

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

FILED-1

2008 OCT 20 AM 8:57

DOROTHY BROWN
CLERK OF CIRCUIT COURT
LAW DIVISION

JOHN DOE 119,

Plaintiff,

v.

THE CHICAGO PROVINCE OF THE
SOCIETY OF JESUS a/k/a THE JESUITS and
FATHER DONALD J. MCGUIRE, S.J.

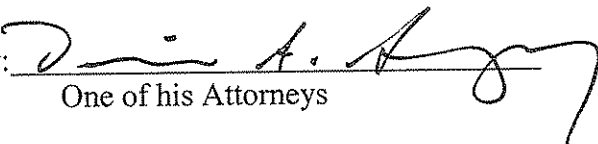
Defendants.

Case No. 08 L 003910

NOTICE OF FILING

To: See Attached Certificate of Service

PLEASE TAKE NOTICE that on October 20, 2008, we caused to be filed with the Clerk of the Circuit Court of Cook County, Illinois, County Department, Law Division, AMENDED COMPLAINT, a copy of which is attached hereto.

By: 
One of his Attorneys

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JOHN DOE 119,

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DOROTHY BROWN
CLERK Trial by Jury Demanded
LAW DIVISION

Case No. 08 L 003910

AMENDED COMPLAINT

NOW COMES Plaintiff John Doe 119, by and through his attorneys, KERNS, FROST & PEARLMAN, and for his causes of action against Defendants, states as follows:

PARTIES

1. Plaintiff John Doe 119 was born on July 18, 1980 and is an adult male resident of the state of Nevada. The identity of Plaintiff has been made known to Defendants by separate cover letter.

2. At all times material, Defendant the Chicago Province of the Society of Jesus (the "Order" or the "Jesuits") was and is a world-wide Roman Catholic religious order of priests and brothers. Defendant Order does business in the state of Illinois, with its principal place of business located at 2050 N. Clark St., Chicago, IL 60614. The Order and its agents and employees were and continue to be responsible for the selection and assignment of clergy, supervision of clergy activities, the exercise of authority over various members of its religious order, and the maintenance of the well-being of its members.

3. At all times material, Defendant Father Donald J. McGuire, S.J., ("McGuire") was a priest and member of 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 to the complaint, Defendant Order was part of the Roman Catholic Church.

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

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. 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 on the school's premises.

8. 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 numerous times 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 on numerous occasions.

9. 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.

10. 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.

11. 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, S.J., President of Loyola Academy; Rev. Robert Humbert, S.J., Headmaster of Loyola Academy; Rev. John Beall, S.J., Principal of Loyola Academy and others (collectively, the "Order Officials") were present at the meeting on behalf of the Order.

12. After this meeting, John Doe 84 immediately transferred to another Jesuit school and McGuire was removed from Loyola Academy mid-year. The current Provincial of Defendant Order, Fr. Edward Schmidt, was a scholastic teaching at Loyola Academy when John Doe 84 was being abused, when John Doe 84 transferred, and when McGuire was removed from Loyola Academy mid-year.

13. Despite its actual or constructive 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 Jesuits took these actions to

avoid scandal and hide McGuire's abuse from the community, the police and other civil authorities.

14. The Defendant Order received numerous specific reports of other incidents of sexual abuse of children by McGuire between 1969 (when they learned of the abuse of John Doe 84) and before Plaintiff John Doe 119 was first abused in approximately June 1998.

15. Defendant Order also received complaints regarding at least two additional victims of McGuire's sexual abuse of minors in 1993 and 1994.

16. Defendant Order continued to receive reports of childhood sexual abuse involving McGuire after McGuire first began abusing Plaintiff in 1998.

17. On numerous occasions between 1991 and 2001, Defendant Order issued guidelines or directives regarding McGuire's activities, including guidelines relating to McGuire's activities with minors in response to continued reports regarding McGuire's wrongful conduct. Despite these "directives," the Jesuits never effectively monitored McGuire or limited his ministry. Instead, the Jesuits permitted him to remain in positions in which he had unrestricted access to minor children. From 1991 to 2003, McGuire continuously ignored the Jesuits' guidelines and directives relating to his activities.

18. Plaintiff John Doe 119 was raised in a devout Roman Catholic family, 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.

19. Plaintiff first met McGuire in 1998, when he was 17 years old and living with his parents in Georgia. He was introduced to McGuire by his parents.

20. In early June 1998, McGuire requested Plaintiff to become his “personal assistant,” and was sent by his parents to Chicago where McGuire resided. As soon as Plaintiff arrived in Chicago, Defendant McGuire began sexually grooming Plaintiff. Preying on Plaintiff’s religious beliefs, McGuire used the sacrament of the confession to further his sexual grooming and exploitation of Plaintiff.

