



**DIOCESE OF MANCHESTER
OFFICE FOR MINISTERIAL CONDUCT**

**ALLEGATION OF SEXUAL ABUSE OF A MINOR
REPORT SUMMARY ~ CIVIL AUTHORITIES**

Date of Contact: 1/28/08 **Time:** 8:23 p.m. **Received by:** Gordon MacDonald

Complainant Name: [REDACTED] (Maiden Name):	
Address: [REDACTED]	
Telephone: //	
DOB: 07/31/69	E-mail:

Name of Reporter (if not Complainant): Peter E. Hutchins	Relationship: Attorney	
Telephone: 603-629-4566	Address: 670 North Commercial St., Box 808, Manchester, NH 03105	

Name of Accused: "Father Edward Townsend" *
Location (City/Town) of alleged abuse: Farmington, NH
Place of alleged abuse: Rectory parking lot and corner of Maple Street and Maple Court
Date of alleged abuse: Fall 1975 through early 1977
Nature of alleged abuse: Sexual contact as set forth in RSA 632-A:1, IV
Age of Complainant at time of alleged abuse: 6 - 7

Complainant has been informed that the Diocese of Manchester will report this allegation to law enforcement (Attorney General/ DCYF if applicable/local law enforcement) Yes ☒ No ☐
Specific Concerns: Attorney Hutchins is aware of the Diocesan requirement to make a report to the Attorney General.

Report to DCYF (if complainant under age of 18) 800-894-5533
Date of Contact: / /200 **Time:** :
Name of DCYF Intake Rep: Not applicable

Report to Brian Quirk (603-410-1530) for report to AG/law enforcement:
Date of Contact: January 28, 2008 **Time:** 10:30 a.m.

Notification to Chair, Diocesan Review Board (or in his/her absence, another member):
Date of Contact: 1/28/08 **Time:** 10:00 a.m.

Copy Distribution:
Delegate XX **Record Clerk** XX **Office for Healing and Pastoral Care** XX
Associate Delegate XX **Other:** ☐

* "Fr. Townsend" did not serve as a priest of the Diocese of Manchester and was not assigned in New Hampshire. The Diocese of Manchester is unable to identify him, as his name is not listed in the Official Catholic Directory.

Brodeur, Paul

From: Quirk, Brian M. [BQuirk@preti.com]
Sent: Tuesday, January 29, 2008 10:59 AM
To: Brodeur, Paul
Subject: Civil Report

Paul,

Following up on our discussions of yesterday regarding the claim by Attorney Peter Hutchins, I have attached the civil report form. The Diocese has researched whether a "Father Edward Townsend" was ever a priest for the Diocese of Manchester or was ever assigned by the Diocese. No information has been located regarding anyone by the name of Edward Townsend. A "Father Townsend" did not serve as a priest for the Diocese; a "Father Townsend" was never assigned by the Diocese in New Hampshire; and his name is not listed in the Official Catholic Directory.

I will update you if additional information is obtained. Please let me know if you have any questions.

Best regards,

Brian

Brian M. Quirk, Esq.
PretiFlaherty
57 North Main Street
P.O. Box 1318
Concord NH 03302

(603) 410-1530 Direct Dial
(603) 410-1501 Fax
bquirk@preti.com
www.preti.com
<[REDACTED]doc>>

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Brodeur, Paul

From: Brodeur, Paul
Sent: Wednesday, January 30, 2008 3:27 PM
To: 'Quirk, Brian M.'
Cc: Delker, Will; Huntress, Karen; Spath, Kristin
Subject: RE: Civil Report

Thanks Brian: I was going to send an email shortly but you beat me to it. I called Hutchins in an effort to get more specifics. He advised as you determined that Townsend was from Canada and was a friend the visited Chalifour on weekends. Supposedly Townsend would stop boys riding their bikes in the area. Supposedly [REDACTED] was victimized 12 times during 75 to 77. Hutchins believes that Townsend is now deceased. Hopefully that will help jog someone's memory.

Paul. E. Brodeur, Chief Investigator
Department of Justice
Office of the Attorney General
33 Capitol Steet
Concord, NH 03301
(603)271-1253
fax (603)223-6245

-----Original Message-----

From: Quirk, Brian M. [mailto:BQuirk@preti.com]
Sent: Wednesday, January 30, 2008 2:50 PM
To: Brodeur, Paul
Subject: RE: Civil Report

Paul,

Yes, the Diocese does keep records of the priests assigned to various parishes; and the priests listed below were assigned in Farmington during the time frame of the allegation:

Rev. Gerald E. Chalifour (pastor) June 3, 1970-September 8, 1976

Rev. Joseph S. Klatka (administrator) Sept. 8, 1976-September 15, 1976

Rev. Edouard J. Duval (pastor) Sept. 15, 1976-June 16, 1981(deceased)

The Diocese still has not located any record of a "Fr. Townsend" within any of its documents.

The Diocese conducted additional research beyond its own documents including reviewing the Official Catholic Directories ("OCD") for the 1970's through 2007, and today found a listing for an "Edward Townsend c.j.m., 3542 Rosemont Blvd., Montreal Province, Canada" in the OCDs for the years 1973, 1974, 1975 and 1976. There is no mention of him in any other years. CJM (Congregation of Jesus and Mary) is a religious order in Canada. Their contact information is: North American Province, 6125 Premier Avenue, G1H2V9, Charlesbourg Quebec, Canada; and their telephone number is 418-626-6494.

Please let me know if you have other questions or need additional information.

Brian

1/30 1622 ans. mail lft message

-----Original Message-----

1/30/2008

000689

From: Brodeur, Paul. [mailto:Paul.Brodeur@doj.nh.gov]
Sent: Tuesday, January 29, 2008 12:13 PM
To: Quirk, Brian M.
Subject: RE: Civil Report

Thanks Brian. I have forwarded to Will, Karen and Chris. Does the Diocese keep records of who was assigned in Farmington during the time period identified?

Paul. E. Brodeur, Chief Investigator
Department of Justice
Office of the Attorney General
33 Capitol Steet
Concord, NH 03301
(603)271-1253
fax (603)223-6245

-----Original Message-----

From: Quirk, Brian M. [mailto:BQuirk@preti.com]
Sent: Tuesday, January 29, 2008 10:59 AM
To: Brodeur, Paul
Subject: Civil Report

Paul,

Following up on our discussions of yesterday regarding the claim by Attorney Peter Hutchins, I have attached the civil report form. The Diocese has researched whether a "Father Edward Townsend" was ever a priest for the Diocese of Manchester or was ever assigned by the Diocese. No information has been located regarding anyone by the name of Edward Townsend. A "Father Townsend" did not serve as a priest for the Diocese; a "Father Townsend" was never assigned by the Diocese in New Hampshire; and his name is not listed in the Official Catholic Directory.

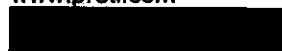
I will update you if additional information is obtained. Please let me know if you have any questions.

