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**ARTICLE: Once Bitten, Twice Bitten:
The Minnesota Court of Appeals Limits
the Recovery of Sex Abuse Victims in
Oelschlager v. Magnuson**

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Excerpt

Introduction

David Oelschlager, a member of Redeemer Covenant Church (Redeemer), was sexually abused by Redeemer pastor Albert Magnuson from September 1972 until June 1982. ¹ Magnuson abused Oelschlager while providing religious and emotional counseling to him. ² In 1991, Oelschlager used Minnesota's delayed discovery statute to file a personal injury action against Magnuson in Hennepin County District Court. ³ Under the theory of respondeat superior, he also brought claims against Redeemer and two of its governing bodies, the Northwest Conference of the Evangelical Church of America and the Evangelical Covenant Church of America. ⁴ At trial, the jury found Magnuson liable. Redeemer was therefore liable for Magnuson's actions under respondeat superior because his actions were found to be within the scope of his employment. ⁵ Redeemer appealed the decision, and the Minnesota Court of Appeals held that respondeat superior claims are not within the scope of Minnesota's delayed discovery statute. ⁶ Accordingly, Oelschlager's claim against Redeemer was untimely, and the Court of Appeals reversed the trial court's decision. ⁷

Minnesota's delayed discovery statute extends the statute of limitations for survivors of sex abuse who have repressed their memories of the abuse. The doctrine of respondeat superior imputes liability to employers of tortfeasors. After the Oelschlager decision, however, sex abuse victims who could ordinarily sue employers using both the delayed discovery statute and respondeat superior are denied use of the doctrine. ⁸

This Comment reveals the infirmities in the Oelschlager court's decision to exclude respondeat superior claims from the ...

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