21. McGuire’s acts of abuse, which began in June 1998 and continued almost unabated for approximately one year, included McGuire frequently exposing Plaintiff to explicit pornography, frequently engaging in inappropriate and sexually graphic discussions with Plaintiff, and forcing Plaintiff to massage McGuire’s entire body including his genitals.

22. Because of the traumatic physical and psychological impact of the sexual abuse, Plaintiff did not realize that he had suffered injuries due to McGuire’s abuse until 2007.

23. Defendant Order had learned of McGuire’s pedophilic behavior and his propensity to engage in sexual abuse prior to McGuire’s abuse of Plaintiff. Defendant Order failed to act on that knowledge.

24. The Jesuits did not remove McGuire from ministry or otherwise restrict his ministry or access to children in any meaningful way until 2003. Defendant Order did not report McGuire to law enforcement or otherwise warn its members or the public at large that McGuire posed a significant risk to children until fall 2003. Until that time, the Defendant Order represented that McGuire was a priest in good standing and allowed McGuire to continue in ministry all over the world where he could have access to and abuse children, including Plaintiff.

25. 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.

26. Only recently has Plaintiff become aware of the Jesuits' efforts to hide McGuire's sexual proclivities and prior abuse of children from the community and from Plaintiff, which efforts enabled McGuire to perpetrate his abuse of Plaintiff.

27. The sexual abuse of the Plaintiff John Doe 119 and the circumstances under which the abuse occurred, as well as recently learning of the secretive and fraudulent acts by Defendant Jesuits that enabled and aided this abuse, has 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, loss of self-esteem, humiliation, loss of enjoyment of life, loss of religious faith, severe psychological injury and will be deprived of earning capacity, and has and/or will in the future incur expenses for psychological treatment, therapy and counseling.

COUNT I: BATTERY / SEXUAL ABUSE
DEFENDANT MCGUIRE

Plaintiff John Doe 119 incorporates Paragraphs 1 through 27 of this Complaint as if fully set forth under this count and further alleges that:

28. From approximately June 1998 through summer 1999, McGuire engaged in the aforementioned un-permitted, harmful and offensive sexual molestation of Plaintiff.

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

WHEREFORE, Plaintiff John Doe 119 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
DEFENDANT JESUITS

30. Donald J. McGuire was ordained as a Catholic Priest in 1961, and has, since his ordination until 2007, been employed as a Jesuit Order Priest. At all relevant times, McGuire's secular and non-secular activities were under the direct supervision and control of Defendant Jesuit Order. At all relevant times, Defendant Jesuits held Donald J. McGuire out as a fit agent.

31. In 1998, the Plaintiff travelled to Chicago, Illinois, to serve as an assistant to Father Donald McGuire, S.J., and to participate in Jesuit spiritual events and retreats conducted by the Jesuits and its agent, Father Donald McGuire.

32. Defendant Jesuits should reasonably have known of McGuire's dangerous and exploitative propensities as a child sexual abuser and/or an unfit agent prior to 1998, based upon numerous complaints or reports to the Jesuits since 1961 that McGuire had engaged in inappropriate conduct with minors.

33. Within weeks of arriving in Chicago in 1998, McGuire began to regularly and repeatedly sexually abuse Plaintiff. At various times, McGuire abused Plaintiff on an almost daily basis. McGuire's abuse of Plaintiff took many forms including, but not limited to, fondling, penetration and forcing Plaintiff to engage in oral sex.

34. From 1998 to 1999, McGuire took Plaintiff as an assistant on his travels around the world while he provided retreats, spiritual guidance, and counseling on behalf of, and in furtherance of the mission and teachings of Defendant Jesuits Order and the Roman Catholic Church. Defendant Jesuits should have known that McGuire was travelling around the world, unsupervised, with a minor.

35. From 1998 through 1999, McGuire continued to sexually abused Plaintiff during his travels for Defendant Jesuit Order in Illinois and abroad.

36. Because Plaintiff was McGuire's assistant in his Jesuit ministry, and as McGuire's employer, Defendant Jesuits owed Plaintiff a duty to provide for his supervision, care, and physical safety in a reasonable manner.

37. Defendant breached this duty owed to Plaintiff by committing one or more of the following negligent acts and/or omissions, despite the fact that it should have known that McGuire posed a risk to children:

- a. retained 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;
- b. failed to impose any meaningful restriction upon McGuire's conduct, activities, or access to minors, including Plaintiff;
- c. failed to supervise McGuire's activities, conduct, whereabouts, and contact with minors, including Plaintiff;
- d. failed to warn the community and potential victims, including Plaintiff or his family, about McGuire's behavior or the risk that he posed to minors;
- e. otherwise acted with careless, negligent, and/or reckless disregard for the safety of minors, including Plaintiff.