Best regards,

Brian

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Brodeur, Paul

From: Quirk, Brian M. [BQuirk@preti.com]
Sent: Friday, April 18, 2008 12:28 PM
To: Delker, Will
Cc: Brodeur, Paul
Subject: Update - Fr. [REDACTED]

Will,

As a follow-up to my call concerning the status of Fr. [REDACTED] I provide the following information so the Attorney General's Office records are updated. As way of background, Fr. [REDACTED] is [REDACTED] years old and has been a priest for the Diocese of Manchester for [REDACTED] years. Fr. [REDACTED] has not been the subject of any prior allegations of sexual misconduct or any type of misconduct in all his years of ministry. He is presently retired.

As further background, on March 4, 2008, the Diocese notified your office in writing that it had received a call that day from the [REDACTED] Police Department regarding a report and request for information concerning Fr. [REDACTED]. The [REDACTED] PD notified the Diocese that [REDACTED] alleged that he was sexually abused by Fr. [REDACTED] in 1978-79. Pursuant to diocesan policy, Fr. [REDACTED] was placed on precautionary administrative leave pending the outcome of the investigation.

The Diocese conducted its investigation of the allegation by Mr. [REDACTED] after the [REDACTED] Police Department and [REDACTED] County Attorney's Office advised that the statute of limitations prevented any prosecution of this matter.

On April 17, 2008, the Diocesan Review Board met and, based upon the findings and conclusions of the investigation, unanimously agreed that the allegation of sexual abuse by Fr. [REDACTED] was not probable and not true. The DRB also unanimously recommended that Bishop McCormack restore Fr. [REDACTED] back to ministry. Bishop McCormack accepted the recommendations of the DRB and the Delegate. Fr. [REDACTED] has been advised of the decision and Bishop McCormack has restored Fr. [REDACTED] back to ministry.

Please let me know if you have any questions.

Regards,

Brian

Brian M. Quirk, Esq.
PretiFlaherty
57 North Main Street
P.O. Box 1318
Concord NH 03302

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4/18/2008

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**DIOCESE OF MANCHESTER
OFFICE FOR MINISTERIAL CONDUCT**

**ALLEGATION OF SEXUAL ABUSE OF A MINOR
REPORT SUMMARY ~ CIVIL AUTHORITIES**

Date of Contact: 3/04/08 **Time:** 12:05 p.m. **Received by:** Brian Quirk

Complainant Name: [REDACTED]	(Maiden Name):
Address: // [REDACTED]	
Telephone: // [REDACTED]	
DOB: [REDACTED]	E-mail:

Name of Reporter (if not Complainant): [REDACTED]	Relationship:
Telephone: [REDACTED]	Address: [REDACTED] Police Department

Name of Accused: Rev. [REDACTED] (retired)

Location (City/Town) of alleged abuse: [REDACTED]

Place of alleged abuse: [REDACTED]

Date of alleged abuse: 1978-79

Nature of alleged abuse: Sexual contact as set forth in RSA 632-A:1, IV; Sexual penetration as set forth in RSA 632-A:1, V

Age of Complainant at time of alleged abuse: 11-12

Complainant has been informed that the Diocese of Manchester will report this allegation to law enforcement (Attorney General/ DCYF if applicable/local law enforcement) Yes ☒ No ☐
Specific Concerns: [REDACTED] has been advised of the Diocesan requirement to make a report to the Attorney General.

Report to DCYF (if complainant under age of 18) 800-894-5533

Date of Contact: / /200 **Time:** :

Name of DCYF Intake Rep: Not applicable

Report to Brian Quirk (603-410-1530) for report to AG/law enforcement:

Date of Contact: March 4, 2008

Time: 4:10 p.m.

Notification to Chair, Diocesan Review Board (or in his/her absence, another member):

Date of Contact: March 4, 2008

Time: 4:10 p.m.

Copy Distribution:

Delegate XX **Record Clerk** XX

Associate Delegate XX

Office for Healing and Pastoral Care XX

Other: ☐

Brodeur, Paul

From: Quirk, Brian M. [BQuirk@preti.com]
Sent: Tuesday, March 04, 2008 4:12 PM
To: Brodeur, Paul; Delker, Will
Subject: Civil Report

Paul and Will,

Please find attached a civil report regarding a claim by [REDACTED] that Fr. [REDACTED] (retired) sexually assaulted him in 1978-79. [REDACTED] of the [REDACTED] Police Department called me today regarding this matter and has been involved in the investigation. I will call you to discuss notification to the accused.

Brian

Brian M. Quirk, Esq.
PretiFlaherty
57 North Main Street
P.O. Box 1318
Concord NH 03302

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bquirk@preti.com
www.preti.com

<<Civil Report [REDACTED] DOC>>

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HILLSBOROUGH COUNTY SUPERIOR COURT

NORTHERN DISTRICT
300 Chestnut Street
Manchester, N.H. 03101
(603) 669-7410

RECEIPT OF WRIT

Date: March 3, 2009

Docket Number 09-C-131

John Doe for himself and on behalf v. Roman Catholic Bishop of
of all others similarly situated of Manchester, Inc.
a/k/a the Roman Catholic
Diocese of Manchester
Parishes & Deaneries within
the Diocese of Manchester,
including but not limited
to St. Martin Parish in
Somersworth NH and the
Seacoast Deanery
Various John Does Employed
by or Associated with the
defendant Diocese, its
parishes and deaneries

The writ in the above-captioned matter was filed with the Clerk
of this Court on March 3, 2009.

The Plaintiff or his/her attorney is to attach a copy
of this receipt to identical copies of the original writ
and deliver them to the Sheriff or other legally authorized
entity for service on each named defendant. Sufficient
copies shall be provided to allow for a service copy for
each named defendant and a copy for each officer completing
service to complete the return. The return copies shall be
filed with the court in accordance with Superior Court Rule 3.

By Order of the Court

John M. Safford, Clerk

JMS/jel

cc: Peter E. Hutchins, Esq.
Wiggin & Nourie
P.O. Box 808
Manchester, NH 03105

The State of New Hampshire

SUPERIOR COURT

HILLSBOROUGH COUNTY
NORTHERN DISTRICT

() COURT
(xx) JURY

WRIT OF SUMMONS

JOHN DOE for himself
and on behalf of all others v.
similarly situated
281 N. State Street
Concord, NH 03301

- 1) ROMAN CATHOLIC BISHOP OF MANCHESTER, INC
(incorporate sole) a/k/a the Roman
Catholic Diocese of Manchester
153 Ash St., Manchester, NH
- 2) PARISHES & DEANERIES within the Diocese
of Manchester, including but not limited
to St. Martin Parish in Somersworth NH
and the Seacoast Deanery
120 Maple St., Somersworth, NH

- 3) VARIOUS JOHN DOES Employed by or Associated with the Defendant
Diocese, its parishes and deaneries

The Sheriff or Deputy of any County is ordered to summon each defendant to file a written appearance with the
Superior Court at the address listed below by the return day of this writ which is the first Tuesday of JUNE,
2009 YEAR MONTH

The PLAINTIFF(S) state(s): SEE ATTACHED DECLARATION.

and the Plaintiff(s) claim(s) damages within the jurisdictional limits of this Court.

