

“EXHIBIT 1”

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT
CIVIL ACTION NO. 11-00492

Plaintiff)
)
v.)
)
BROTHER REGIS, S.C., a/k/a RAYMOND)
RICHARD, BROTHER JEAN-ROSAIRE, S.C.,)
a/k/a BROTHER GERARD S. BLAIS,)
and DEFENDANT THREE,)

Defendants)

FIRST AMENDED COMPLAINT

A. PARTIES

1. The Plaintiff, _____, is an individual whose residence is in Pawtucket, Rhode Island.

2. Defendant Brother Regis, S.C., a/k/a Raymond Richard (hereinafter referred to as “Defendant Brother Regis”) is an individual who at times material hereto was or has been a religious brother of the New England Province of the Brothers of the Sacred Heart (hereinafter referred to as “the Brothers of the Sacred Heart”) and whose last known residence was at 34 E. Foxboro Street, Sharon, Norfolk County, Massachusetts.

3. Defendant Brother Jean-Rosaire, S.C., also known as Brother Gerard S. Blais, S.C. (hereinafter referred to as “Defendant Brother Jean-Rosaire”) is an individual who at times material hereto was or had been a religious brother of the Brothers of the Sacred Heart. In approximately 1952 through approximately 1957, as well as at other times, Defendant Brother Jean-Rosaire served as the Director or Headmaster of the Sacred Heart Boarding School in Sharon, Massachusetts, and at times material hereto, had a duty to hire, supervise, direct, and retain Defendant Brother Regis. Defendant Brother Jean-Rosaire is

now deceased. The Plaintiff filed this action on March 31, 2011, when G.L. c. 197, § 9A was in effect. The Plaintiff is seeking recovery from the proceeds of a policy of insurance or bond, if any, and not from the general assets of the estate of Brother Jean-Rosaire, pursuant to G.L. c. 197, § 9A.

4. Defendant Three is an individual or individuals, the identity of whom are presently unknown to the Plaintiff; therefore, the Plaintiff files the above-captioned action against Defendant Three by such fictitious name. The Plaintiff will amend this Complaint to show the true name or names of Defendant Three when said name or names have been ascertained. The Plaintiff alleges that Defendant Three was responsible for the hiring, retention, direction, and supervision of Defendant Brother Regis, and that Defendant Three had a fiduciary duty to the Plaintiff.

B. STATEMENT OF FACTS

5. In approximately 1955 and approximately 1956, Defendant Brother Regis was assigned to or affiliated with the Sacred Heart Boarding School in Sharon, Massachusetts, also known as the Sacred Heart School (hereinafter referred to as “the Sacred Heart School”), a parochial boarding school operated by and under the supervision of religious brothers of the Brothers of the Sacred Heart. Defendant Brother Regis’s duties or responsibilities at the Sacred Heart School included, among other things, teaching, supervising, interacting with, and counseling minor boys at the Sacred Heart School, including, but not limited to, the Plaintiff.

6. Not until approximately after May 2008 did the Plaintiff begin to have knowledge or sufficient notice that he had been harmed by the explicit sexual behavior and lewd and lascivious conduct of Defendant Brother Regis and the unreasonable and

improper conduct of Defendant Brother Jean-Rosaire, all described below.

7. From approximately 1953 through approximately 1957, when the Plaintiff was approximately eleven years of age through approximately fifteen years of age, the Plaintiff was a residential student at the Sacred Heart School; and, in approximately 1955 and approximately 1956, when the Plaintiff was approximately fourteen years of age, the Plaintiff was a student of and under the supervision of Defendant Brother Regis.

8. In approximately 1955 and approximately 1956, when the Plaintiff was approximately fourteen years of age, Defendant Brother Regis repeatedly engaged in explicit sexual behavior and lewd and lascivious conduct with the Plaintiff in the Sacred Heart School, including, among other things, Defendant Brother Regis fondling the Plaintiff's genitals, skin on skin; Defendant Brother Regis raping the Plaintiff by performing oral sex on the Plaintiff; Defendant Brother Regis raping the Plaintiff by forcing the Plaintiff to perform oral sex on Defendant Brother Regis; and Defendant Brother Regis raping the Plaintiff by sodomizing the Plaintiff.

9. From approximately 1955 through at least approximately 1957, when the Plaintiff was approximately fourteen and fifteen years of age, Plaintiff respected and trusted Defendant Brother Jean-Rosaire and Defendant Three. Defendant Brother Jean-Rosaire and Defendant Three had been entrusted with the care, education and well-being of the minor students, including the Plaintiff, who attended and resided at the Sacred Heart School.