38. As a direct result of these careless, negligent, or reckless acts and/or omissions, Plaintiff has suffered physical and psychological injuries, including but not limited to, symptoms of psychological distress, great shame, guilt, self-blame, confusion, depression, repression and dissociation.

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
DEFENDANT MCGUIRE

Plaintiff John Doe 119 incorporates paragraphs 1 through 27 of the Complaint as if fully set forth under this count.

39. Defendant McGuire's conduct described herein is extreme and outrageous.

40. Defendant McGuire knew that there was a high probability that his conduct would inflict severe emotional distress upon Plaintiff John Doe 119.

41. Defendant McGuire 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.

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

WHEREFORE, Plaintiff John Doe 119 demands judgment against Defendant Donald J. McGuire, S.J. 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 IV: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
DEFENDANT JESUITS

Plaintiff John Doe 119 incorporates paragraphs 1 through 27 of the Complaint as if fully set forth under this count.

43. Defendant Jesuits' conduct described herein is extreme and outrageous.

44. Defendant Jesuits knew that there was a high probability that its conduct would inflict severe emotional distress upon Plaintiff John Doe 119.

45. 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 John Doe 119 severe emotional distress.

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

WHEREFORE, Plaintiff John Doe 119 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 V: FRAUD
DEFENDANT JESUITS

Plaintiff John Doe 119 incorporates paragraphs 1 through 27 of the Complaint as if fully set forth under this count.

43. Prior to Plaintiff's abuse, Defendant Jesuits knew that McGuire surrounded himself with minor male children as personal assistants, that McGuire traveled with these minor children, and that these minor children sometimes shared quarters with McGuire.

44. By allowing McGuire to travel abroad, surround himself with minor children as his personal assistants, travel with them, and share quarters with them, Defendant Jesuits represented to Plaintiff John Doe 119 that McGuire did not have a history of molesting children, that Defendant Jesuits did not know that McGuire had a history of molesting children, and that Defendant Jesuits did not know that McGuire was a danger to children.

45. Defendant Jesuits knew that McGuire had a history of sexually molesting children and that he was a danger to children.

46. Defendant Jesuits knew that its misrepresentations were false or at least were reckless without care of whether these representations were true or false.

47. Defendant Jesuits made the misrepresentations with the intent to deceive Plaintiff John Doe 119 and to induce him to act on the misrepresentations to his detriment.

48. Additionally, as an order of priests, Defendant Jesuits is in a position of trust with its followers and supporters, including Plaintiff John Doe 119. Because of its position of trust, Defendant Jesuits owed Plaintiff John Doe 119 a duty to disclose to him that McGuire had a history of sexually molesting minor children.

49. Defendant Jesuits breached their duty of disclosure to Plaintiff John Doe 119 by failing to disclose to him or his parents that McGuire had a history of sexually molesting minor children.

50. Plaintiff John Doe 119 could not have discovered that McGuire had a history of sexually molesting minor children through reasonable inquiry or inspection as the Defendant Jesuits intentionally concealed this fact from the public.

51. Defendant Jesuits intentionally omitted this material fact to Plaintiff John Doe 119 to induce him to act to his detriment.

52. Plaintiff John Doe 119 believed that McGuire did not pose a danger to children and relied on Defendant Jesuits affirmative misrepresentations and omissions of a material fact by agreeing to serve as McGuire's personal assistant, travel with him, and share quarters with him.

53. As a result of this reliance, Plaintiff John Doe 119 was sexually molested by McGuire.

WHEREFORE, Plaintiff John Doe 119 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.

Respectfully Submitted,

By:


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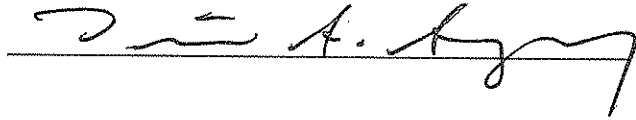
ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I, David A. Argay, an attorney, certify and state that I caused the foregoing NOTICE OF FILING and AMENDED COMPLAINT on the persons listed below by causing it to be sent via Messenger on October 20, 2008:

Dennis A. Marks
Jennifer L. Medenwald
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Timothy C. Toomey
McCarthy & Toomey
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Lincolnwood, Illinois 60712

A handwritten signature in black ink, appearing to read "David A. Argay", is written over a horizontal line.