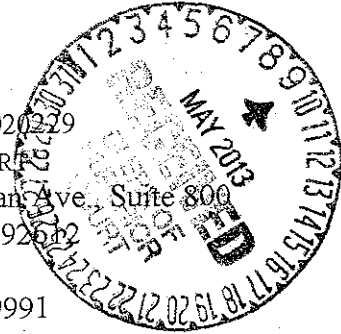


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6 Attorneys for Plaintiff

7
8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF COCONINO**

10 JOHN R.E. DOE, a married man,

Case No.: CV2013 00317

11
12 Plaintiff,

COMPLAINT

13 v.

14 THE ROMAN CATHOLIC CHURCH
15 OF THE DIOCESE OF GALLUP, a
16 corporation sole; THE ESTATE OF
17 MONSIGNOR JAMES
18 LINDENMEYER, deceased; JOHN
19 DOE 1-100; JANE DOE 1-100; and
20 Black & White Corporations 1-100,
Defendants.

21 Plaintiff, for his complaint, states and alleges the following:

22
23 **JURISDICTION**

- 24 1. Plaintiff, John R.E. Doe, is a resident of Maricopa County, Arizona. The acts,
25 events, and or omissions occurred in Arizona. The cause of action arose in
26 Navajo County, Arizona.
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2. Defendant The Roman Catholic Church of the Diocese of Gallup (Gallup) is a corporation sole. The presiding Bishops of the Diocese of Gallup during the relevant times at issue in this Complaint were Bishop Bernard T. Espelage (1940-1969), Bishop Jerome J. Hastrich (1969 – 1990), Bishop Donald Edmond Pelotte (1990 – 2008), and Bishop James S. Wall (2009 – present). Bishop Wall is presently governing Bishop of the Diocese of Gallup.
3. The Diocese of Gallup is incorporated in the State of New Mexico and has its principle place of business in Gallup, New Mexico. The territory of the Diocese of Gallup encompasses 55,000 square miles including the Northeastern portion of Arizona. At the time of the alleged acts or omission, the Diocese of Gallup included portions of North Central Arizona. The Diocese of Gallup was canonically erected on December 16, 1939.
4. Defendant Gallup, acting through its priests, Bishops, Archbishops, employees, and agents of any kind caused acts, events, or omissions to occur in Winslow, Navajo County, Arizona out of which these claims arise.
5. The Diocese of Gallup owns, operates, and controls priests and parishes in Coconino County, Arizona.
6. St. Joesph’s Catholic Church, St. Joseph’s Elementary School, and Madre de Dios Catholic Church owned, operated, and controlled by the Diocese of Gallup.
7. Defendant Monsignor James Lindenmeyer was ordained a Roman Catholic priest on November 14, 1948 and was incardinated in the Diocese of Gallup by Bishop Bernard T. Espelage.
8. On December 12, 1972, Father James Lindenmeyer was elevated to the rank of Domestic Prelate (Monsignor) by Pope Paul VI.
9. At all times alleged, Defendant Monsignor Lindenmeyer was a Roman Catholic priest who caused acts, events, or omissions to occur in Navajo County, Arizona out of which these claims arise. At all times alleged,

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Defendant Lindenmeyer was employed by and was the actual or apparent agent of Defendant Diocese of Gallup.

10. Defendant Lindenmeyer was under the supervision, employ, or control of Defendant Gallup when he committed the wrongful acts, events, and omission alleged.
11. Defendant Monsignor James Lindenmeyer died on May 8, 2007.
12. At all times alleged, Defendants Gallup and Lindenmeyer, their priests, Bishops, Archbishops, employees and agents were acting within their course and scope of employment or alternatively, acting within their actual or apparent authority. The wrongful acts, events, or omissions committed by Defendants Gallup and Lindenmeyer and by those priests, Bishops, Archbishops, employees and agents who acted individually and in conspiracy with the other to hide and cover up Lindenmeyer's history, pattern, and propensity to abuse Catholic children were done within the course and scope of their authority with their employing entities, or incidental to that authority and were acquiesced in, affirmed, and ratified by those entities.
13. Plaintiff is informed and believes, and on that basis alleges, that at all times mentioned herein, there existed a unity of interest and ownership among Defendants and each of them, such that any individuality and separateness between Defendants, and each of them, ceased to exist. Defendants, and each of them, were the successors-in-interest and / or alter egos of the other Defendants, and each of them, in that they purchased, controlled, dominated and operated each other without any separate identity, observation of formalities, or other manner of division. To continue maintaining the façade of a separate and individual existence between and among Defendants, and each of them, would serve to perpetuate a fraud and an injustice.
14. Defendants JOHN DOE 1-100, JANE DOE 1-100, and BLACK AND WHITE CORPORATIONS 1-100, are fictitious names designating an

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individual or individuals or legal entities not yet identified who have acted in concert with the named Defendants either as principals, agents, or co-participants whose true names Plaintiffs may insert when identified.

