was a child, the ties to the church and his uncles remained strong, and Luddy testified that he began considering the priest-hood in elementary school.

After graduating from Cardinal Dougherty High School in 1959, Luddy returned to Altoona and began studying for the priesthood at St.

Francis College in nearby Loretto. It was an eight-year program four years of undergraduate study, with a major in philosophy, and four years of graduate study in theology and in the seminary. Luddy excelled, graduating in the top 2 percent of his class of 600.

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Decided to the second

Luddy was ordained on May 20, 1967, at St. Andrew's Church in Johnstown, with Bishop Hogan as his sponsor and 50 relatives in the audi-

Luddy then reported to his first assignment, as assistant pastor of St. Mark's in Johnstown

assignment, as assistant partor of St. Mark's in Johnstown.

"My first year in the priesthood was grand and glorious," Luddy recalled in a 1987 life history he wrote for officials at Foundation House, the New Mexico clinic for pedophile priests operated by the Servants of the Paraclete, a holy order. This listory and several other documents became part of the legal record.

But, as Luddy would later concede to a clinic psychiatrist, the excitement of that first year helped him ignore deep conflicts about his sexuality and vocation. Luddy told Foundation House professionals he had had sexual fantasies about the male body since sixth grade and that his first sexual experience was with a priest, when he was 23 and in seminary.

Within his first year at St. Mark's, Luddy wrote, he began diruking socially; a yen later, his drinking was heavy enough that he had basically stopped praying except during church services.

Sometime in 1968, Luddy testified in court, he sexually molested his first child, a troubled 14-year-old altar boy whose father had died. It started, Luddy said, with his

It starred, Luddy said, with his counseling the boy and occasionally taking him out to lunch. The relationship grew closer, Luddy said, and one day when they were "wrestling," he began touching the boy's genitals.

Luddy restified that the first incident evolved into regular sexual encounters. He said the relationship lasted into 1970 and ended shortly after he was transferred from St. Mark's to St. John's, the diocese's "co-cathedral" in Johnstown.

Laddy testified that he ended the sexual relationship—he said the boy wanted to continue—but he told rhe jury he could not say why: "I couldn't give you an exact reason."

Experts in sexual disorders,

Experts in sexual disorders, however, say the pattern is typical with "hebephilia," the form of pedophilia that Luddy testified was his diagnosis

Hebepfules are adult men who are sexually attracted to adolescent boys, and the attraction wanes as the boy matures into a young man. Even before his last sexual en-

Even before his last sexual encounter with the first boy, Luddy testified, he had molested a second altar boy at the co-cathedral.



Although the second victim testified in 1994 that he reported the incident to Luddy's superior, nothing came of the report.

But others in the diocese — including Msgr. Thomas Madden, who was Luddy's boss and pastor of the Altoona cathedral, and as vicar general a ranking aide to Bishop Hogan — were concerned about Luddy's performance and what they considered his increusingly "unpriesdy behavior."

After two years at Sc. John's, Luddy was transferred in 1972 to Altoona as an assistant pastor at the diocese's historic, massive, Italianate Cathedral of the Immaculate Conception. At the cathedral, according to trial testimony, Luddy's trinking got worse. In mid-February 1975, Bishop

In mid-February 1975, Bishop Hogan received a letter from Msgr. Madden demanding that Luddy he removed from his parish immediately. Among other things, Msgr. Madden wrote that Luddy's drinking seemed to be "the manifestation of a deeper malase."

Bishop Hogan, according to trial testimony, called in the young priest and lectured him about his drinking and his irregular behavior.

Ten days after the date of Msgr. Maddlen's letter to the bishop, Luddy was assistant pastor at a new parish: St. Therese's, in Altoona's blue-collar northern end. Por Luddy, St. Therese's would not be the new leaf his hishop hoped for. In 1976, Michael S, and Mary

In 1976, Michael S. and Mary Hutchison and their five children moved into a house a few blocks from St. Therese's

The Hutchisons both attended the 1994 trial of the lawsuit, and Mary Hutchison testified that their marriage had not been easy.

Michael Sr. was a Conrad welder, an avid hunter, and a mon with a hair-trigger temper. The relationship, Mary Hutchison testified, was strained by jealousy, right finances, and the challenge of keeping five elementary school-use fulldern in fine.

school-age children in line.

Mary Hutchison decided to enroll the children in the Catholic school in their new parish.

The three older hoys — Mark,

The three older hops — Mark, then in fifth grade, Michael in fourth, and Samuel in third — were not haptized Catholics, and the pastor, Msgr. Roy Kline, assigned Luddy to give them religious instruction and prepare them for the sacrament.