10. In or about February 1956, several months, after Defendant Brother Regis began engaging in explicit sexual behavior and lewd and lascivious conduct with the Plaintiff, the Plaintiff, during confession, spoke to the Chaplain of the Sacred Heart

School, Father Kelly, about Defendant Brother Regis's explicit sexual behavior and lewd and lascivious conduct with the Plaintiff.

11. Later on the same day on which the Plaintiff spoke with Father Kelly about Defendant Brother Regis's explicit sexual behavior and lewd and lascivious conduct with the Plaintiff, the Plaintiff was summoned to a meeting with Defendant Brother Jean-Rosaire who was the Director or Headmaster of the Sacred Heart Boarding School. Also present at that meeting with the Plaintiff and Defendant Brother Jean-Rosaire were Father Kelly and a religious Brother who was the Assistant Director or Assistant Headmaster of the Sacred Heart Boarding School. At this meeting the Plaintiff was warned by Defendant Brother Jean-Rosaire that the Plaintiff must not tell anyone what the Plaintiff told Father Kelly in confession. Defendant Brother Jean-Rosaire and the other adults present at this meeting with the Plaintiff, told the Plaintiff that the Plaintiff's parents would not believe the Plaintiff if the Plaintiff reported to his parents Defendant Brother Regis's explicit sexual behavior and lewd and lascivious conduct with the Plaintiff. Defendant Brother Jean-Rosaire and the other adults present at this meeting with the Plaintiff, further told the Plaintiff that if the Plaintiff persisted in telling people about Defendant Brother Regis's explicit sexual behavior and lewd and lascivious conduct with the Plaintiff, then very bad things would happen to the Plaintiff, for example, the Plaintiff would go to Hell.

12. As a result of Defendant Brother Regis's explicit sexual behavior and lewd and lascivious conduct with the Plaintiff, the Plaintiff suffers, has suffered, and will continue to suffer in the future severe emotional distress and physical harm manifested by objective symptomatology, including, but not limited to, physical pain, depression, sleep problems, nightmares, flashbacks, fear, and alcohol dependence.

13. As a result of Defendant Brother Jean-Rosaire's improper and unreasonable conduct as the Headmaster or Director of Plaintiff's school, the Plaintiff suffers, has suffered, and will continue to suffer in the future severe emotional distress and physical harm manifested by objective symptomatology, including, but not limited to, physical pain, depression, sleep problems, nightmares, flashbacks, fear, and alcohol dependence.

14. At all times material hereto, Defendants misrepresented and concealed from the Plaintiff the wrongful nature of the explicit sexual behavior and lewd and lascivious conduct of Defendant Brother Regis and that such explicit sexual behavior and lewd and lascivious conduct could harm the Plaintiff.

15. As a result of the said explicit sexual behavior and lewd and lascivious conduct in which Defendant Brother Regis engaged with the Plaintiff and the improper and unreasonable conduct of Defendant Brother Jean-Rosaire, the Plaintiff is unable at this time to fully disclose in complete detail to what degree Defendant Brother Regis did abuse the Plaintiff emotionally and physically.

C. CLAIMS FOR RELIEF

Count I: Plaintiff v. Defendant Brother Regis Assault

16. The Plaintiff repeats, realleges, and incorporates by reference herein each and every allegation heretofore pleaded in this Complaint.

17. By engaging in the explicit sexual behavior and lewd and lascivious conduct with the Plaintiff described above, Defendant Brother Regis acted intentionally so as to cause harmful and offensive contact with the Plaintiff.

18. By engaging in the explicit sexual behavior and lewd and lascivious conduct described above, Defendant Brother Regis placed the Plaintiff in imminent and reasonable

apprehension of said harmful and offensive contact.

19. As a direct and proximate result of Defendant Brother Regis placing the Plaintiff in imminent and reasonable apprehension of harmful and offensive contact, the Plaintiff suffered and will continue to suffer in the future: severe and permanent mental distress and emotional injuries as outlined above; financial expenses for medical and therapeutic care and treatment; long term lost earning capacity; as well as other damages.

Count II: Plaintiff v. Defendant Brother Regis
Battery

20. The Plaintiff repeats, realleges, and incorporates by reference herein each and every allegation heretofore pleaded in this Complaint.

21. By engaging in the explicit sexual behavior and lewd and lascivious conduct described above, Defendant Brother Regis acted intentionally so as to cause unjustified harmful and offensive physical contact and touching of the Plaintiff, and repeatedly performed such unjustified harmful and offensive physical contact and touching of the Plaintiff.

22. As a direct and proximate result of Defendant Brother Regis's unjustified harmful and offensive physical contact and touching, the Plaintiff suffered and will continue to suffer in the future: severe and permanent mental distress and emotional injuries as outlined above; financial expenses for medical and therapeutic care and treatment; long term lost earning capacity; as well as other damages.

