Organizational Misconduct

A nationwide practice of more than 30 years' experience, Lathrop GPM counsels organizations - schools, universities, day care centers, churches, religious orders and institutions, athletic and other nonprofit groups and for-profit employers - in connection with the investigation, defense, and prevention of sexual misconduct claims.

Our teams have handled hundreds of sexual misconduct claims, including high-profile cases that have received extensive media attention. We have a thorough understanding of the applicable law, complex discovery issues, and the leading experts. While some cases have necessitated trials and appeals, many have been resolved through successful pre-trial dispositive motions, or through an arbitration or mediation process. When claims result in liability, our insurance recovery specialists work to establish and enforce coverage by our clients' carriers.

Objective, Independent Investigations

Our independent investigators have regularly worked with higher education institutions to conduct sexual misconduct and harassment investigations arising under Title IX, the Cleary Act, Violence Against Women Reauthorization Act, Higher Education Act, and related federal and state laws and regulations.

These investigations are conducted by a team of attorneys that works diligently to maintain its independence and objectivity. We work swiftly to gather and impartially evaluate the facts with due care to the victim and for rights of the accused.

Early-State and Pre-Litigation Investigations

For litigated claims, our firm has experienced defense teams that assist our clients in responding to the media and victim advocacy groups that often demand immediate accountability and transparency. With early

stage engagement, we help our clients assess the veracity of allegations, which are deeply personal and can be criminal in nature.

Our team takes pride in its ability to develop relationships with fact witnesses who initially may be reluctant to offer information or testimony. We have tracked down witnesses for decades-old claims and worked closely with prosecutors, criminal defense lawyers, and law enforcement officers to fully investigate misconduct allegations. We have interviewed incarcerated persons to gather crucial information and have collaborated with European lawyers and police organizations to investigate assaults allegedly committed overseas.

Prevention and Policy Counseling

Our independent investigation and defense litigation teams works with clients proactively to prevent misconduct and avoid attendant liability. We regularly create, review and revise misconduct policies and help our clients design and implement claims processing and management protocols.

A Defense that is Attentive to Victims' Rights

When called for, we our litigators defend misconduct claims on the facts and law. Where allegations are credible, we help clients fashion appropriate methods of victim assistance. We also understand the sensitive nature of sexual misconduct and the impact it has on victims, other constituencies and the public at large.

Our range of services includes:

- Developing strategies, internal policies and processes to reduce the risk of future sexual misconduct and claims
- Investigating sexual misconduct allegations, with a careful but detailed approach that considers the sensitive and often high-profile nature of these claims
- Early use of dispute resolution techniques to resolve claims prior to litigation
- Engaging national experts and other specialists, including psychiatrists, criminologists and First Amendment scholars

- Defending lawsuits in trial and appellate courts across the country
- Navigating collective bargaining agreements and the intricacies of alleged Title IX infringements, First Amendment encroachments and local statute and ordinance violations
- Enforcing insurance coverage and recovering costs, which may include performing an insurance archeology to locate older policies and piece together coverage from a client's missing or incomplete files
- Consulting on insurance strategies to better protect clients from future claims
- Evaluating claims and responses on a continuing basis ("lessons learned") to prevent future misconduct and avoid future claims

Representative Experience

- Obtained a complete dismissal of a Texas lawsuit against a California diocese and its bishop. An adult plaintiff alleged a Texas seminary student sexually assaulted him as a minor. The Court of Appeals held there was no personal jurisdiction over the diocese or its bishop because they lacked sufficient minimum contacts with Texas. For example, they did not operate in Texas, did not control the seminary or the student and had no notice or knowledge of the alleged misconduct. *Roman Catholic Bishop of San Bernardino v. Doe*, Case. No. 04-19-000153-CV (Tex. App.—San Antonio [14th Dist.] July 25, 2019).
- Obtained a complete dismissal of a private high school and an affiliated diocese in an action involving a volunteer coach who sexually assaulted a member of the girls' softball team. A prompt and thorough investigation by our team allowed the client to assess its liability risks and whether its policies had been followed. The trial court granted motions arguing there was no duty to protect the plaintiff from sexual assaults that were unrelated to any school activity and occurred on private property.
- Defended a national manufacturer of home cleaning products where three female members of a marketing team alleged they were sexually assaulted and harassed by their supervisor. The supervisor was a convicted sex offender who, despite express warnings by the company that he was not authorized to sell products, used aliases and fraud to avoid detection by the company and to mislead the plaintiffs.
- Served as lead counsel in the seminal case *Gibson v. Brewer*, 952 S.W.2d 239 (Mo. 1997), where the Missouri Supreme Court

determined that the prosecution of certain negligence actions against a religious organization violate the First Amendment. This opinion has been cited in more than 300 cases in 17 different states.

- Represented a Roman Catholic diocese in a group settlement of 52 claims and a subsequent group settlement of 32 claims, resulting in per-claimant awards of less than one-third the national average.
- Served as lead trial and appellate counsel in a multi-defendant lawsuit and appeal in which the court of appeals affirmed that the statute of repose barred an adult plaintiff's claims arising from an alleged assault during a counseling session when he was a minor. The opinion strengthens defenses available to religious organizations by clarifying that the statute of repose cannot be tolled because of a defendant's allegedly fraudulent failure to disclose allegations of abuse to parishioners. *Doe v. Popravak*, 421 P.3d 760 (Kan. Ct. App. 2017).
- Obtained a complete dismissal of all claims against a religious organization in a case involving claims of sexual abuse. The plaintiff filed several amended petitions with new and revised factual allegations, which resulted in several dispositive motions that led to the case being dismissed in entirety. The dismissal was affirmed on appeal, and both the Missouri Supreme Court and United States Supreme Court denied requests for additional review. *P. Doe v. Catholic Diocese of Kan. City-St. Joseph*, 432 S. W.3d 213 (Mo. Ct. App. 2014).
- Served as lead trial and appellate counsel in a case in which an adult plaintiff claimed that a priest abused him in the 1970s at a private residence and a hotel. The trial court agreed with our church client that it could not be held liable for abuse that occurs on property that is not owned or operated by the church and is not related to any church activity. The court of appeals affirmed the dismissal and the Missouri Supreme Court, after a request for briefing from the firm, declined to grant further appellate review. *T. v. Catholic Diocese of Kan. City-St. Joseph*, 419 S.W.3d 143 (Mo. Ct. App. 2013).