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## Records show judge in Milwaukee Archdiocese case has cemetery ties



Kristyna Wentz-Graff

U.S. District Judge Rudolph T. Randa's parents, Rudolph F. and Clara Randa, are interred at the Holy Cross Cemetery Mausoleum in Milwaukee.

By [Bruce Vielmetti](#) and [Karen Herzog](#) of the Journal Sentinel

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### Archdiocese Bankruptcy



The Catholic Archdiocese of Milwaukee, which faces more than a dozen civil fraud lawsuits over its handling of clergy sex abuse cases, filed for Chapter 11 bankruptcy protection in January. As the case proceeds,

The Archdiocese of Milwaukee's creditors want the federal judge in the church's bankruptcy case to set aside a key ruling and recuse himself over a potential conflict of interest — the fact he has several relatives buried in Catholic cemeteries.

U.S. District Judge Rudolph T. Randa [ruled in late July](#) that forcing the archdiocese to tap the \$50 million-plus it holds in a trust for the perpetual care of cemeteries would substantially burden its free expression of religion under the First Amendment and a 1993 federal law aimed at protecting religious liberty.

In response, lawyers representing the archdiocese's creditors — primarily sex abuse victims — asked U.S. Bankruptcy Judge Susan V. Kelley to [compel the release of any records](#) showing whether Randa and his wife, Melinda, have purchased any plots or crypts in one of the archdiocese's cemeteries, or whether they have any interest as heirs or beneficiaries of several relatives known to be buried in them.

Before Randa reversed her, Kelley had found that the First Amendment did [not protect](#) the cemeteries trust fund.

In motions filed Monday — one [to set aside the ruling](#) and the other [asking Randa to recuse himself](#) — the creditors said they "discovered that at least nine of Judge Randa's relatives (including his mother, his father and his wife's parents) are buried in cemeteries owned and operated by" the archdiocese.

"This fact alone creates the appearance of partiality," the motion states. They add that Randa, by purchasing burial rights for his parents, entered

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into a contract with the archdiocese, further supporting the call for him to step down from the case.

"Judge Randa should have disqualified himself from presiding over any aspect of this adversary proceeding. Yet, he did not do so," the motion reads. "Nor did he disclose the facts to the parties at any time during the case."

[Charles Geyh](#), a professor at Indiana University's law school and an expert on judicial ethics, said federal rules demand a judge's recusal if he has a financial stake in one of the parties, no matter how small, such as even a single share of stock.

Just being a customer, however, like having insurance with a company involved in a lawsuit before him, does not always equate to a financial stake, Geyh said.

But a judge should still leave a case if his presence gives an appearance of impropriety, Geyh said, adding that depends on whether a reasonable person (and non-lawyer), fully informed of the facts, would have doubts about a judge's impartiality.

"A financial stake can't be remote or indirect," Geyh said. "The judge has to be disadvantaged in a meaningful way (by a potential outcome)." If someone seeking recusal can't show much likelihood of that, Geyh said, it's harder to fall back on the argument that the situation leaves an appearance of impartiality.

The creditors suggest that if the trust money went to abuse victims, Randa would be left to pay for the upkeep of his family's gravesites from his own pocket, or see them go untended, in violation of the deal he and others thought they had made.

Randa surprised the creditors committee with the scope of his July ruling that, in essence, the committee was a government entity, and that requiring the archdiocese to tap its cemetery funds would create a substantial burden on its free exercise of religion.

In the new motions, the creditors again dispute Randa's conclusion. "Under the District Court's ruling, a debtor can fraudulently convey funds to a trust and avoid its obligations to its creditors because of its religious status. No other court has ever reached such a conclusion," the motion reads.

The trust was created in 2008, but the archdiocese maintains the funds were always segregated for cemetery use and that the trust merely formalized that arrangement. The creditors claim documents show that prior to the transfer, the cemetery payments were commingled with other operating funds.

The cemetery decision was a key victory for the archdiocese, because it eliminated one of the last major assets available for a settlement with sex abuse victims who filed claims in the bankruptcy. If it stands, the ruling could have far-reaching implications for other religious institutions considering bankruptcy.

Both sides have called the developments unusual — and possibly the first time a judge has been asked to recuse himself in the several Catholic Church bankruptcies around the country.

The creditors' committee makes clear that it does not seek Randa's ouster because he is Catholic, noting that several other judges in other

Catholic diocese bankruptcies, as well as Kelley in Milwaukee, are Catholic, and none has ever been accused of a potential conflict of interest or been subject to recusal requests despite rulings adverse to creditors.

Randa did not return a message seeking comment left with his staff Wednesday.

Exactly what the cemetery trust covers and doesn't cover is unclear, at least to abuse survivors, said Father James Connell, a Sheboygan priest and former vice chancellor of the Archdiocese of Milwaukee who has become a vocal advocate for those abused by priests.

During remarks Tuesday at the Milwaukee Press Club's Newsmaker Luncheon, Connell said the diocese says it operates eight cemeteries, all in Milwaukee County.

Catholic cemeteries in surrounding counties — also within the Archdiocese of Milwaukee — are not covered by the cemetery trust, Connell said.

While the diocese says the trust is intended to fund perpetual care of the eight cemeteries in Milwaukee County, "we don't have a perpetual care agreement in Sheboygan," Connell said. "They got rid of them."

"The trust fund says nothing about perpetual care," Connell said. "All of that needs to be studied. What is and isn't covered has to be better defined."

If the church can fulfill its moral responsibility to care for the eight cemeteries with a portion of the cemetery trust, the rest of the money "should go for common good," Connell said, referring to victims of clergy sexual abuse.

*David Paulsen of the Journal Sentinel staff contributed to this report.*

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