

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

ENDORSED
FILED IN MY OFFICE THIS

JUN 28 1995

Shirley R. King
CLERK DISTRICT COURT

PATRICIA LOPEZ

NO. CV- '95 05379

MARY MARGARET MCGUIRE,

Plaintiff,

vs.

CHRISTIAN BROTHERS MAJOR SUPERIORS,
a New Mexico Corporation, NOSF, INC.,
A Louisiana Corporation, Estate of
Brother Abdon, deceased,

Defendants.

**COMPLAINT FOR DAMAGES FOR
SEXUAL ABUSE AND RELATED CLAIMS**

COMES NOW the Plaintiff, Mary Margaret McGuire by and through her attorneys, Martinez & Campos Law Firm, and for her complaint states as follows:

1. Plaintiff is a resident and domiciliary of Albuquerque, Bernalillo County, New Mexico. Plaintiff was a minor child at the time the material incidents and events which are the subject matter of the action occurred.
2. Defendant Christian Brothers Major Superiors is a New Mexico Corporation and at all times material herein was and is authorized to do business in the State of New Mexico and doing business in Santa Fe County, New Mexico.
3. Christian Brothers Major Superiors, a religious order, did at all times material hereto, own and operate and had control over a school known as St. Michael's High School in, Santa Fe, New Mexico, which instructed children from 7th to 12th grades in school.

4. Christian Brothers Major Superiors assigned and does assign its member Brothers to St. Michael's High School and to its training facility to train young men to become brothers in the Christian Brothers Major Superiors Order.

5. Christian Brothers Major Superiors assigned its member brothers as teachers and counselors at St. Michael's High School and had supervision and control over all its Brothers and their activities.

6. Defendant NOSF, Inc., is a Louisiana Corporation formerly known as Brothers of the Christian School of Lafayette, Louisiana, Inc., and at all times material hereto was and is authorized to do business in the State of Louisiana.

7. NOSF, Inc., also a religious order, at all times material hereto, was and is in supervisory charge and control of schools within its area of jurisdiction which included and includes St. Michael's High School and the Junior Novitiate at the College of Santa Fe.

8. NOSF, Inc. at all times material hereto supervised and directed and supervises and directs the performance, activities, and actions of the Christian Brothers overseeing the St. Michael's High School and the Junior Novitiate.

9. Defendant, Brother Abdon is now deceased. At all times material hereto Brother Abdon was a Brother, teacher, and cheerleader director at St. Michael's School. Because Brother Abdon is deceased his estate is named as defendant herein.

10. At all times material hereto Brother Abdon was a member and Brother of the Christian Brothers Major Superiors and of NOSF, Inc. and he was employed by Christian Brothers Major Superiors and NOSF, Inc. as a teacher and counselor of St. Michael's High School. Brother Abdon was under the direct supervision and control of Christian Brothers

Major Superiors and NOSF, Inc.

11. In his official capacity as Brother, teacher, cheerleader director, and counselor at St. Michael's High School, Brother Abdon came into contact with Plaintiff and plaintiff's family.

12. Plaintiff attended St. Michael's High School, in the school years 1974-75, 1975-76, and 1976-77, when she was 13, 14, and 15 years old respectively, when Brother Abdon was a Brother, teacher, cheerleader director, and counselor at St. Michael's High School.

13. Plaintiff's parents reasonably believed that St. Michael's School would be a good and positive influence on their daughter's overall development and entrusted their child's educational, physical, emotional, and spiritual well-being, welfare, and development to the Christian Brothers Major Superior and NOSF, Inc. by enrolling their child in St. Michael's High School. Plaintiff's parents did not know or believe nor had an reason to know or believe that the teachers or any teacher at St. Michael's School would do anything to harm their child.

14. Brother Abdon took advantage of his position of control as teacher, cheerleader director, and counselor of his pupils including the Plaintiff herein, and of his access to Plaintiff and performed non-consensual sex acts on Plaintiff thereby abusing her sexually, physically, emotionally, and spiritually, continually over a three year period as many as two to five times per week.

15. Upon information and belief Christian Brothers Major Superior and NOSF, Inc., knew or should have known that Brother Abdon was abusing Plaintiff and others, yet failed to

do anything to protect Plaintiff and others from Brother Abdon's abuse and allowed him to continue in his position of teacher, cheerleader director, and counselor and to continue to associate with Plaintiff and other children.

16. During and following Brother Abdon's abuse of Plaintiff, Christian Brothers Major Superior and NOSF, Inc. knew or should have known that Plaintiff was being and had been abused by Brother Abdon, but failed to take any action to lessen, mitigate, or stop Plaintiff's suffering and damages by providing assistance, such as psychological, psychiatric treatment, and counseling.