Mary Hutchison said the three boys loved the priest, who took them home from religion classes and often took them out shopping, to local carnivals, and for lunch.

In November 1976, Mary Hutchison restified, Luddy told her he wanted to bandle the arrangements for the baptisms and act as the boys' godfather. "It was a hig help for me, and I was very honored," she told the hury in 1994. "Next to a parent, who's closer to God than a priest?"

The boys seemed to thrive, Mary

The boys seemed to thrive, Mary Hutchison testified. Young Michael, who was later diagnosed as mildly retarded, seemed to tolerate school for the first time in his life.

the first time in his life.

The oldest boy, Mark, who was an excellent student, and Luddy seemed especially close, and Luddy paid for Mark to accompany him and several friends on tours of Spain in 1977 and France in 1978.

Unknown to the Hutchisons, their eldest son had embarked on what their priest would later describe as a four-year affair with their son-

"I was infatuated with him," testified Luddy, who told church counselors that Mark, then 11, initiated the sexual aspect of the relationship with "kissing and rouching."

"kissing and rouching."

Mark Hutchison testified that it was his godfather who mitiated him to sex, molesting him in the rectory. "I didn't know that it was right or wrong," Hutchison testified. "I was very naive. I had absolutely no idea what sex was."

Mark Hutchison testified that Luddy told him their sexual encounties weren't "causing any harm or hurting anyone. We'd keep it between ourselves and not discuss it with anyone."

rancis Luddy's secret life began
a boy Scout retreat at Luddy's
alma mater, St. Francis College, when
a Franciscan priest and counselor told
the scouts he would be available for
counseling.
Mark, then 15, testified that he

Mark, then 15, testified that he was then himself considering the priesthood and also questioning his own sexual orientation. He told the priest, Father Gabriel Zeis, about his sexual encounters with Luddy.

Hotchison testified that Father Zeis was angry and concerned about Mark's emotional well-being, and that he promised to contact Bishop Hogan about the abuse.

By the time of his second visit with Father Zeis, Etuchison restitled, his mother had learned of the relationship after overhearing a relephone conversation between her son and a friend. She accompanied him to the meeting.

"Father Zeis assured us that the

"Father Zeis assured us that the church took care of their own and that there was help available for Father Luddy," Mark Hutchison testified. "That was my main concern. I didn't wish to really bring any harm on him. I just wained him to be helped."

Mary Hutchison testified that

Mary Hutchison testified that Mark did not want to sue of press criminal charges and she was in shock

Michael Hutchison Sr., his wife testified, exploded in anger when he learned several months later about the molestation. Never happy about sending the children to Catholic schools, he blamed his wife and he blamed Mark for allowing the sexual abuse to occur-

"Our home became a home of nothing but torment and confusion constantly," she testified.

Mark, then 16, was forced from the home, she said, and the couple separated in 1982. Later that year, the decided to try to reconcile; they moved to Akron, Ohio, in 1982. Luddy also got a new start, pro-

Luddy also got a new start, promored to pastor of his own church, St. Mary's in Windber, Somerset County. He testified that he stopped drinking in November 1982, did not molest any boys between 1982 and June 1985, and then stopped altogether after a final encounter.

In Ohio, meanwhile, Michael Hutchison Jr's life was skidding continued on next page

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downhill

Even before the move, he had begun skipping school and getting involved in minor thefts and other juvenile crimes. In Akron, the teen begun using illegal drugs, living on the streets and selling his body to men for money.

In 1987, after being arrested for tobbety, attempting suicide, and being found mentally incompetent to stand trial, Michael told a prison psychiatrist that he also had been regularly molested by Luddy.

As devastating as the news was for Mary Hurchison, it at least provided an explanation for Michael's self-destructive behavior. She testified that she called Bish-

She testified that she called Bishop Hogan and demanded a meeting with him and Father Luddy where she could confront her former priest and ask for help for her son.

Hutchison and her som Mark drove to Altoona on May 9, 1987, for the meeting with Bishop Hogan and Luddy, she testified, Luddy refused to attend, however,

Luddy refused to attend, however, and Hogan told her he had been removed from his parish and "sent away for treatment."

The hour-long meeting did not result in any promise of treatment, and on May 14, 1987, Hutchison testified, she got a follow-up letter from the bishop.

the bishop.
Far from offering treatment, Bishop Hogan's letter said Luddy denied any sexual contact with Michael and "declares himself ready and willing to submit to a lie detecturest."

submit to a lie detector test."
The bishop's letter, which was introduced at the trial, Precommended "further fact-finding" about the allegations and described Michael as "always disturbed, troubled, slow, troublesome in school, frequently involved in scrapes, given to fantasy [and] out of teach with reality."

