

3. At all times material, Defendant Father Donald J. McGuire, S.J., (“McGuire”) was a resident of Illinois and a priest and member of Defendant Order. McGuire was educated by and ordained in 1961 by Defendant Order. At all times material, McGuire was under the direct supervision, employ and control of Defendant Order. McGuire was an adult and designated holy figure at the time of the facts alleged herein.

FACTS

4. At all times material, the Catholic Bishop of Chicago, a Corporation Sole (hereinafter “Archdiocese”) was and is an Illinois corporation conducting business in the State of Illinois. A religious order, like Defendant Order, and its priests can only operate within a diocese with the express permission and approval of the local bishop or cardinal of that diocese or area. The local bishop or cardinal has the power, authority, and/or responsibility to deny or terminate an order priest’s ability to work within the diocese if the priest is unfit. Accordingly, the cardinal of Archdiocese had the authority to allow or deny Defendant McGuire the ability to work within the Chicago Archdiocese. In or around 1961, Defendant McGuire received faculties and/or permission from the cardinal to work and minister within the Chicago Archdiocese.

5. At all times material to the complaint, the Archdiocese and Defendant Order were both part of the Roman Catholic Church.

6. Defendant Order transferred McGuire to several positions at different educational institutions and parishes including: Loyola Academy, Wilmette, IL; Loyola University, Chicago, IL; University of San Francisco, San Francisco, CA; Bellarmine Hall, Barrington, IL; Canisius House, Evanston, IL; and the Provincial Office, Chicago, IL.

7. McGuire began his formal training to become a priest in 1947 and was ordained a Priest in 1961. Since the time that McGuire began his training, and at all times relevant to the

{00042078.DOC}

Complaint, Defendant Order has monitored, supervised, trained, counseled, employed or otherwise exercised control over McGuire's secular and non-secular activities.

8. From 1965 to January 1970, Defendant McGuire was a teacher and scholastic advisor at Loyola Academy, a prestigious high school operated by Defendant Order. McGuire lived on the Loyola Academy campus. Loyola was not a boarding school so no students were supposed to live there.

9. McGuire engaged in a pattern and practice of sexually abusing Loyola Academy students during the years that he taught at the school. At various times from 1965 to 1969, McGuire had Loyola Academy students living with him in his room to facilitate his sexual abuse of them. For example, between 1966 and 1968 Victor Bender, a Loyola Academy student, lived in McGuire's room and was sexually abused virtually every day during that time period. Another Loyola Academy student, "John Doe 84", lived in McGuire's room at Loyola Academy between 1968 and 1969 and was sexually abused by McGuire almost daily.

10. Several Loyola administrators, officers, priests or teachers were aware, or should have been aware, that Defendant McGuire was sexually abusing minor boys while he was at Loyola Academy, including forcing students to sleep overnight in his room.

11. At some point in 1969, John Doe 84 told Father Schlax, a Chicago Archdiocese priest at Our Lady of Lourdes in Chicago, that McGuire was sexually abusing him. Father Schlax reported the conduct to the Defendant Order and Loyola Academy officials.

12. Almost immediately after Father Schlax reported the abuse, John Doe 84, his father, and Father Schlax met with representatives of the Order and Loyola Academy about McGuire's conduct. Rev. John Reinke, President of Loyola Academy; Rev. Robert Humbert,

Headmaster of Loyola Academy; Rev. John Beall, Principal of Loyola Academy and others (collectively, the “Order Officials”) were present at the meeting on behalf of the Order.

13. After this meeting, the Order Officials forced John Doe 84 to immediately transfer to another Jesuit school and McGuire was removed from Loyola Academy mid-year. The current superior general of Defendant Order, Fr. Edward Schmidt, was a scholastic teaching at Loyola Academy when John Doe 84 was being abused, when John Doe was forced to transfer, and when McGuire was removed from Loyola Academy mid-year.

14. Despite their knowledge of McGuire’s criminal activity no later than 1969, neither the representatives of the Order nor any representative of the Archdiocese reported McGuire’s crimes to law enforcement, the Illinois Department of Child and Family Services, or any other civil authorities.

15. Despite its knowledge of McGuire’s criminal activities and propensity to engage in childhood sexual abuse, the Defendant Order transferred McGuire and allowed him to remain in ministry and travel around the world abusing children for at least 30 years after it knew of his sexual abuse of John Doe 84. Defendant’s actions in this regard were taken to avoid scandal and hide McGuire’s abuse from the community, the police and other civil authorities.

16. Despite its knowledge of McGuire’s criminal activities as early as 1969, and propensity to engage in childhood sexual abuse since that time, the Chicago Archdiocese allowed McGuire to keep his faculties and continue to work and minister within the diocese.

17. Based on information and belief, the Defendant Order is aware of other incidents of sexual abuse of children by McGuire between 1969 (when they learned of the abuse of John Doe 84) and before the abuse of Plaintiff which began in 1999.