17. Upon information and belief, the Christian Brothers Major Superior and NOSF, Inc., instead of taking steps to mitigate Plaintiff's damages, did direct or participate in a cover-up of Brother Abdon's wrongful activities to the further detriment of Plaintiff.

18. As a direct and proximate result of the conduct of defendants, Plaintiff, Mary Margaret McGuire has sustained substantial damages including in the form of severe emotional distress, humiliation, embarrassment, loss of self-worth and self-esteem, physical pain and suffering, severe compulsions to harm herself, compulsion to commit suicide, physical, mental, and emotional impairment, inability to perform her normal daily activities on a regular sustained basis, loss of enjoyment of life and loss of capacity to enjoy life, inability to trust other people, especially men in authority and spiritual leaders, inability to form lasting relationships, loss of income and earnings, present and future earning capacity, and medical and psychological expenses now and in the future all in an amount which Plaintiff prays leave of Court to prove at the appropriate time.

COUNT I

BATTERY AGAINST BROTHER ABDON'S ESTATE.
BATTERY AGAINST CHRISTIAN BROTHERS MAJOR SUPERIOR AND NOSF,
INC. BY VIRTUE OF THE DOCTRINE OF RESPONDEAT SUPERIOR

19. Plaintiff re-alleges paragraphs 1 through 18 as hereinabove as if fully set out herein.

20. Brother Abdon was under a duty as teacher and counselor of Plaintiff to touch and relate to her only in those ways that was legal and appropriate in a relationship between teacher/counselor, and pupil.

21. Brother Abdon's conduct constituted unlawful contact and breach of duty owed and as such constitutes battery by Brother Abdon upon Plaintiff, which proximately caused Plaintiff to suffer the damages hereinabove set out.

22. The conduct of Brother Abdon occurred when he was an employee of Christian Brothers Major Superior and NOSF, Inc. acting in the course and scope of his employment, and Christian Brothers Major Superior and NOSF, Inc., are therefore liable and responsible for the injuries and damages to Plaintiff proximately resulting from the conduct of Brother Abdon on the Doctrine of Respondeat-Superior and other theories of agency.

WHEREFORE, with respect to Count I, Plaintiff prays the Court for judgment against the Estate of Brother Abdon, against Christian Brothers Major Superior, and against NOSF, Inc. is a sum which will reasonably and adequately compensate Plaintiff for the damages suffered,

COUNT II

**NEGLIGENT FAILURE TO WARN-AGAINST BROTHER ABDON'S ESTATE,
CHRISTIAN BROTHERS MAJOR SUPERIOR AND NOSF, INC.**

23. Plaintiff re-alleges paragraphs 1 through 18 and 20 through 22 as hereinabove set out as if fully set out herein.

24. At all times material hereto, Christian Brothers Major Superior and NOSF, Inc. knew or should have known of Brother Abdon's unlawful and aberrant behavior and knew they had a duty to warn the students and the parents of the students of St. Michael's High School, that the students would be likely to be subjected to Brother Abdon's unlawful and aberrant sexual advances and sexual acts.

25. Defendants Christian Brothers Major Superior and NOSF, Inc. negligently failed to issue such warnings and such negligent conduct constituted a breach of their duty to warn.

26. Said negligent breach of their duty to warn proximately caused Plaintiff to sustain and suffer the damages as hereinabove set out.

WHEREFORE, with respect to Count II, Plaintiff prays the Court for judgment against the Estate of Brother Abdon, against Christian Brothers Major Superior, and against NOSF, Inc. is a sum which will reasonably and adequately compensate Plaintiff for the damages suffered, for pre-judgment and post-judgment interest, costs, and such other and further relief as the Court may deem just and proper in the premises.

COUNT III

**NEGLIGENT AND/OR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS-
AGAINST BROTHER ABDON AND BY VIRTUE OF THE DOCTRINE OF
RESPONDEAT SUPERIOR AGAINST CHRISTIAN BROTHERS
MAJOR SUPERIOR AND NOSF, INC.**

27. Plaintiff re-alleges paragraphs 1 through 18, 20 through 22, and 24 through 26, hercinabove set out, or if fully set out herein.

28. Brother Abdon's conduct constitutes a negligent and/or intentional infliction of emotional distress upon Plaintiff which proximately caused Plaintiff to suffer the damages hercinabove set out.

29. The negligent and/or intentional infliction of emotional distress conduct of Brother Abdon occurred when he was as an employee of Christian Brothers Major Superior and NOSF, Inc. acting in the course and scope of his employment, and Christian Brothers Major Superior and NOSF, Inc. by their inaction ratified Brother Abdon's tortious conduct and are therefore liable and responsible for the injuries and damages to Plaintiff proximately resulting from the conduct of Brother Abdon on the Doctrine of Respondeat-Superior and other theories of agency.