Count III: Plaintiff v. Defendant Brother Regis
Intentional Infliction of Emotional Distress

23. The Plaintiff repeats, realleges, and incorporates by reference herein each and every allegation heretofore pleaded in this Complaint.

24. By engaging in the explicit sexual behavior and lewd and lascivious conduct described above, Defendant Brother Regis intended to inflict emotional distress upon the Plaintiff, or Defendant Brother Regis knew or should have known that emotional distress was the likely result of Defendant Brother Regis's conduct.

25. The conduct of Defendant Brother Regis in engaging in the explicit sexual behavior and lewd and lascivious conduct described above is extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community.

26. As a direct and proximate result of the conduct of Defendant Brother Regis in engaging in the explicit sexual behavior and lewd and lascivious conduct described above, the Plaintiff suffered and will continue to suffer in the future: severe and permanent mental distress and emotional injuries as outlined above; financial expenses for medical and therapeutic care and treatment; long term lost earning capacity; as well as other damages.

27. The mental distress and emotional injuries which the Plaintiff suffered and will continue to suffer were severe, and of a nature that no reasonable person could be expected to endure them.

Count IV: Plaintiff v. Defendant Brother Regis
Negligent Infliction of Emotional Distress

28. The Plaintiff repeats, realleges, and incorporates by reference herein each and every allegation heretofore pleaded in this Complaint.

29. In his capacity as the Plaintiff's teacher and supervisor at a parochial boarding school, Defendant Brother Regis had a duty of care to properly and safely teach, supervise, interact with, and counsel the Plaintiff.

30. Defendant Brother Regis negligently breached such duty by failing to exercise

the care of a reasonable person in his supervision, interaction with, mentoring of, and counseling of the Plaintiff, in that he violated boundaries concerning appropriate and inappropriate touchings and interactions by engaging in the conduct described above.

31. At all relevant times to this action, Defendant Brother Regis knew or should have known that violating boundaries concerning appropriate and inappropriate touchings and interactions by engaging in the conduct described above would result in severe mental and emotional suffering by the Plaintiff.

32. As a direct and proximate result of Defendant Brother Regis's negligent conduct, the Plaintiff suffered and will continue to suffer in the future: severe and permanent mental distress and emotional injuries, including objective corroboration of said mental distress and emotional injuries as outlined above; financial expenses for medical and therapeutic care and treatment; long term lost earning capacity; as well as other damages.

33. A reasonable person in the Plaintiff's position would have suffered extreme mental distress and emotional injuries under these circumstances.

**Count V: Plaintiff v. Defendant Brother Jean-Rosaire and Defendant Three
Negligent Hiring, Retention, Direction, and Supervision**

34. The Plaintiff repeats, realleges, and incorporates by reference herein each and every allegation heretofore pleaded in this Complaint.

35. At all relevant times to this action, the responsibilities of Defendant Brother Jean-Rosaire and Defendant Three (hereinafter referred to as "the Supervisory Defendants") included the hiring, retention, direction, and supervision of individuals to be employed at or affiliated with the Sacred Heart School, where those individuals would be interacting with minors.

36. At all relevant times to this action, the Supervisory Defendants included hiring Defendant Brother Regis at the Sacred Heart School, or approving Defendant Brother Regis's affiliation with the Sacred Heart School; retaining Defendant Brother Regis in his employment at or affiliation with the Sacred Heart School; directing Defendant Brother Regis in his employment at or affiliation with the Sacred Heart School, including in his interactions with minors; and supervising Defendant Brother Regis in his employment at or affiliation with the Sacred Heart School, including in his interactions with minors.

37. At all relevant times to this action, the Supervisory Defendants knew or should have known that Defendant Brother Regis would interact and was interacting with minor boys at the Sacred Heart School, including, more specifically, the Plaintiff.

38. At all relevant times to this action, the Supervisory Defendants had a special relationship with Defendant Brother Regis, a teacher at the Sacred Heart School.

39. At all relevant times to this action, the Supervisory Defendants had a special relationship with the Plaintiff, a minor boy who was a residential student at the Sacred Heart School.

40. At all relevant times to this action, the Supervisory Defendants had a duty of care to properly hire, retain, direct, and supervise individuals of good reputation and character who would be asked to interact with minor boys at the Sacred Heart School.