In late May 1987, Hutchison testified, she got a phone call from Carl A. Eck, the diocese's chief attorney. Hutchison testified that Eck want-

Hutchison testified that Eck wanted to know if she intended to press a claim against the diocese.

Curiously, Hutchison testified. Eck reminded her that the statute of limitations for any claim on behalf of Michael was about to expire and that if she planned to do anything about it she should "get an attorney and get one fast." Eck has declined to com-

ment on any aspect of the case.

Mary Hutchison started looking for a lawyer.

A native of Pittsburgh, Richard Serbin was 3 years old when be lost his father, and was mised by his mother in a household that included an older sister.

"It was tough," Serbin recalled, "It's wery hard growing up without a father." Serbin became the first in his family to go to college and decided to go to law school not necessarily to be a lawyer but because "I though it would present me with various options."

But upon graduation from Duquesne University's law school, Serbin "desperately needed a joh," and he found one practicing law in Mifflintown, a Juniara Courry burg with about 1,000 people and a five-member bar association. He soon realized that his calling was in civil trial work.

In 1977, he got an offer to join a small firm in Altoma and has remained there ever since. His firm — Reese, Serbin, Kovacs & Nypaver — had five lawyers when Mary Hutchison came to him and has only four today.

It may be part personality, part his update in Pirtsburgh, and part working for a small law firm going up against some of the largest firms, but in court Serbin tends to be low-keyed when questioning witnesses.

"I don't try to attack witnesses by

"I don't try to attack witnesses by yelling and ranting and taving," he said. "I work very hard to be well-prepared, I know that some lawyers can speak offthe-culf, but that's not me."

As for the jury, Serbin said, he "tries to reach them on a personal level, My style is to appeal to a jury as human beings who know what is right and wrong."

I t did not take long for the Hutchison lawsuits to be picked up by reporters for Western Pennsylvania newspapers.

The shock of the news about the Hutchison cases had some predictable results, including criticisms of Serbin for filing the suit. It also triggered a darker response; Serbin, who is Jewish, said he began receiving anti-Semitic telephone calls.

Serbin knew little of the Catholic Church's practices or policies, and the lawsuit, he said, "was a real learning curve."

But the real challenges would be le

Lawyers for the church first moved to have the cases sealed, contending it would be otherwise impossible for the defendants to get an impartial jury and a fair trial, and would "result in irreputable prejudice and harm to the rights of these defendants, their good names, reputations and standing in the

community."

When the local judge did not grant the Altoona-Johnstown Diocese a complete sealing of the case, the church unsuccessfully appealed to the Superior Court and then the Superime Court, stalling the lawsuit for two years,

The battle of the sealing question was harely resolved when the next issue

Hutchison had to prove more than just that Michael and Sam had been malested by their priest and malfather.

molested by their priest and godfather, to order to win a judgment against the diocese, Sorbin needed to show that Luddy's superiors, including Bishop Hogan, were aware of complaints about their troubled priest but did nothing except transfer him.

As part of his crash course in Catholicism, Serbin said, he studied the church's own body of law, the Code of Canon Law. What interested him, Serbin re-

What interested him, Serbin recalled, was Canon 489, which begins, "There is to be a secret archive."

That provision and Canon 400 give the bishop of a diocese sole access to the safe containing the secret archive, including sensitive personnel matters, and mandate that the documents stored there never be removed.

Serbin filed a motion asking the

Serbin filed a motion asking the diocese to produce any documents from Bishop Hogan's secret archive about allegations of sexual abuse involving priests and boys beginning in 1974.

The diocese refused, contending that releasing the documents to a civil court would amount to government interference in the internal affairs of a religious organization and violate the long-recognized confessional privilege between priest and penitent.

Somerset County Common Pleas President Judge Eugene 12. Fike 2d, who was presiding over Samuel Hutchison's lawsuit, ordered the diocese to divulge the documents. The church appealed, It took another two years before the Superior Court panel ruled.

The diocese lost, In a ruling affirmed by the Supreme Court, Superior Court Judge Donald E. Wieand wrote, "Here, it is the Pennsylvania rules of discovery which are controlling."

The two appellate victories had the results that Serbin hoped for:

Other alleged victims of Luddy's started contacting the lawyer. And even though their claims, like Mark Flurchison's, couldn't meet the statute of limitations, they lent much-needed corroboration of Luddy's pedophilia, Serbin said.