15. Plaintiff is informed and believes, and on that basis alleges, that at all times alleged herein, Defendants and each of them and JOHN DOES 1-100, JANE DOES 1-100, and BLACK and WHITE CORPORATIONS 1-100, inclusive, were the agents, representatives and or employees of each and every other Defendant. IN do the things hereinafter alleged, Defendants, and each of them, JOHN DOES 1-100, JANE DOES 1-100, and BLACK and WHITE CORPORATIONS 1-100, inclusive, were acting within the course and scope of said alternative personality, capacity, indemnity, agency, representation and or employment and were within their actual or apparent authority.

16. Plaintiff is informed and believes, and on that basis alleges, that all times mention herein, Defendants, and each of them, JOHN DOES 1-100, JANE DOES 1-100, and BLACK and WHITE CORPORATIONS 1-100, inclusive, were the trustees, partners, servants, agents, joint venturers, shareholders, contractors, and or employees of each and every other Defendant, and the acts and omissions alleged were done by them, acting individually, through such capacity and with the scope of their authority, and with the permission and consent of each and every other Defendant and that said conduct was thereafter ratified by each and every other Defendant, and that each of them is jointly and severally liable to Plaintiff.

GENERAL ALLEGATIONS

Lindenmeyer sexually abused John R.E. Doe

When he was a young boy living in rural Arizona

- 17. Plaintiff incorporates all other paragraphs.
- 18. To cope with the trauma of sexual abuse John R.E. Doe involuntarily and unconsciously blocked the memories of sexual abuse from his mind.

- 1 19. In the spring and summer of 2011, John R.E. Doe began to recover some of
2 the memories of sexual abuse by Monsignor Lindenmeyer.
3
4 20. John R.E. Doe attended St. Joseph's Catholic School. As part of his Catholic
5 education he received instruction from Catholic priests and nuns, including
6 Monsignor Lindenmeyer.
7
8 21. Monsignor Lindenmeyer disciplined students at the Catholic school, including
9 Plaintiff.
10
11 22. Monsignor Lindenmeyer sexually abused John R.E. Doe when he was a
12 student in Winslow, Arizona. The sexual abuse included, but was not
13 limited to, touching, masturbation, and sodomy.

14 **Defendants Gallup and Lindenmeyer**
15 **covered up and fraudulently concealed**

16 **Lindenmeyer's history and propensity of sexual abuse**

- 17 23. Plaintiff incorporates all other paragraphs.
18
19 24. Defendants Gallup and Lindenmeyer through its priests, Bishops,
20 Archbishops, employees, or agents of any kind knew or should have known
21 that Lindenmeyer sexually abused children. Defendants Gallup and
22 Lindenmeyer also knew or should have known of his propensity to sexually
23 abuse children.
24
25 25. Defendants Gallup and Lindenmeyer did not disclose or report the sexual
26 abuse. Instead, acting individually and in concert with each other and other
27 priests, bishops, dioceses, and archdioceses, and co-conspirators, Defendants
28 kept the news of Lindenmeyer's sexual abuse from the church members,
including Plaintiff and his family.
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30 26. Defendants Gallup and Lindenmeyer, their priests, Bishops, Archbishops, and
agents of any kind followed the orders, commandments, directives, policies,
or procedures of the Roman Catholic Church mandated by the priests,
Bishops, Archbishops, Cardinals, Vatican, the Holy See, the Holy Office, and

1 the Holy Father requiring that all matters and details regarding clergy sexual
2 abuse be kept absolutely secret. The secrets of priest sexual abuse were
3 commonly regarded as a secret of the Holy Office.

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5 27. Defendants Gallup and Lindenmeyer, their priests, Bishops, Archbishops, and
6 agents of any kind also followed the orders, commandments, directives,
7 policies, or procedures of the Roman Catholic Church mandated by the
8 Vatican, the Holy See, the Holy Office, Bishops, Archbishops, Cardinals and
9 the Holy Father allowing a priest accused of sexual abuse to be transferred to
10 a new assignment without ever disclosing the priest's history of sexual abuse.

11 28. Defendants Gallup and Lindenmeyer acted individually and in concert with
12 one another and others including but not limited to other priests, bishops,
13 archbishops, diocese, and archdiocese to engage in a pattern and practice of
14 protecting priests who sexually abused parishioners and children by ratifying,
15 concealing, failing to report, or failing to investigate clergy sexual abuse,
16 molestation, and or sexual misconduct.

