



The Ninth Commandment

Publication

9.25.02

"Thou shalt not bear false witness against thy neighbor."

Three men in a cafe recently were overheard talking over coffee about the ongoing scandal in the Catholic Church involving priests and sexual abuse. One voiced his opinion that priests who abused young people should be sent to prison and the church made to pay large damage awards in abuse cases until it puts an end to the scandal. Another voiced his strong agreement. The third asked, "But how can you tell which of these claims are real?"

Incidents of sexual abuse on the part of the clergy - particularly those targeting young people - are tragic and inexcusable. The perpetrators of this abuse deserve to be punished and the victims deserve appropriate compensation. The tragedy of this scandal is compounded however, by the advancing of fabricated claims, particularly claims against prominent clergymen that receive wide publicity.

These false allegations against senior church leaders have stimulated debate over whether those who bring such false allegations (or attorneys who aid them) should be held legally accountable. This debate need not be limited to false allegations of sexual misconduct lodged against church leaders, however; the same principles would apply to false allegations against secular leaders as well.

While debate over holding accusers and their attorneys accountable for making false accusations of sexual misconduct is a good start, such debate is likely to go nowhere given that most accusers are judgment-proof, the process of vindication is lengthy and cumbersome, and our legal system is unlikely to hold attorneys fully accountable for false claims of their clients, no matter how devastating to the accused. A better approach would be for the courts to subject claims of sexual misconduct to more rigorous scrutiny, and to require an advance showing of probable cause before permitting the filing of lawsuits alleging personal sexual misconduct.

This article appeared in the Autumn 2002 issue of the *Employee Relations Law Journal*.