JOHN DOE AND ALL OTHERS
INDORSER (sign and print name)

3-3-09
DATE OF WRIT

NOTICE TO THE DEFENDANT

The Plaintiff listed above has begun legal action against you. You do not have to physically appear in Court on the return day listed above since there will be no hearing on that day. However, if you intend to contest this matter, you or your attorney must file a written appearance form with the Clerk's Office by that date. (Appearance forms may be obtained from the Clerk's Office.) You will then receive notice from the Court of all proceedings concerning this case. If you fail to file an appearance by the return day, judgment will be entered against you for a sum of money which you will then be obligated to pay.

WIGGIN & NOURIE, PA

Witness, Robert J. Lynn, Chief Justice, Superior Court.

John M. Safford
John M. Safford, Clerk
NH Superior Court Hillsborough County
Northern District
300 Chestnut St.
Manchester NH 03101-2490
(603) 669-7410
213-003-3

PETER E. HUTCHINS
SIGNATURE OF PLAINTIFF/ATTORNEY

PETER E. HUTCHINS
PRINTED/TYPED NAME

PO Box 808
ADDRESS

Manchester, NH 03105
ADDRESS

603-629-4566
PHONE

000698

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS
NORTHERN DISTRICT

SUPERIOR COURT

John Doe,¹ for himself and on behalf of
All others similarly situated
281 No. State Street
Concord, NH

v.

Roman Catholic Bishop of Manchester, Inc. (a corporate sole)
a/k/a the Roman Catholic Diocese of Manchester
153 Ash Street
Manchester, NH

&

Parishes and Deaneries within the Diocese of Manchester, including but not
limited to St. Martin Parish in Somersworth, NH and the Seacoast Deanery
St. Martin Parish
120 Maple Street
Somersworth, NH

&

Various John Does Employed by or Associated with the Defendant Diocese, its
parishes and deaneries

09-C-_____

SPECIAL DECLARATION FOR CLASS ACTION

¹ John Doe's identity is known to the Defendant Diocese and its representatives, and has been known to the Diocese for a number of months. Upon information and belief, the Diocese has for many months been in possession of a videotape of John Doe's recent disclosure of the facts and circumstances giving rise to this action to the Somersworth Police Department. At the time of filing, John Doe, for reasons of his personal and emotional safety and health, wishes to be identified only as John Doe. There is no prejudice to the defendants in this request given the information in their possession regarding this very person and his specific allegations. The plaintiff has filed with this writ of summons a Motion for Leave to Designate Plaintiff as "John Doe."

PARTIES

1. Plaintiff John Doe. is a 42 year old male resident of Concord, New Hampshire. He was sexually molested and abused by a Catholic priest, Father M.² [hereinafter "Father M." or simply "M"], who was incardinated into and employed by the defendant Diocese of Manchester [hereinafter "Diocese"] and who, at the time of the abuse, was assigned to and ministering at St. Martin Parish, part of the Seacoast Deanery, in Somersworth, New Hampshire.³ The abuse arose from M's employment and ministry as a priest, and occurred while the plaintiff was a minor in or about the year 1978.

2. Defendant Roman Catholic Bishop of Manchester, Inc., a corporate sole, is a non-profit corporation comprised by the Diocese of Manchester and the Roman Catholic Church in New Hampshire. Defendant's primary business location is 153 Ash St., City of Manchester, County of Hillsborough, State of New Hampshire. Accordingly, for purposes of venue, Hillsborough County, Northern District in Manchester, NH is proper.

² The priest alleged to have abused John Doe is referred to in this Complaint as "Father M." This is being done, at this stage of the proceedings, as a courtesy from undersigned counsel to the attorney representing the priest, who specifically requested that the priest's name be kept private pending the resolution of certain legal issues that may be presented to the Court in this case prior to an actual trial on the merits. This reference is done without prejudice, and again, solely and exclusively as a professional courtesy to the priest's attorney. Whether the defendants identified in this suit, and in particular the Diocese, desire to make the accused priest's identity public is completely up to them and to Father M. who, upon information and belief, although retired, is still a fully ordained priest in the Diocese of Manchester.

³ Father M. was assigned by the Diocese to the following New Hampshire parishes during his career as a priest: St. Joseph, Hinsdale (1952); Guardian Angel, Berlin (1953); St. Louis Hospital, Berlin (1955); Holy Rosary, Rochester (1960); St. Cecelia, Wolfboro (1965); St. Aloysius, Nashua (1966); St. Leo, Gonic (1968); St. Martin, Somersworth (1970-1985); St. Theresa, Manchester (1985); retired - 1997. The Somersworth Police Department conducted an interview of the plaintiff in January of 2008 in connection with a criminal investigation of M which was ultimately suspended due to expiration of the criminal statute of limitations.

3. The Diocese of Manchester is divided into nine territorial districts or deaneries. Each deanery has a dean with supervisory responsibility over that deanery.

4. Within each deanery are parishes, typically comprised of a church building, other property or buildings (often including rectories), and in some instances with attached and/or associated schools.

5. Priests are male employees of the Diocese, ordained by the Diocese (incardinated into the Diocese) who, in most instances, are assigned by the Diocese on a yearly basis to minister and serve at a particular parish or in a particular ministry within the Diocese. They receive financial pay and other support and benefits from the Diocese.

6. Upon information and belief, parishes are independent financial entities for certain purposes, and do pay money to the Diocese in order to financially sustain the Diocese and its operations.

7. The John Doe defendants in this action represent officers, directors, employees, servants or agents of the defendant Roman Catholic Bishop of Manchester, Inc. and/or the Diocese of Manchester, its parishes, deaneries, schools, camps or other related entities who, as part of their employment (or agency) for the defendant Diocese, had authority and/or responsibility for the screening, hiring, supervision, retention and placement of priests within the Diocese, who had any knowledge, actual or constructive, or allegations of sexual abuse against priests or other employees of the Diocese and its parishes, or of the

propensities of such priests or other employees to commit sexual abuse and/or responsibility for the development and implementation of policies to prevent and address sexual abuse.

CLASS ACTION ALLEGATIONS

8. Plaintiff brings all claims herein as class claims pursuant to Rule 27-A of the Rules of the Superior Court, RSA 358-A:10-a, and common law of the State of New Hampshire. The requirements of the Superior Court Rule, Consumer Protection Act and common law are met with respect to the class defined below.