17 **Defendants are estopped from alleging the statute of limitations as a defense**
18 **because they fraudulently concealed Monsignor Lindenmeyer's abuse of Catholic**
19 **children and his propensity to sexually abuse Catholic Children.**

20
21 29. Plaintiff incorporates all other paragraphs.

22 30. Defendant Gallup through its priests, Bishops, Archbishops, and agents of any
23 kind assigned Monsignor Lindenmeyer to parishes throughout Northern
24 Arizona, including the Catholic churches located in Flagstaff and Winslow,
25 Arizona.

26 31. Defendants Gallup and Lindenmeyer knew or should have known that Father
27 Lindenmeyer sexually abused Catholic children.

28 32. Defendants Gallup and Lindenmeyer did not reveal to the congregation of
faithful Catholics, including Plaintiff and his family, that Monsignor
Lindenmeyer sexually abused Catholic children.

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- 33. Defendants Gallup and Lindenmeyer, individually and in conspiracy with the other priests, bishops, archbishops, and agents of any kind, led the congregation of faithful Catholics in Flagstaff and Winslow, Arizona to believe that Monsignor Lindenmeyer was fit to serve as a Roman Catholic priest ministering to Catholic children.
- 34. In keeping with the orders, commandments, directives, policies, or procedures of the Roman Catholic Church mandated by the priests, Bishops, Archbishops, Cardinals, Vatican, the Holy See, the Holy Office, and the Holy Father requiring that all matters and details regarding clergy sexual abuse be kept absolutely secret, Defendants Gallup and Lindenmeyer individual and in conspiracy with each other and other priest, bishops, archbishops, diocese, and agents of any kind, did not reveal to the congregation of faithful Catholics in the Diocese of Gallup and its parishes, including Plaintiff and his family, that Monsignor Lindenmeyer sexually abused Catholic children.
- 35. Defendants are equitably estopped from alleging the statute of limitations as a defense in this case because of the inequitable conduct of Defendants, because of their attempts to fraudulently conceal the abuse and breaches of fiduciary duties.
- 36. All Defendants, with their pattern and practice of ignoring, covering up, and or fraudulently concealing Monsignor Lindenmeyer's sexual abuse of John R.E. Doe and other Catholic children, demonstrated deliberate indifference, conscious disregard, and reckless disregard to John R.E. Doe's mental and physical well-being.
- 37. All Defendants' pattern and practice of ignoring, covering up, and fraudulently concealing repeated and frequent sexual abuse perpetrated by Monsignor Lindenmeyer and other clergy was done pursuant to the Catholic Church's official and unofficial policies and practices.
- 38. The allegations set forth in the General Allegations render the Defendants

1 liable for Monsignor Lindenmeyer's sexual abuse of John R.E. Doe and other
2 children because such abuse was and should have been foreseeable and
3 reasonable precautionary measures would have prevented sexual abuse by
4 Monsignor Lindenmeyer and other clergy within the purview and/or control
5 of Defendants.
6

7 **COUNT I**

8 **SEXUAL ASSAULT / SEXUAL ABUSE / MOLESTATION**

9 **(A.R.S. § 13-1406 and the common law)**

10 **(Monsignor James Lindenmeyer)**

- 11 39. Plaintiff incorporates all other paragraphs.
- 12 40. Defendant Monsignor James Lindenmeyer intentionally, knowingly,
13 recklessly, or negligently engaged in sexual conduct with John R.E. Doe.
- 14 41. Defendant Monsignor Lindenmeyer intentionally, knowingly, recklessly, or
15 negligently engaged in sexual conduct with John R.E. Doe without his
16 consent and when he was a minor incapable of consenting to such sexual
17 conduct.
- 18 42. As a direct and proximate cause of Defendant Lindenmeyer's wrongful acts
19 Plaintiff suffered and will continue to suffer in the future great pain of mind
20 and body, shock, emotional distress, embarrassment, loss of self-esteem,
21 disgrace, humiliation, anger, rage, frustration, loss of enjoyment of life, loss
22 of consortium, loss of love and affection, sexual dysfunction, past and future
23 medical expenses for psychological treatment, therapy, and counseling.
- 24 43. The allegations set forth in this Count constitute traditional negligence and
25 negligence per se for violation of A.R.S. § 13-3623 and other relevant statutes
26 and laws, including the common law, enacted for the protection of a specific
27 class of persons of which John R.E. Doe is a member.
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COUNT II
BREACH OF FIDUCIARY DUTY
(All Defendants)