41. At all relevant times to this action, the Supervisory Defendants negligently breached their duty of care to properly hire, retain, direct, and supervise individuals of good reputation and character who would be asked to interact with minor boys at the Sacred Heart School, by hiring Defendant Brother Regis at or approving Defendant

Brother Regis's affiliation with the Sacred Heart School; by retaining Defendant Brother Regis in Defendant Brother Regis's employment at or affiliation with the Sacred Heart School; and by their failure to exercise the care of a reasonable person in their direction and supervision of Defendant Brother Regis's interactions with minor boys at the Sacred Heart School, including the Plaintiff, as the Supervisory Defendants knew or should have known Defendant Brother Regis was of bad character and reputation and unfit to properly interact with minor boys at the Sacred Heart School, including, more specifically, the Plaintiff, and that Defendant Brother Regis engaged or was engaging in the intentional and negligent conduct with the Plaintiff as described above.

42. At all relevant times to this action, the Supervisory Defendants knew or should have known that Defendant Brother Regis's intentional and negligent conduct as described above would result in severe mental and emotional suffering by a victim of such conduct, including the Plaintiff.

43. As a direct and proximate result of the Supervisory Defendants' negligent conduct, the Plaintiff has suffered and will continued to suffer in the future: severe and permanent mental distress and emotional injuries, including objective corroboration of said mental distress and emotional injuries as outlined above; financial expenses for medical and therapeutic care and treatment; long term lost earning capacity; as well as other damages.

**Count VI: Plaintiff v. Defendant Brother Jean-Rosaire and Defendant Three
Breach of Fiduciary Duty**

44. The Plaintiff repeats, realleges, and incorporates by reference herein each and every allegation heretofore pleaded in this Complaint.

45. At all relevant times, Defendant Brother Jean-Rosaire and Defendant Three

knew that the Sacred Heart Boarding School in Sharon, Massachusetts was providing residential elementary education services to extremely vulnerable minors.

46. At all relevant times, Defendant Brother Jean-Rosaire and Defendant Three operated, managed and directed the Sacred Heart Boarding School in Sharon, Massachusetts, which was providing residential elementary education services to extremely vulnerable minors.

47. In approximately 1955 and approximately 1956, when the Plaintiff was approximately fourteen years of age, Defendant Brother Jean-Rosaire and Defendant Three were in positions that the minor boys attending the Sacred Heart School would believe they could trust Defendant Brother Jean-Rosaire and Defendant Three.

48. As Director or Headmaster of the Sacred Heart School Defendant Brother Jean-Rosaire was in a position that the minor boys attending the Sacred Heart School would have confidence that Defendant Brother Jean-Rosaire's conduct was to further the best interests of the minor boys.

49. At relevant times, Defendant Brother Jean-Rosaire, as Director or Headmaster of the Sacred Heart School, a residential school for elementary age boys, was in a formal position of authority over the Plaintiff and was responsible for the education, care and well being of the Plaintiff. At all relevant times, Defendant Brother Jean-Rosaire was required to act in the Plaintiff's best interests.

50. At all relevant times, Defendant Brother Jean-Rosaire understood that the Plaintiff would repose faith, confidence and trust in the judgment and advice of Defendant Brother Jean-Rosaire.

51. Defendant Brother Jean-Rosaire and Defendant Three each had a fiduciary

obligation to the Plaintiff.

52. Defendant Brother Jean-Rosaire and Defendant Three each breached their fiduciary duty to the Plaintiff.

53. As a direct and proximate result of the breach of fiduciary duty by Defendant Brother Jean-Rosaire and Defendant Three, the Plaintiff suffered and will continue to suffer in the future: severe and permanent mental distress and emotional injuries, financial expenses for medical and therapeutic care and treatment; lost long-term earning capacity; as well as other damages.

54. By reason of the foregoing, Defendant Brother Jean-Rosaire and Defendant Three each are liable to Plaintiff in an amount to be proved at trial.

WHEREFORE, the Plaintiff respectfully demands judgment against the Defendants on each claim in an amount to be determined by a jury, plus costs, interest, attorneys' fees, and such other and further relief as this Court deems just and equitable.

JURY TRIAL DEMANDED

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL CLAIMS.

By Plaintiff's Attorney,



Mitchell Garabedian, BBO #184760
William H. Gordon, BBO #545378
LAW OFFICES OF MITCHELL GARABEDIAN
100 State Street, 6th Floor
Boston, MA 02109
(617) 523-6250
garabedianlaw@msn.com

CERTIFICATE OF SERVICE

I, Mitchell Garabedian, Plaintiff's Attorney, hereby certify that on _____, 2012, a true copy of the above document was served upon George R. White, Esq.,

MORRISON MAHONEY, LLP, 250 Summer Street, Boston, MA 02210, via Hand Delivery.

Mitchell Garabedian, BBO#184760
LAW OFFICES OF MITCHELL GARABEDIAN
100 State Street, 6th Floor
Boston, MA 02109
(617) 523-6250
Garabedianlaw@msn.com