9. **The class consists of minor victims of sexual abuse (as defined by New Hampshire's criminal code for sexual offenses) by priests or other individuals employed by the Defendant Diocese and/or its parishes, and/or serving in any capacity in any of the churches, schools or camps which fall within the auspices of the Diocese and its deaneries. Plaintiff seeks certification of this class as an "opt out" class.**

10. The class is so numerous that joinder of all members is impracticable. Superior Court Rule 27-A(a)(1). Since 2002, over 200 victims of sexual abuse by New Hampshire priests have come forward. Over 100 of these victims have been represented by undersigned counsel. On March 3, 2003, the New Hampshire Attorney General's Office released a public report concerning the abuse of minors by New Hampshire priests. This report is discussed further, *infra*. In that report alone, over 35 New Hampshire priests were identified by name as having been accused of sexual abuse of minors spanning decades -- from as early

as the 1960's. Undersigned counsel is personally aware of the identities of priests against whom allegations of sexual abuse of minors have been made that are not included in that partial list, including but not limited to Father M. who sexually abused plaintiff John Doe, and is also aware of priests who molested minors as early as the 1950's. Many if not most of the priests involved molested and sexually assaulted multiple victims. Several of these individual priests have been criminally convicted, and/or are currently in prison, including Fathers Roger Fortier and Gordon MacRae. Because of the lax and tolerant attitude of the defendants toward sexual abuse, given that this abuse involved so many priests and spanned decades, and because of the tendency of sexual abusers to have multiple victims over time, there is reason to believe that the total number of class members will far exceed the individual victims of this sexual abuse that have been identified to date. The exact number of class members can only be determined through discovery and by means of published notice to class members. Undersigned counsel does currently represent other individuals who would qualify as members of this class other than John Doe, the representative plaintiff in this action

11. There are questions of law and fact which are common to all members of the class, which questions predominate over any question affecting individual class members. Superior Court Rule 27-A(a)(2). It is anticipated that there will be two primary legal issues in this matter: (1) the legal duties owed by defendants to members of the class; and (2) the nature and scope of the statute of

limitations defense which may be asserted by the defendants. The law to be applied in each of these issues will be the same for all members of the class.

12. The issues of the tolling of the statute of limitations due to the discovery rule, fraudulent concealment and equitable tolling will be common to claims of all class members.

13. Defendants' alleged violation of duties owed to all class members include: (1) negligent training, supervision, discipline and retention of abusive priests and other employees and agents; (2) negligent failure to investigate and report to appropriate authorities instances of sexual abuse; (3) negligent failure to warn and protect the members of the class from abuse; (4) negligent performance of a voluntary undertaking; (5) negligent hosting; (6) negligent operation and administration of diocese and parishes; (7) breach of fiduciary duty; (8) civil conspiracy and (9) vicarious liability. These claims, the legal standards to be applied to each claim, and the facts necessary to prove each claim, are common to the claims of all class members.

14. The claims of the representative plaintiff is typical of the claims of all members of the class. Superior Court Rule 27-A(a)(3). Plaintiff John Doe was a minor at the time he was abused by Father M. M was a parish priest and was incardinated into the defendant Diocese, assigned to St. Martin parish by the Diocese. John Doe was a minor parishioner at M's parish and was an altar boy. For at least part of his school years as a minor, he attended the parish school. The abuse took place on parish property, and arose directly from M's role as a parish

priest. John Doe was an altar boy at the time of the abuse. The abuse involved multiple instances of sexual contact and assault as defined in New Hampshire's criminal code, including oral sex, digital penetration and sodomy. John Doe has suffered significant and lifelong damage as a result of the abuse.

15. The representative plaintiff will fairly and adequately represent and protect the interests of the class members. Superior Court Rule 27-A(a)(4). John Doe's interests coincide with and do not conflict with the interests of other class members. He has retained competent counsel experienced in civil sexual abuse matters generally, and against this Diocese and other religious organizations and order in particular. Undersigned counsel has handled and successfully litigated / settled approximately 200 such cases in New Hampshire since the year 2002. He has brought suit against this and other religious entities.

16. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Superior Court Rule 27-A(a)(5). The subjects of discovery, as well as the nature of any discovery disputes, will be the same or very similar for all class members. Separate actions brought statewide by different counsel in different courts with different trial judges may result in conflicting, inconsistent and incompatible legal and factual determinations. Maintenance of a class will allow for the orderly prosecution and efficient preparation of these cases and will provide the best opportunity for settlement. A class action will avoid numerous trials, duplicative and burdensome discovery and depositions, and will allow these cases, if necessary, to be tried in an orderly and

comprehensive manner, facilitating a jury's proper and consistent understanding of the claims and ultimate determination of the facts. A class action will also define, frame and unify for purposes of appeal any legal issues requiring decision by the New Hampshire Supreme Court, all of which would be legal issues common to all members of the class. A class action will afford the defendants the opportunity to evaluate and respond to their liability and exposure in an orderly, predictable and complete manner. It will afford the defendants the opportunity to deal in a constructive way with members of the class who all suffered harm as the result of sexual abuse by members, employees and agents of the defendant Diocese and its parishes. Importantly, during the past 6+ years, approximately 200 claims of sexual abuse against the defendant Diocese have been settled using a system for financial compensation to victims which achieved a fair and reasoned distribution of settlement proceeds among all claimants regardless of certain differences in the facts and circumstances surrounding their particular allegations of abuse and damage. In short, history in New Hampshire with the settlement of cases for individuals who would qualify for the very class now presented is evidence that a class action approach is not only proper under New Hampshire law, but can work.

17. To the extent necessary to enhance and promote the orderly prosecution of the claims of qualifying members of the class, the class itself can be divided into subclasses at any time during this litigation.⁴

⁴ "In defining the scope of the proper class, courts consider numerous factors, including the identifiability and manageability of the class, the standing of the members, the existence of any statute of limitations

18. Counsel for the plaintiffs will adequately represent the interests of the class. Superior Court Rule 27-A(a)(6). Counsel is highly experienced in civil sexual abuse matters generally, and against this Diocese and other religious organizations and order in particular. Undersigned counsel has handled and successfully litigated / settled approximately 200 such cases in New Hampshire since the year 2002, and has in fact brought a prior action against this defendant. *See Galluzzo v. Roman Catholic Bishop of Manchester, Inc., a/k/a or d/b/a The Diocese of Manchester, et al*, (Hillsborough Cty. Sup.Ct. – North) (02-C-239).

THE STATUTE OF LIMITATIONS

19. John Doe never forgot the sexual abuse committed against him by Father M. Due to the shame, guilt and other emotional impact on the plaintiff associated with the abuse, as well as due to M's insidious use of his position conferred upon him by the Diocese and the parish to endear himself to the community, the plaintiff was never in a position personally to disclose or otherwise deal with what had occurred to him until recently. In fact, he made a full disclosure to the Somersworth Police Department in January of 2008 in the hopes of pursuing criminal charges against Father M. Following that disclosure and an investigation by the Somersworth Police Department, it was determined that the criminal statute of limitations had expired. It was after this determination that John Doe began to explore pursuing a civil action.

difficulties, as well as the similarity of the issues raised and the relief sought." *State Employees Association vs. Belknap County*, 122 NH 614, 624 (1982).

