

Victorian Supreme Court judge: 'reasonable' to set aside alleged sex abuse settlement deed for former Xavier College student

EXCLUSIVE

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JOURNALIST

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A former Xavier College student could seek almost \$5m in damages after a judge ruled it was just and reasonable to set aside a settlement deed over historic sex abuse claims against a priest alleged to be a “well known toucher of boys” at the Melbourne elite private school.

The plaintiff, a 69-year-old who will be referred to as “P”, alleges he was abused twice by priest Noel Bradford in 1968 and 1970 while he was a student and is now seeking to claim between \$1,248,791.62 and \$4,952,307.62 in damages for past pecuniary loss and loss of future earning capacity.

A settlement deed inked in August 2011 between P and The Society of Jesus in Australia stated that the victim would receive a \$150,000 payout and free tuition for his two sons to attend Xavier College, in exchange for the defendant to be released from any future lawsuits.

Victorian Supreme Court judge Mary-Jane Ierodiaconou last week ruled it was just and reasonable to set aside the settlement deed reached in 2011, and a variation deed in 2016, which changed to cover P's sons' attendance at St Joseph's College instead of Xavier College.

Justice Ierodiaconou found that legal barriers, namely the plaintiff's claim was subject to a statute of limitations and legal identity barriers, materially impacted his decision to enter into a settlement deed.

P's evidence stated that the only way he knew to get compensation at the time was to ask for it, and that he engaged in "glorified begging".

The court was told P knew he was "out of time" as the alleged abuse occurred decades ago, and he had received legal advice advising him it was impossible to sue the defendant because of their organisational structure.

In his deposition, P said: "I had no idea what my claim was really worth. In the end, the Jesuits offered me \$150,000 and I took it.

"It seemed like a modest sum, given what I had been through, but I was very aware that this was my only avenue for getting some compensation from them."

He also submitted that children at Xavier College were abused by staff and priests before his alleged abuse, and that the school ought to have known this.

Bradford, who was also known as "Brick", worked and lived at the school from 1964 to 1979 and held roles including second division prefect, master and sports coach.

"Bradford had a large presence at the school and according to a website titled xavier-college-kew-abuse.com ... regarding Xavier College abuse he was 'a well known toucher of boys,'" P submitted in his court documents.

In evidence, P said the alleged abuse had "devastating consequences" on his life and he had struggled with depression and suicidal thoughts for decades, and in the past turned to alcohol and drugs. "Before I was abused, I was a very good student," he said. "I did not go on to university, even though I wanted to.

"My marks and my mental health weren't good enough to allow me to study at university after school."

A psychiatrist who undertook an independent psychiatric assessment of P in October 2023 said the alleged abuse and their long-term impacts contributed to about 75 per cent of the plaintiff's ongoing emotional vulnerability and distress.

“It is clear that the trajectory altering effects of the abuse period caused the disruption in the crucial periods of education which caused his academic achievement to be scuttled,” the psychiatrist said.

“His working career has been hampered by persistent alcohol and drug abuse, poor self-worth and low confidence, difficulties interacting with male figures and poor stress tolerance.”

The judge noted that P’s brother, who also attended Xavier College, is a senior barrister and it is “plausible” P would have had a successful career.

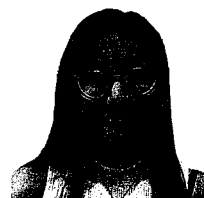
“The defendant may not have been aware of Bradford being an abuser at the time of the alleged abuse in this proceeding, however ... the defendant knew or ought to have known about the existence of other pedophiles at Xavier College at the time,” Justice Ierodiaconou’s judgment stated.

“The total compensation paid by the defendant in 2011, being \$150,000, is a modest sum compared to what he would have received in 2011 had the matter proceeded to trial. Per the variation deed, the total compensation was ultimately ... around \$261,000. The same analysis applies. It is a modest sum.

“The compensation paid to the plaintiff is heavily discounted in comparison to the damages that he might be awarded now.”

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