The secret archives also showed that Luddy was far from the "isolated incident" that church officials claimed, Bishop Hogan's archives detailed complaints he received involving 10 other priests at the same time that Luddy was molesting the Hutchison boys.

For Serbin, the order to open the secret archives was a significant, hardwon victory.

But in 1992, it was almost six years since Serbin had filed suit, and the legal fight had taken its toll. Som Hurchison, a year younger than Michael, had enough and wanted to withdraw his suit. "It was understandable," Serbin said "He wanted to move on with his life. He had a good job and he was planning to get married. He just wanted to leave this all in the past,"

"The fight had come down to

The fight had come down to Michael, the most troubled and vulnerable of the three brothers, and the woman who was caring for him.

The 1994 trial of Hutchion v. Luddy turned out to be as much a trial of the Hutchisons as of Luddy.

The Flutchisons were excoriated by church lawyers as a "dysfunctional family" whose home life had doomed Michael before he even mer Luddy.

Michael before he even met Luddy. Luddy's defense attorney, L. Edward Glass, called Michael an "opportunist" and a "seam artist" who "seeks a pile of money" and argued that Michael had a legal obligation to report the abuse earlier.

Perhaps the cruelest cut came when Glass, questioning his client, elicited from Luddy that he was "discriminate" in the children he molested. "Is he now or was he ever physical-

"Is he now or was he ever physically attractive to you?" Glass asked, pointing to Michael in the courtroom.

"No sir, he was never physically attractive to me," Luddy replied, "The other two, Mark and Sammy, both had appealing personalities,"

Michael Flutchison, however, won the jury in his own halting way. Asked by Serbin about his feelings

Asked by Serbin about his feelings for Luddy, Hutchison said: "To be completely honest with you, I still have a caring, I still care about him. It probably don't sound eight. I still care about Father Luddy and I hope he gets better because he is a sick man and he needs help, sir."

And when Eck, the diocese's attorney, pressed Hutchison about how much mough the potential of the lawsuit, Hutchison bristled: "Sir, I'm not lying. And the only benefit I want out of this whole thing is to make sure Fatther Luddy never has a chance to molest another little kid and screw up his life like he has mine."

"Are you telling the ladies and gentlemen of the jury that you don't want continued on Page 28

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## SERBIN

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any money from this jury?"

"I don't," Hutchison replied. "I do not sic."

The jury believed Michael's story. In a verdict that Blair County Court Judge Hiram A. Carpenter 3d later bailed for its fairness and rationality, the jury awarded Michael and his mother \$519,000 in compensatory damages, including \$10,000 for pain and suffering and \$9,000 for loss of enjoyment of life. The rest was an expert's estimate of the lifelong psychotherapy Hutchison would need.

It is that money, Serbin said, that pays for the intensive psychotherapy that he and Mary Hutchison hope may one day enable Michael, now 35, to live on his own and hold a job.

The jury also awarded Hutchison \$1 million in punitive damages for diocesan officials' "outrageous conduct" in failing to deal with Luddy's problems.

Far from being excessive, Carpenter wrote, the punitive damages were logically related to testimony about the diocese's finances: four months of receipts from church collections and other sources, minus the diocese's operating expenses.

The punitive damages are the last

The punitive damages are the last remaining piece of the Hutchison case, and Serbin says he has no idea when the Supreme Court will rule. Pennsylvania's high court has taken as long as five years to decide some appeals.

Regardless of the state Supreme Court's decision, Francis Luddy will probably feel no impact.

Because of the statute of limitations, Luddy was not criminally charged with any of the molestations he admitted to, and Michael Hutchison was the only victim able to sue him.

The Hutchison jury imposed \$50,000 in personal punitive damages against Luddy, but he declared bankruptcy. Serbin said he had received no more than \$800 from the former priest,

For Serbin, the case has made an already successful practice more so, and has given him sought-after expertise in sex-abuse cases involving the church.

He said he remains shocked at how long the diocese has fought this case: "They had a large firm with a great pool of attorneys and the financial resources of the Catholic Church, and

there was the and my five-man law firm. I think they thought they could wear me into the ground." Moreover, Serbin said, the diocese

Morcover, Serbin said, the diocese has already acknowledged spending \$1.3 million in legal fees on the case, in addition to the compensatory damages it has already paid the Hutchisons. "I think this case could have been

"I think this case could have been settled," Serbin said, recalling how Mary Hutchison's first overture to Bishop Hogan was rebuffed.

"All she wanted was treatment for her son, a kid who desperately needed treatment. She wasn't looking for a courtroom war, But the diocese never offered a dime,"

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