20. On March 3, 2003, the New Hampshire Attorney General's Office made public for the first time a 154 page report outlining findings of neglect and criminal culpability against the defendant Diocese of Manchester for years of concealment of its priests sexually abusing minors. These now public written findings discussed and alleged the following potential criminal violations of the Diocese and members of its hierarchy through the years:

(a) **Child Endangerment – RSA 639:3;**

That the Diocese had a duty of care to its child parishioners, that it purposely breached these duties, and that it knowingly endangered children for decades with respect to numerous priests;

(b) **Contributing to the Delinquency of a Minor – RSA 169:32;**

(c) **Violation of Mandatory Reporting of Child Abuse – RSA 169-C:29;**

(d) **Compounding (conferring a benefit on another as consideration for refraining from instituting criminal investigations) – RSA 642:5;**

(e) **Perjury, False Swearing and Unsworn Falsification; and**

(f) **Corporate Liability, including “Willful Blindness.”**

21. It was upon the public release of this report on March 3, 2003, and the documented proof contained therein relative to the above conduct of the defendant Diocese relative to the negligent and/or willful failure to take action against perpetrating priests and otherwise protect child parishioners through the decades, that the plaintiff and other similarly situated victim plaintiffs were in a position to “discover” for the first time that “acts or omissions” of the Diocese and/or its member parishes, including St. Martin, caused or contributed to cause

the injuries suffered by these victims as a result of the sexual abuse committed against him by priests, and that the Diocese and/or its parishes, including St. Martin, knew or should have known of the offending priest(s') conduct and propensities, and thereafter negligently failed to do anything about it, exposing the plaintiff to the abuse he and other members of the class foreseeably suffered..

22. This action has been brought within six (6) years of March 3, 2003. Since this abuse occurred before July 1 of 1986, the civil statute of limitations for the filing of such actions is six (6) years from the date of discovery. Accordingly, this matter is timely under New Hampshire's applicable "discovery rule." RSA 508:4-g, II (2008); *Conrad v. Hazen*, 140 NH 249 (1995); *Berry v. Watchtower*, 152 NH 407, 422-23 (Dalianis, J., dissenting in part, concurring in part); *Chesley v. Harvey Industries*, 157 NH 211 (2008).

23. Pending further discovery in the case, the plaintiff further reserves the right, if necessary, to invoke the doctrines of fraudulent concealment and equitable tolling with respect to any challenge made to this action under the statute of limitations. In fact, the aforementioned report of the Attorney General's Office lends further support to each of these alternative theories. From an equitable standpoint, the importance of allowing the plaintiff and other members of the class to seek compensation for their injuries in this matter, particularly in light of the information contained in the March 3, 2003 report of the New Hampshire Attorney General's Office, outweighs any prejudice to these defendants of having to defend this matter years after the abuse giving rise to this action occurred. To

the extent the defendants intend to raise an affirmative defense alleging expiration of the statute of limitations, this is all the more reason under Superior Court Rule 27-A that this class should be certified.

**SPECIFIC FACTUAL ALLEGATIONS IN CASE OF CLASS
REPRESENTATIVE⁵**

24. In and about the year 1978, John Doe [the plaintiff], who was eleven years old at the time, resided in the “projects” of Somersworth, New Hampshire with his mother, father and six brothers.

25. He served as an altar boy at St. Martin parish in Somersworth as had some of his brothers before him. He served as an altar boy at least once per week on Sundays, and occasionally more often on other occasions including funerals.

26. Father M., a priest incardinated into the defendant Diocese, was the parish priest at the time.

27. At some point, most likely early in 1978, M began to befriend the plaintiff, treat him nicely, and otherwise make him feel special.

28. At the time, John Doe was experiencing problems at home, particularly with his brothers and with his father, who was often absent, intoxicated, and otherwise unapproachable. The plaintiff actually was in fear of his father.

29. M, on the other hand, was nice to the plaintiff, would often put his

⁵ Representative plaintiff's specific allegations confirmed in report of Somersworth Police Department following interview of plaintiff by police department officials in January of 2008 during criminal investigation against Father M which was ultimately suspended due to expiration of the criminal statute of limitations.

hand on his shoulder, and gave him the time and attention he was not getting at home from an adult male figure.

30. The sexual abuse and contact began in the sacristy area when the plaintiff, in his role as an altar boy, would be putting on his robe (cassock). M, under the guise of helping the plaintiff adjust the robe, began to touch the plaintiff's genitals over his clothing. M asked the plaintiff if he "liked that," and the plaintiff, never having had a discussion with his parents about the "right and wrong" of sex, did not know what to think and shrugged his shoulders.

31. The abuse escalated when, one day, M called the plaintiff into the bathroom and asked him if he had ever seen a penis. At the time, the plaintiff thought M was only going to the bathroom. He then observed that M simply had his penis out of his pants. M asked the plaintiff to touch it. When the plaintiff did nothing but shrug his shoulders, M took the plaintiff's hand and guided it to his penis, saying "see, its not that bad." M then forced the plaintiff to perform oral sex on him. Prior to that time, the plaintiff didn't know anything about male erections, or what they meant. M then had the plaintiff pull his pants down, exposing his genitals. M then touched the plaintiff's penis.

32. These episodes continued on a relatively frequent basis. M would typically have the plaintiff perform oral sex on him, and then M would also perform oral sex on the plaintiff. These instances of abuse would typically occur in the bathroom.

33 This abuse further escalated to digital penetration and then to

sodomy. On one occasion, M pulled down the plaintiff's pants, applied cream to his buttocks area, and attempted penetration. The plaintiff was crying, and M stopped. On a second occasion, M did penetrate the plaintiff, causing him significant pain.

34. Following these occasions of abuse, molestation and rape, M would typically tell the plaintiff not to tell anyone, and that if he did, they would take the plaintiff away from his family and put him in an orphanage.

35. During this time, the sexual abuse caused significant confusion to the young plaintiff, and in particular, with respect to what was an appropriate relationship between men and between men and women.

36. Following the instance of sodomy, the plaintiff began to attempt to avoid M, sometimes hiding in the woods rather than going to church.

37. As a result of this abuse, the plaintiff began using marijuana as early as the 7th grade, and progressed to abusing both alcohol and drugs – all as a means to numb himself from the shame, guilt and confusion caused by the abuse. This alcohol and drug abuse continued through his adult life. He has been to rehabilitation for these addictions on numerous occasions. He has been caused to suffer sexual identity confusion, and has frequently considered suicide. He ended up getting into serious criminal trouble. The serious abuse suffered by the plaintiff ruined his life, and further caused his family and his own children pain and shame.