18. Based on information and belief, prior to Plaintiff's abuse beginning in 1999, the Order resolved other allegations of childhood sexual abuse by McGuire requiring strict confidentiality so as to continue to avoid scandal and hide McGuire's abuse from the community, the police and other civil authorities. Based on information and belief, Defendant Order did not remove or otherwise restrict McGuire's ministry or report these incidents to law enforcement or any other civil authority.

19. In or around 1980, Plaintiff's mother met Defendant McGuire. At around that time, McGuire became her spiritual advisor and confessor.

20. Plaintiff was born in 1986. He was raised in a devout Roman Catholic family. He was baptized by McGuire and regularly celebrated mass, received the sacraments, and participated in church related activities. As a result, Plaintiff developed great admiration, trust, reverence, and respect for, and obedience to Roman Catholic priests from an early age. It was through this position of trust, respect and reverence that McGuire gained access to Plaintiff and his family.

21. In 1999, when Plaintiff was 13 years old, his mother told him he was going to Chicago for two weeks to visit McGuire and participate in Jesuit spiritual events and/or retreats.

22. Upon arriving in Chicago, Plaintiff was taken to Canisius House in Evanston, a Jesuit residence where Defendant McGuire resided with several other Jesuit priests.

23. Plaintiff stayed at Canisius House with Defendant McGuire and was required to sleep with McGuire in his bed from the first day he arrived in Chicago. McGuire and Plaintiff were together virtually 24 hours a day. As a result of his circumstances, Plaintiff was totally dependent on McGuire and McGuire constantly reminded Plaintiff of that fact. McGuire befriended Plaintiff, showered Plaintiff with gifts, provided Plaintiff spiritual guidance and

{00042078.DOC}

counseling, and engaged in numerous extracurricular activities with Plaintiff. McGuire told Plaintiff that he was the most important person in Plaintiff's life and stood next to God because of his religious standing.

24. The other Jesuit priests living and/or visiting Cansius House knew or should have known that McGuire had Plaintiff, a 13 year old boy, living and sleeping with him.

25. Shortly after Plaintiff arrived in Chicago, McGuire convinced Plaintiff's mother that it would be in Plaintiff's best interest if he remained with McGuire under his guidance and supervision.

26. Within weeks of arriving in Chicago in 1999, McGuire began to regularly and repeatedly sexually abuse Plaintiff. At various times, McGuire abused Plaintiff on an almost daily basis.

27. Defendant McGuire recruited and solicited sexual contact with the Plaintiff using the sacrament of the confession and utilized the confessional to further his sexual exploitation of Plaintiff.

28. From 1999 to 2003, McGuire traveled extensively all over the world doing retreats, ministry and providing spiritual guidance and counseling on behalf of the Defendant Order. Plaintiff traveled with McGuire on many of these trips. McGuire sexually abused Plaintiff in the following locations, among others: Illinois, Missouri, Georgia, Florida, Alaska, Michigan, Wisconsin, Minnesota, North Dakota, South Dakota, Arizona, Iowa, Mexico, Nicaragua, Switzerland, Germany, Australia, and Austria.

29. McGuire mentally and physically intimidated and threatened Plaintiff in order to silence Plaintiff and allow the abuse to continue. The sexual abuse of Plaintiff ended in 2003 only after John Doe 84 went public about the sexual abuse he suffered at the hands of McGuire
{00042078.DOC}

in 1968 and 1969. After John Doe 84 went public in the summer of 2003, the Defendant Order moved McGuire from Canisius House.

30. Defendant Order and the Archdiocese had learned of McGuire's pedophilic behavior and his propensity to engage in sexual abuse no later than 1969 – 30 years before he began abusing Plaintiff. Upon information and belief, Defendant Order became aware of other instances in which McGuire sexually abused minor boys between 1969 and 1999. Defendant Order had actual knowledge of material facts regarding McGuire's individual pedophile impulses and behavior before he abused Plaintiff, but failed to act on that knowledge.

31. Despite Defendant Order's knowledge of McGuire's pedophilic behavior no later than 1969, Defendant Order did not remove McGuire from ministry or otherwise restrict his ministry or access to children in any way. Defendant Order did not report McGuire to law enforcement or any other civil authority or otherwise warn its members or the public at large that McGuire posed a significant risk to children. Rather, to avoid scandal, the Defendant Order recklessly ignored the problem and in fact added to it by representing McGuire as a priest in good standing and allowing McGuire to continue in ministry all over the world where he could have access to and abuse children, including Plaintiff.

32. Despite the Order's knowledge that Defendant McGuire sexually abused children since at least 1969, the superior general of the province appointed McGuire as Admonitor of Canisius House in the 1990's. The Admonitor essentially is the moral monitor and supervisor of the priests in the residence.

33. In February 2006, a Wisconsin jury criminally convicted McGuire of sexually abusing Victor Bender and John Doe 84 during trips to Wisconsin while they were Loyola

Academy students. McGuire was sentenced to 7 years in prison, but remains free in the Chicago area pending his appeal.

34. Plaintiff informed Defendant Order that McGuire had sexually abused him in or around January of 2007, almost a year after his conviction. Defendant Order has been in contact with Plaintiff and/or his friends and family about the abuse.