WHEREFORE, with respect to Count III, Plaintiff prays the Court for judgment against the Estate of Brother Abdon, against Christian Brothers Major Superior, and against NOSF, Inc. is a sum which will reasonably and adequately compensate Plaintiff for the damages suffered, for pre-judgment and post-judgment interest, costs, and such other and further relief as the Court may deem just and proper in the premises.

COUNT IV**NEGLIGENT AND/OR INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS-
AGAINST CHRISTIAN BROTHERS MAJOR SUPERIOR AND NOSF, INC.**

30. Plaintiff re-alleges paragraphs 1 through 18, 20 through 22, 24 through 26, and 28 through 29 hereinabove set out as if fully set out herein.

31. The actions and failures to act on the part of Christian Brothers Major Superior and NOSF, Inc. as set forth hereinabove support a separate and independent basis to conclude that their action and failure to act constitutes a negligent and/or intentional infliction of emotional distress upon Plaintiff which proximately caused Plaintiff to suffer the damages hereinabove set out.

WHEREFORE, with respect to Count IV, Plaintiff prays the Court for judgment against Christian Brothers Major Superior, and against NOSF, Inc. is a sum which will reasonably and adequately compensate Plaintiff for the damages suffered, for pre-judgment and post-judgment interest, costs, and such other and further relief as the Court may deem just and proper in the premises.

COUNT V**NEGLIGENT HIRING, PLACING AND FAILURE TO SUPERVISE AND CONTROL-
AGAINST CHRISTIAN BROTHERS MAJOR SUPERIOR AND NOSF, INC.**

32. Plaintiff re-alleges paragraphs 1 through 18, 20 through 22, 24 through 26, 28 through 29, and 31 hereinabove set out as if fully set out herein.

33. At all times material hereto, Brother Abdon was under the supervision, employ, and control of Christian Brothers Major Superior and NOSF, Inc.

34. Defendants Christian Brothers Major Superior and NOSF, Inc., their agents and employees knew or should have known of Brother Abdon's unlawful and improper actions, his sexual propensities, yet despite such knowledge defendants nevertheless employed Brother Abdon and placed him in a capacity where he could impose his unlawful and improper behavior upon Plaintiff, and once employed and placed in his capacity as teacher, failed to exercise reasonable and adequate supervision and control of Brother Abdon.

35. As a direct and proximate result of the negligence in hiring, placing, and failing to supervise and control Brother Abdon by Christian Brothers Major Superior and NOSF, Inc., Plaintiff has suffered, sustained and suffered damages as hereinabove set out.

WHEREFORE, with respect to Count V, Plaintiff prays the Court for judgment against Christian Brothers Major Superior, and against NOSF, Inc. is a sum which will reasonably and adequately compensate Plaintiff for the damages suffered, for pre-judgment and post-judgment interest, costs, and such other and further relief as the Court may deem just and proper in the premises.

COUNT VI

FRAUD-AGAINST CHRISTIAN BROTHERS MAJOR SUPERIOR AND NOSF, INC.

36. Plaintiff re-alleges paragraphs 1 through 18, 20 through 22, 24 through 26, 28 through 29, 31, and 33 through 35 as hereinabove set out as if fully set out herein.

37. Defendants Christian Brothers Major Superior and NOSF, Inc. held Brother Abdon out as a trustworthy teacher and counselor despite what they knew or should have known to the contrary and as such said defendants fraudulently intended to induce Plaintiff through her parents and others similarly situated to enroll as students at St. Michael's High School.

38. Plaintiff relied on the representations made by defendants Christian Brothers Major Superior and NOSF, Inc., and enrolled in the school and to render respect and obedience to Brother Abdon thereby allowing Brother Abdon to use and abuse his position of authority over Plaintiff as teacher and counselor to subject Plaintiff to his unlawful and improper behavior.

39. Despite what defendants Christian Brothers Major Superior and NOSF, Inc. knew or should have known about Brother Abdon's unlawful conduct imposed on Plaintiff said defendants denied and defrauded Plaintiff of her right to seek assistance early on to remedy her injuries by failing to disclose the nature of Brother Abdon to Plaintiff and failing to secure timely emotional, spiritual, and physical treatment for her.