BASES OF LIABILITY

38. The following "Counts" represent the individual legal claims of the representative plaintiff and the "class" as establishing the legal liability of the defendants under New Hampshire law:

COUNT I

(Negligence of the Defendant Diocese and Parish)

IN A PLEA OF THE CASE whereby the plaintiff complains against Defendant Diocese and St. Martin parish, their predecessors, directors, officers, administrators, employees and agents and states that at all relevant times to this matter the defendants owed to the plaintiff a duty to exercise reasonable care in the training, retention and supervision of their employee priests including Father M, which included but was not limited to the adoption and enforcement of reasonable policies and procedures for the testing, screening, instructing, counseling and/or monitoring of its employees, including its parish priests; that the defendant Diocese further owed to the plaintiff a duty to exercise reasonable care in the operation and administration of the Diocese and its member parishes and other sponsored activities; that the defendant parish owed a similar duty with respect to the operation and administration of its own parish; that the defendants, their employees, agents, servants and administrators owed the plaintiff certain additional legal duties at law arising, in part, from the relationship between the defendants and the plaintiff, including but not limited to (1) a duty to exercise reasonable care in avoiding an act or omission which it knew or should have known would expose plaintiff to an unreasonable risk of harm through the negligent, reckless or intentional conduct of M (Restatement, Second, Torts §§ 302, 302A, 302B); (2) a duty to act reasonably and avoid negligent acts which the defendants intended, or realized or should have realized would prevent the taking of actions for the protection of the plaintiff (Restatement, Second, Torts § 305; (3) a duty to exercise reasonable care in performing duties and responsibilities voluntarily undertaken (negligent hosting) (Restatement, Second, Torts § 323, 324; (4) a duty to exercise reasonable care to protect him from an unreasonable risk of harm (Restatement, Second, Torts §314A generally and comment b); (5) a duty to exercise reasonable care to control its employees, including M, to prevent exposing the plaintiff to an unreasonable risk of harm (Restatement, Second, Torts § 315); (6) a duty to exercise reasonable care in the performance of an undertaking (Restatement, Second, Torts § 324A); (7) a duty to warn plaintiff from exposure to an unreasonable risk of harm; (8) a duty to exercise reasonable care to act upon obtaining knowledge of the plaintiff's exposure to harm (Restatement, Second,

Torts §321); (9) a duty to provide reasonable security for its minor parishioners, including the plaintiff; (10) a duty to adopt reasonable policies and procedures for the protection of its minor parishioners; and (11) a duty to exercise reasonable care in avoiding negligently inflicting emotional distress on the plaintiff; that nevertheless and despite the existence of these tort duties at law the defendants, their agents, employees, servants and administrators negligently breached each and every one of them; specifically, and without limitation and subject to further discovery, (a) the defendant failed to properly and reasonably screen, test and otherwise instruct and prepare M for his role as a parish priest and mentor to minor boys; (b) the defendant failed to adopt and/or follow reasonable policies and procedures relative to the boundaries between its adult priests and minor parishioners; (c) the defendants failed to supervise and periodically monitor their priests; (d) the defendants allowed their priests who resided in parish rectories to be alone with minor parishioners on church and parish property; (e) the defendants failed to adopt policies and procedures relative to the sexual abuse of minors by priests, including but not limited to policies, procedures and requirements relative to the reporting of abuse observed by their employees; (f) the defendants failed to adopt policies and procedures whereby minor parishioners, were provided with a reasonable mechanism to report instances of sexual abuse either committed against them or observed by them relative to abuse committed against others; (g) the defendants failed to prohibit its priests from refraining from residing or being alone with minors in the parish rectory; (h) that the defendants negligently appointed M to St. Martin parish in 1970 and retained him at that location until 1985, and continued to employ M as a parish priest in the defendant Diocese until his retirement in 1997;⁶ as a direct and proximate result of this negligence breach of duty by the defendants, its employees, agents, servants, directors, officers and administrators, the sexual abuse committed against the plaintiff by Marchand, as described in detail *supra.*, took place; as a direct and proximate result of these occurrences, the plaintiff has suffered damage, in particular and without limitation, severe physical, emotional, mental and spiritual harm and injury; physical and emotional pain and suffering; long term psychological damage; relationship and marital problems; economic loss with respect to psychological treatment and counseling, loss of educational opportunities, loss of income and earning capacity; hedonic damages (loss of enjoyment of life); permanent and future damage; accordingly, the plaintiff demands judgment against the defendant in an amount within the minimum and maximum jurisdictional limits of this court, together with enhanced compensatory damages, costs and interest.

⁶ See the following cases for additional New Hampshire authority for some of the claims of legal liability made in this and subsequent counts in this declaration: *Marquay v. Eno*, 139 NH 708 (1995); *Walls v. Oxford Management Company*, 137 NH 653 (1993); *Schneider v. Plymouth State College*, 144 NH 458 (1999).

COUNT II

(Breach of Fiduciary Duty against Diocese and Parish)

IN A PLEA OF THE LAW whereby the plaintiff repeats and incorporates by reference all material allegations contained in this declaration, *supra.*, and further states that the defendants, their predecessor corporation, its employees, agents, administrators, officers and directors owed to the plaintiff a fiduciary duty at law; this fiduciary relationship required the defendants, upon conducting activities involving minor parishioners including the plaintiff, to act in good faith and due regard for his interests; this fiduciary duty further imposed upon the defendants a duty to adopt and enforce practices that will minimize the danger that vulnerable minors will be exposed to sexual harassment and abuse; that this fiduciary duty further required the defendants to undertake measures to create, communicate and implement a well-designed grievance procedure involving the minors and their parents to effectively deal with clergy misconduct, provide and accessible and fair forum for receiving, handling and investigating student complaints relative to inappropriate sexual contact or conduct; the creation, communication, implementation and enforcement of policies and procedures designed to ensure prompt and certain discipline against any priest or other employee of the Diocese and/or parish for inappropriate sexual contact with minors; and thereby promote and create an environment at the parish in which minors, their parents and clergy and employees alike understand clearly that sexual harassment or abuse is not tolerated, and that offenders will be disciplined; *see Schneider v. Plymouth State College*, 144 NH 458, 462-63 (1999); that nevertheless and despite the existence of this fiduciary duty the defendants breached it as described in this declaration, *supra.*; as a direct and proximate result of this breach of fiduciary duty the plaintiff was sexually assaulted Father Richard on multiple occasions as described *supra.*; that as a result of this sexual abuse, the plaintiff was caused to suffer the injury, harm and damage set forth fully in Count I; accordingly, the plaintiff seeks judgment against the defendant, its predecessor corporation, its employees, agents, administrators, officers and directors for breach of fiduciary duty in an amount within the minimum and maximum jurisdictional limits of this court together with enhanced compensatory damages, costs and interest.

COUNT III

(Vicarious Liability of Defendants Diocese and Parish)

IN A PLEA OF THE LAW whereby the plaintiff repeats and incorporates by reference all material allegations contained in Counts I and II of this Declaration, including the introductory paragraphs, and states further that at all

relevant times Father M was an employee, servant or agent of both defendants, the Diocese and parish; that during the commission of the tortious conduct as set forth in this declaration and as specifically alleged in Counts I and II, M was acting in and during the course of this employment and within the scope of his agency in that he was ministering to the plaintiff and his family in accordance with his duties as a parish priest at St. Martin parish; that in addition, the sexual abuse committed against plaintiff by M arose directly from M's employment and role as a parish priest; that the defendant Diocese and defendant parish are also vicariously liable for the conduct of M under theories of apparent authority and/or the legal theory of "aided by agency relationship;" moreover, the defendants Diocese and parish are vicariously liable for any acts of negligence of any of its employees, agents or servants other than Richard, including but not limited to the negligence of the employee who observed this sexual abuse or sexual abuse or suspicions thereof involving M and any minor and failed to take any subsequent action; accordingly, in accordance with the doctrine of respondeat superior, both the defendant Diocese and the defendant parish are vicariously liable for the acts committed by M as alleged *supra.*, accordingly, the plaintiff seeks judgment against both the defendant Diocese and parish, their employees, agents, administrators, officers and directors in an amount within the minimum and maximum jurisdictional limits of this court, together with enhanced compensatory damages, costs and interest.