35. Based on information and belief, and in violation of Illinois law, its own established procedures and protocol, and the charter adopted by the U.S. Catholic Bishops in 2002, Defendant Order has not reported Plaintiff's allegation of sexual abuse to law enforcement in Illinois, law enforcement in Wisconsin, the Department of Child and Family Services, or any other civil authorities in Illinois or Wisconsin.

36. Defendant Order has failed to report Plaintiff's alleged abuse despite its knowledge of the abuse, McGuire's history of sexual abuse of others, McGuire's conviction in Wisconsin, McGuire's appeal and the fact that he remains free pending his appeal, and the risk that McGuire continues to pose to children today. Accordingly, Defendant Order's goal of avoiding scandal and putting its interests above the well being of children continues today.

37. The sexual abuse of the Plaintiff, and the circumstances under which the abuse occurred, caused Plaintiff to develop various physical injuries and psychological injuries, including but not limited to, symptoms of psychological distress, great shame, guilt, self-blame, confusion, depression, repression and dissociation.

COUNT I: BATTERY / CHILD SEXUAL ABUSE (McGuire)

38. Plaintiff incorporates Paragraphs 1 through 37 of this Amended Complaint as if fully set forth under this count and further alleges that:

39. From approximately 1999 through 2003, while Plaintiff was a minor at all times, McGuire engaged in un-permitted, harmful and offensive sexual contact upon the person of Plaintiff.

40. As a direct result of this sexual abuse, Plaintiff has suffered the physical and psychological injuries and damages described herein.

WHEREFORE, Plaintiff demands judgment against McGuire in an amount in excess of \$50,000, plus costs, disbursements, reasonable attorney's fees, interest and such other relief as the court deems just and equitable.

COUNT II: NEGLIGENCE (The Jesuits)

Plaintiff incorporates Paragraphs 1 through 37 of this Complaint as if fully set forth in this count and further alleges:

41. As specified herein, McGuire sexually abused Plaintiff for several years while he was a minor child, beginning when Plaintiff was thirteen years old.

42. By holding McGuire out as a fit agent, Defendant Jesuits was responsible for the supervision, care and physical safety of Plaintiff. As such, Defendant Jesuits owed Plaintiff a duty to provide for the supervision, care, and physical safety of Plaintiff in a reasonable manner, including the obligation to inform Plaintiff of McGuire's known dangerous propensities.

43. Defendant Jesuits knew or should reasonably have known of McGuire's dangerous and exploitative propensities as a child sexual abuser and/or an unfit agent. Prior to the time that McGuire abused Plaintiff, Defendant Jesuits had actual or constructive notice that McGuire was sexually abusing other minors. Despite such knowledge, Defendant Jesuits negligently retained and/or failed to supervise McGuire in his position of trust and authority as a priest, counselor and teacher, where he was able to commit the wrongful acts against Plaintiff.

44. Despite the Jesuits' knowledge that McGuire was a pedophile, the Jesuits did not impose any restrictions on McGuire's conduct. The Jesuits did not warn anybody about McGuire's behavior. Defendant Jesuits breached its duty of care by exposing Plaintiff to unsupervised contact with McGuire, permitting him to sexually abuse Plaintiff.

45. As a direct result of this negligent conduct, Plaintiff has sustained and continues to sustain the injuries and damages alleged herein.

WHEREFORE, Plaintiff demands judgment against Defendant The Chicago Province of the Society of Jesus in an amount in excess of \$50,000.00 plus costs, disbursements, reasonable attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT III: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(Jesuits)

Plaintiff incorporates paragraphs 1 through 37 of the Complaint as if fully set forth under this count.

46. Defendant Jesuit's conduct described herein is extreme and outrageous.

47. Defendant Jesuits knew that there was a high probability that its conduct would inflict severe emotional distress upon Plaintiff.

48. Defendant Jesuits recklessly disregarded the high probability that its conduct would inflict severe emotional distress upon Plaintiff and its conduct, did, in fact, cause Plaintiff severe emotional distress.

49. Plaintiff suffered medically significant and diagnosable distress as a result of Defendant Jesuit's actions as set forth in the facts above.

WHEREFORE, Plaintiff demands judgment against Defendant The Chicago Province of the Society of Jesus in an amount in excess of \$50,000.00 plus costs, disbursements, reasonable attorney's fees, interest, and such other relief as the court deems just and equitable.



Attorneys for Plaintiff JOHN DOE 116

Kevin McGuire
Manly, McGuire & Stewart
4220 Von Karman Ave., Suite 200
Newport Beach, CA 92660
Tel: (949) 252-9990
Fax: (949) 252-9991

Marc J. Pearlman
Michael L. Brooks
KERNS, FROST & PEARLMAN, LLC
Three First National Plaza
70 W. Madison St., Suite 5350
Chicago, Illinois 60602
(312) 261-4550
Attorney No. 43936

Jeffrey R. Anderson
JEFF ANDERSON AND ASSOCIATES, PA
E-1000 First National Bank Building
332 Minnesota Street
St. Paul, Minnesota 55101
(651) 227-9990

ATTORNEYS FOR PLAINTIFF