

Mandel, 7 others face reinstated civil suit

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ANNAPOLIS — Maryland's intermediate appellate court ruled yesterday that a six-year-old, \$15 million civil suit against former Governor Marvin Mandel and seven other men may be brought to trial.

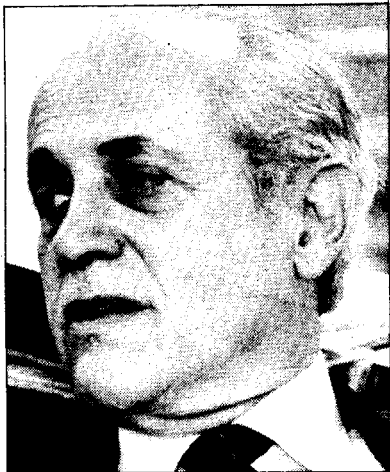
A three-judge panel of the Court of Special Appeals said the sons of Josephine M. O'Hara, a former part-owner of the now defunct Marlboro racetrack in Prince Georges county, may pursue the lawsuit on behalf of the estate of their late mother.

The 1978 suit contended the O'Hara family was defrauded when it sold Marlboro in December, 1971, to a secret group of investors later implicated in the scheme that led to the 1977 mail fraud and racketeering conviction of Mr. Mandel and five associates.

The Court of Special Appeals, in a decision written by Judge Theodore G. Bloom, partially reversed a Baltimore judge's decision last December dismissing the lawsuit as being filed after the time limit for such cases had expired.

The appellate court agreed with Circuit Court Judge Elsbeth L. Bothe that the statute of limitations had expired regarding the legal claims of Mrs. O'Hara's sons, James Francis O'Hara III and Michael Patrick O'Hara, who also had been part-owners of the track.

The court said the sons knew or should have known from the widespread publicity about the investigation of Mr. Mandel and his associates that they might have been de-



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Marvin Mandel is among eight persons sued for \$15 million.

frauded in the sale of the track, and therefore should have filed the lawsuit before a three-year limitation had expired.

The appellate panel, however, said evidence indicated Mrs. O'Hara's mental condition during the years the Mandel investigation unfolded was such that it "would have precluded her from following it and observing its significance to her cause of action."

Because of that, and because Mrs. O'Hara's sons were not appointed as guardians of her property and estate until November, 1978, the court said the statute of limitation had not expired regarding the legal claims on behalf of her estate.

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Named as defendants in the civil suit in addition to Mr. Mandel were the five men convicted with him: Irvin Kovens, W. Dale Hess, Ernest N. Cory, Jr., William A. Rodgers and Harry W. Rodgers III.

Also named were Eugene B. Casey and Irving T. Schwartz, who the O'Haras contended falsely presented themselves as stockholders to conceal the financial interest of the other defendants.

Paul Mark Sandler, attorney for

the O'Haras, called the decision "a great victory" for the family "because now they are going to be able to pursue their case."

But M. Albert Figinski, the attorney for Mr. Mandel and the other defendants, said he thought one or both of the litigants would appeal the decision to Maryland's highest court, the Court of Appeals.

"It's a suspicion, not a prediction," said Mr. Figinski, who said he had not yet had an opportunity to review the opinion.