COUNT IV

(Civil Conspiracy against the Defendant Diocese and Parish)

IN A PLEA OF THE LAW whereby the plaintiff repeats and incorporates by reference all material allegations and legal claims contained in this declaration, *supra.*, and states further that defendants Diocese and Parish, their employees, agents and/or servants, conspired to conceal and otherwise prevent disclosure, criminal investigation and/or prosecution, or publication of the identities of priests or employees whom they knew or should have known either committed abuse against minors, including the plaintiff, or were likely to do so; that the ultimate end of this agreement was to obstruct the ability of law enforcement to prosecute the offenders, and/or to withhold and conceal relevant and important information regarding child abuse from authorities pursuant to New Hampshire law, including statutory law, and from the plaintiff and others associated with the Diocese, its parishes, and its sponsored youth programs; the defendants and their co-conspirators agreed upon a course of action, and undertook one or more unlawful overt acts in furtherance of the unlawful ends of the conspiracy; the conspiracy directly and proximately caused the injuries and damages sustained by the plaintiff as described fully in Count I of this complaint, *supra.*, accordingly, the plaintiff demands judgment against the defendant in an amount within the minimum and

maximum jurisdictional limits of this court, together with enhanced compensatory damages, costs and interest.

COUNT V

(Heightened Duty of Care)

IN A PLEA OF THE LAW whereby the plaintiff repeats and incorporates by reference all material allegations and legal claims contained in this declaration, *supra.*, and states further that a special relationship existed between the plaintiff and the defendants in this matter given the fact that the plaintiff was a minor parishioner at the defendant parish which was and is a parish within the defendant Diocese; that the parish was a religious parish / entity; and that the defendants were members of a religious Catholic Diocese; that the nature of this relationship and the factors listed above induced minor parishioners and their parents to confer complete and unquestioning trust on the defendants and their clergy, priests, employees and administrators; that because of the existence of this special relationship, the duties owed by the defendants as described in the preceding Counts of this declaration were heightened above a standard of ordinary care; that the defendants failed to act in accordance with their heightened duty of care as described *supra.* in this declaration, and that this failure directly and proximately caused the injuries and damages sustained by the plaintiff as described fully in Count I of this complaint, *supra.*, accordingly, the plaintiff demands judgment against the defendant in an amount within the minimum and maximum jurisdictional limits of this court, together with enhanced compensatory damages, costs and interest.

COUNT VI

(Consumer Protection Act Violation – RSA 358-A)

IN A PLEA OF THE LAW whereby plaintiff repeats and incorporates by reference all material allegations contained *supra.*, and states further that the defendant Diocese and parish, for purposes of RSA 358-A, were in the business of providing religious and other services to members of the public, including Roman Catholic individuals; that as a result of the negligent and/or intentional conduct described *supra.* in this declaration, the defendant Diocese and parish used unfair and deceptive acts or practices in that the expressly or impliedly represented to the public and parishioners that their employees, and in particular priests, were properly screened, trained and supervised, and that they were otherwise fit persons for the purpose of ministering to minors, and that said individuals did not pose a danger to said minors; that said representations not only made parishioners feel

that it was safe and appropriate to entrust their minor children to said priests, but further purposely cloaked said priests with an image that said priests were moral, religious, celibate, and otherwise would act in a moral, upstanding and legal manner, particularly with respect to minors; that these representations were untrue, and in fact, numerous such priests were not properly screened, trained or monitored, and in many cases, the defendant Diocese and/or the parishes knew or should have known that said representations were false and misleading, and that said priests did in fact pose a risk of harm and danger to minors; that said misrepresentations were purposeful for the purpose of inducing reliance upon members of the public to join Diocese parishes, and to contribute financially and otherwise to the economic viability and maintenance of the defendants' corporate and financial interests; that as a result of these false, misleading and deceptive practices, all in violation of RSA 358-A:2, members of the public, including parishioners, were knowingly and purposefully induced to trust their minor children to the care and supervision of defendants' employees, namely priests, and in the case of John Doe, to Father M., that as a direct and proximate result of this induced reliance, John Doe was sexually assaulted and molested as described herein, suffering the damages claimed and sought in this case; the plaintiff demands judgment for said damages, and further, pursuant to RSA 358-A:10, I, seeks multiple damages and an award of attorneys fees and costs for the purposeful, knowing and willful nature of the defendants' violations of 358-A:2 as described herein, together with costs and interest.

COUNT VII

(Enhanced Compensatory Damages)

IN A PLEA OF THE LAW whereby the plaintiff repeats and incorporates by reference all material allegations contained supra., including the introductory paragraphs of this Declaration, and states further that while punitive damages are not recognized or allowed under New Hampshire law, enhanced compensatory damages are allowed upon a showing that the conduct of the defendant(s) was willful, malicious, and/or oppressive; in addition, enhanced compensatory damages have been held under New Hampshire law to apply specifically to certain of the legal claims made by the plaintiff in this case, that the purpose of such damages are to provide damages to a plaintiff for the aggravating circumstances and degradation arising from the nature of the tortious conduct alleged and the fact that this conduct was undertaken in the context of ministering to minors in a Diocese parish and rectory; that the plaintiff has requested said damages expressly in each Count in this declaration; that other than the very nature of the conduct and omissions giving rise to the plaintiff's injuries and damages as set forth herein, the plaintiff further states that the acts, conduct and omissions of all defendants was made even more outrageous by the fact that this sexual abuse took place on parish

property, where the minor was allowed to be alone with the perpetrating priest with the express or implied blessing of the very defendants whose negligence and other tortuous conduct allowed and caused this abuse to occur; that this fact not only served to enhance and aggravate the damages sustained by this plaintiff, but further served to create the guilt and explain the hesitation of the plaintiff to report and disclose this abuse earlier, and to seek counseling himself at an earlier stage of his life; the fact that these atrocities were committed by a Catholic priest on parish property against a male minor, 11 or 12 years old at the time; further served to enhance the damages suffered by this plaintiff as a result of these multiple occurrences; accordingly, the plaintiff hereby requests that the jury in this matter be instructed on the law of enhanced compensatory damages against each defendant on all Counts alleged herein; the plaintiff demands judgment against all defendants for enhanced compensatory damages, within the minimum and maximum jurisdictional limits of this court, together with costs, interest and attorneys fees.