40. The said fraudulent actions of defendants caused Plaintiff to sustain and suffer the damages as hereinabove set out.

WHEREFORE, with respect to Count VI, Plaintiff prays the Court for judgment against Christian Brothers Major Superior, and against NOSF, Inc. is a sum which will reasonably and adequately compensate Plaintiff for the damages suffered, for pre-judgment and post-judgment interest, costs, and such other and further relief as the Court may deem just and proper in the premises.

COUNT VII

NEGLIGENT ENTRUSTMENT-AGAINST CHRISTIAN BROTHERS MAJOR SUPERIOR AND NOSF, INC.

41. Plaintiff re-alleges paragraphs 1 through 18, 20 through 22, 24 through 26, 28 through 29, 31, 33 through 35, and 37 through 40, as hereinabove set out as if fully set out herein.

42. Defendants Christian Brothers Major Superior and NOSF, Inc., are religious orders or organizations which had the duty of care and responsibility of safeguarding and protecting the physical, emotional, and spiritual well-being of the children who were students at St. Michael's High School, including Plaintiff herein.

43. Defendants Christian Brothers Major Superior and NOSF, Inc., violated their duty and responsibility owed Plaintiff by negligently entrusting Plaintiff with Brother Abdon who in turn sexually and emotionally and psychologically abused Plaintiff while Plaintiff was in their care.

44. The negligent entrustment by defendants, Christian Brothers Major Superior and NOSF, Inc. was the proximate cause of Plaintiff's damages set out hereinbelow.

WHEREFORE, with respect to Count VII, Plaintiff prays the Court for judgment against Christian Brothers Major Superior, and against NOSF, Inc. is a sum which will reasonably and adequately compensate Plaintiff for the damages suffered, for pre-judgment and post-judgment interest, costs, and such other and further relief as the Court may deem just and proper in the premises.

COUNT VIII

NEGLIGENCE AND GROSS NEGLIGENCE-AGAINST CHRISTIAN BROTHERS MAJOR SUPERIOR AND NOSF, INC.

45. Plaintiff re-alleges paragraphs 1 through 18, 20 through 22, 24 through 26, 28 through 29, 31, 33 through 35, 37 through 40, and 42 through 44 as hereinabove set out as if fully set out herein.

46. Upon information and belief, Christian Brothers Major Superior, and NOSF, Inc., of Brother Abdon's wrongful and unlawful sexual propensities and proclivities, his

background and his unfitness to serve as a teacher, cheerleader director, or counselor of young children.

47. Said defendants despite such knowledge negligently and recklessly employed and placed Brother Abdon in a position of trust and authority where he was able to commit wrongful, negligent, and intentional acts against Plaintiff as hereinabove described.

48. Said defendants further negligently and recklessly failed to remove Brother Abdon's right and authority to function as a Brother, teacher, and counselor; negligently and recklessly failed to report Brother Abdon's unlawful acts to the law enforcement authorities; negligently and recklessly failed to institute administrative proceedings against Brother Abdon and continued to hold him out as a fit and competent Brother, teacher, and counselor, allowed Brother Abdon to hold himself out as a fit and competent Brother; negligently and recklessly assisted Brother Abdon in suppression of public knowledge of Brother Abdon's history of sexual wrongdoing; and negligently and recklessly failed to warn Plaintiff and her family of Brother Abdon's aberrant behavior.

49. As a direct and proximate result of the said defendants' negligent and reckless conduct, Plaintiff has sustained and suffered the damages as hereinabove stated.

WHEREFORE, with respect to Count VIII, Plaintiff prays the Court for judgment against Christian Brothers Major Superior, and against NOSF, Inc. is a sum which will reasonably and adequately compensate Plaintiff for the damages suffered, for punitive damages, for pre-judgment and post-judgment interest, costs, and such other and further relief as the Court may deem just and proper in the premises.

COUNT IX

PUNITIVE DAMAGES-AGAINST BROTHER ABDON'S ESTATE,
CHRISTIAN BROTHERS MAJOR SUPERIOR AND NOSF, INC.

50. Plaintiff re-alleges paragraphs 1 through 18, 20 through 22, 24 through 26, 28 through 29, 31, 33 through 35, 37 through 40, 42 through 44, and 46 through 49 as hereinabove set out as if fully set out herein.

51. The conduct of the defendants and each of them was willful, reckless, grossly negligent and intentional and Plaintiff is therefore entitled to recover punitive damages from the defendants and each of them as a deterrent and example to society to prevent the commission of like offenses in the future.

WHEREFORE, with respect to Count IX, Plaintiff prays the Court for punitive damages from the Estate of Brother Abdon, Christian Brothers Major Superior, and NOSF, Inc. in an amount the Court deems appropriate, together with prejudgment and post-judgment interest, costs, and such other and further relief as the Court deems just and proper in the premises.

Respectfully submitted,



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