INJURIES AND DAMAGES AND REQUESTS FOR RELIEF

39. As a direct and proximate result of the wrongful conduct of the defendants as set forth, *supra.*, the representative plaintiff claims the specific damages described in ¶ 37, *supra.*

40. As a further direct and proximate result of the wrongful conduct of the defendants as set forth, *supra.*, the representative plaintiff and all class members suffered the following damages for which they seek compensation:

- a) physical and/or emotional pain, and permanent mental, emotional and psychological harm;
- b) financial and economic losses, past, present and future, including without limitation losses for the cost of medical and psychological treatment; lost income, loss of earning capacity;

- c) loss of the enjoyment of life (hedonic damages);
- d) loss of faith;
- e) other damages allowed under New Hampshire law; and
- f) Due to the oppressive, malicious, wanton and/or wilful nature of the conduct of the defendants, the plaintiffs and class members seek, in addition to compensatory damages for the injury and damage described above, an award of **enhanced compensatory damages** under New Hampshire law, and an award of multiple damages and attorney fees pursuant to RSA 358-A:10, I.

41. The representative plaintiffs and class members therefore demand judgment against the defendants, in an amount within the minimum and maximum jurisdictional limits of this court, together with costs, interest and attorneys fees.

42. The plaintiff and class members request that this class be certified, or, in the alternative, that appropriate sub-classes be certified.

43. The plaintiff and class members request that a period of not less than six (6) months of discovery be allowed on the issues pertaining to class certification in advance of a hearing on the issue of whether the requested class, or some form of said class or sub-classes, be certified;⁷

⁷ "In defining the scope of the proper class, courts consider numerous factors, including the identifiability and manageability of the class, the standing of the members, the existence of any statute of limitations

44. The plaintiff and class members request that should the defendants intend to raise the affirmative defense of expiration of the statute of limitations, that a reasonable period of time (not less than 6 months) be allowed to pursue discovery on that issue.

45. The plaintiff and class members request that, as a matter of law, the applicable statute of limitations be tolled for all class members for as long as this class action remains pending / a final judgment is entered either on the class certification issue or on the merits of this action.⁸

46. That this class be designated an "opt out" class.

47. The representative plaintiff and other class members hereby request trial by jury.

March 2, 2009

Respectfully Submitted,
John Doe, individually and behalf of all
those similarly situated,
By his Attorneys

Peter E. Hutchins, Esq.

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difficulties, as well as the similarity of the issues raised and the relief sought." *State Employees Association vs. Belknap County*, 122 NH 614, 624 (1982).

⁸ "It is well-settled that "the commencement of a class action suspends the applicable statute of limitations as to all asserted members of the class who would have been parties had the suit been permitted to continue as a class action." *Crown, Cork & Seal Co. v. Parker*, 462 U.S. 345, 353-54, 103 S.Ct. 2392, 76 L.Ed.2d 628 (1983) (quoting *Am. Pipe & Constr. Co. v. Utah*, 414 U.S. 538, 554, 94 S.Ct. 756, 38 L.Ed.2d 713 (1974))." *Howard v. Gutierrez*, 474 F.Supp., 2d 41, 52 (D. D.C. 2007).

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS
NORTHERN DISTRICT

SUPERIOR COURT

John Doe, for himself and on behalf of
All others similarly situated

v.

Roman Catholic Bishop of Manchester, Inc. (a corporate sole)
a/k/a the Roman Catholic Diocese of Manchester

&

Parishes and Deaneries within the Diocese of Manchester, including but not
limited to St. Martin Parish in Somersworth, NH and the Seacoast Deanery

&

Various John Does Employed by or Associated with the Defendant Diocese, its
parishes and deaneries

09-C-_____

PLAINTIFFS' MOTION FOR LEAVE TO REMAIN IDENTIFIED AS
"JOHN DOE"

NOW COMES the plaintiff in the above "class action," John Doe, by his
attorneys, Wiggin & Nourie, P.A., and respectfully requests leave of this Court to
allow him to proceed as a "John Doe" plaintiff, and in support thereof states as
follows:

1. This matter involves claims of severe sexual abuse suffered by the
plaintiff when he was an 11-12 year old boy.

2. The plaintiff is currently an inmate at the New Hampshire State Prison.

3. Defendants are fully aware of the plaintiff's full identity.

4. Due to the nature of the claims in this case, and due to the plaintiff's current residential situation, he and undersigned counsel fear that the disclosure of his identity in connection with the allegations made in this case could create an unnecessary risk to his personal safety.

5. Further, as with all similar cases, the allegations contained here and often the fact of filing a lawsuit itself not only causes potential emotional harm to the plaintiff / victim, but also to his family – who are truly innocent individuals in connection with the allegations and circumstances giving rise to these civil actions for childhood sexual abuse.

6. In addition, the plaintiff has disclosed his physical address in this writ. He has not disclosed his "mailing address" which is a Post Office Box. The reason for this is that various locations within the prison have different post office box numbers, and by identifying the post office box, his specific location in the prison would also be identified. Accordingly, for the same reasons as described above, the plaintiff requests relief from Superior Court Rules 2 and 2-A relative to the disclosure of his mailing address. Further, since he is represented by undersigned counsel, there is no real need for this disclosure.

7. As a result, the plaintiff and undersigned counsel respectfully request that this Court allow this matter to go forward with the plaintiff identified as "John Doe," and without disclosure of his post office box mailing address.

8. Given that the defendants are fully aware of the plaintiff's actual identity, the identity and mailing address of plaintiff's counsel, as well as other information relative to the plaintiff's specific claims in this matter, they would suffer no prejudice from the granting of the relief sought herein. The only reason for seeking disclosure of the plaintiff's identity and mailing address would be to harass the plaintiff and/or to cause him harm.

WHEREFORE, the plaintiff requests the following relief:

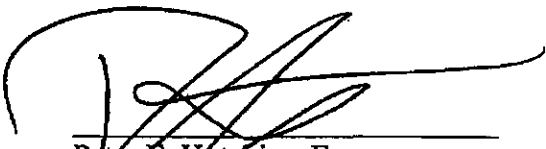
A. That this Court allow the plaintiff to go forward in this matter under the name "John Doe;"

B. That he be relieved from the requirement of disclosing his post office box mailing address; and

C. For other such relief as may be just.

Respectfully Submitted,
John Doe, on behalf of
himself and all similarly
situated plaintiffs,
By his (their) attorney

March 3, 2009

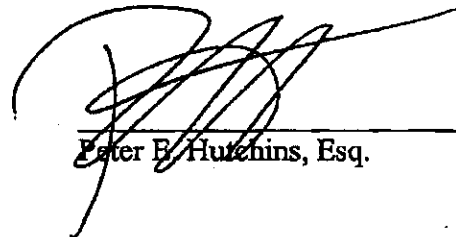


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Certification

I certify that this Motion was this day filed along with the original writ of summons in this matter, and that both the writ of summons and this Motion were forwarded today, electronically, to counsel for the Defendant Diocese, Gordon J. MacDonald, Esq.



Peter B. Hutchins, Esq.