- 44. Plaintiff incorporates all other paragraphs.
- 45. Defendants' relationship with Plaintiff John R.E. Doe was one of spiritual guide, counselor, and shepherd. As a fiduciary to Plaintiff, Defendants owed a duty to investigate, obtain, and disclose sexual misconduct, sexual assault, sexual abuse, molestation, sexual propensities, and other inappropriate acts of its priests, including Defendant James Lindenmeyer. As fiduciary, counselor and spiritual guide, Defendants owed Plaintiff a duty to work solely for his benefit.
- 46. Defendants breached their fiduciary duties owed to Plaintiff.
- 47. As a direct and proximate cause of Defendants' breach Plaintiff suffered and will continue to suffer in the future great pain of mind and body, shock, emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage, frustration, loss of enjoyment of life, loss of consortium, loss of love and affection, sexual dysfunction, past and future medical expenses for psychological treatment, therapy, and counseling.

COUNT III
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(All Defendants)

- 48. Plaintiff incorporates all other paragraphs.
- 49. Defendants' wrongful conduct, including sexual abuse, conspiracy to conceal sexual abuse, failure to report Lindenmeyer's sexual abuse of children, acquiescence, affirmance, and ratification of Lindenmeyer's sexual abuse exceeded the bounds of decency and were extreme and outrageous causing Plaintiff to suffer severe emotional and psychological distress.
- 50. As a direct and proximate cause of Defendants' wrongful conduct Plaintiff

1 suffered and will continue to suffer in the future great pain of mind and body,
2 shock, emotional distress, embarrassment, loss of self-esteem, disgrace,
3 humiliation, anger, rage, frustration, loss of enjoyment of life, loss of
4 consortium, loss of love and affection, sexual dysfunction, past and future
5 medical expenses for psychological treatment, therapy, and counseling.
6

7 **COUNT IV**

8 **INTENTIONAL / NEGLIGENT MISREPRESENTATION**

9 **(All Defendants)**

- 10 51. Plaintiff incorporates all other paragraphs.
- 11 52. Defendants Gallup have a duty to provide true, accurate, and or complete
12 information to prevent a substantial and foreseeable risk of injury to young
13 Catholic children, including Plaintiff.
- 14 53. Instead of reporting and disclosing the incidents of sexual abuse,
15 Lindenmeyer's history of sexual abuse, or Lindenmeyer's propensity to
16 sexually abuse young boys, Defendants breached their duties to Plaintiff by
17 providing vague, incomplete, and inconsistent information regarding
18 Lindenmeyer's ability to serve as a Roman Catholic priest.
- 19 54. As a direct and proximate cause of Defendants' breach Plaintiff suffered and
20 will continue to suffer in the future great pain of mind and body, shock,
21 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation,
22 anger, rage, frustration, loss of enjoyment of life, loss of consortium, loss of
23 love and affection, sexual dysfunction, past and future medical expenses for
24 psychological treatment, therapy, and counseling.
25

26 **COUNT V**

27 **NEGLIGENT SUPERVISION / RETENTION**

28 **(Defendants Gallup)**

55. Plaintiff incorporates all other paragraphs.
56. Defendant Gallup had a duty to hire, fire, train, retain, supervise, and or

1 counsel employees or priests who had the knowledge, education, training,
2 physical, psychological, and spiritual ability to serve as Roman Catholic
3 Priests.

4 57. The Diocese of Gallup knew or should have known that Defendant
5 Lindenmeyer sexually abused children.

6 58. Defendants, individually and in concert with the others, breached their duties
7 to Plaintiff.

8 59. As a direct and proximate cause of Defendants' breach Plaintiff suffered and
9 will continue to suffer in the future great pain of mind and body, shock,
10 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation,
11 anger, rage, frustration, loss of enjoyment of life, loss of consortium, loss of
12 love and affection, sexual dysfunction, past and future medical expenses for
13 psychological treatment, therapy, and counseling.
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16 **COUNT VI**
17 **ENDANGERMENT**
18 **(All Defendants)**

19 60. Plaintiff incorporates all other paragraphs.

20 61. Defendants have a duty to protect children from foreseeable and unjustifiable
21 risks of harm.

22 62. Defendants knew or should have known Monsignor Lindenmeyer sexually
23 abused Catholic children.

24 63. Defendants, individually and or in agreement with each other, assigned
25 Monsignor James Lindenmeyer to Winslow, Arizona.

26 64. Monsignor Lindenmeyer posed a substantial risk of significant physical and
27 psychological injury to Catholic children, including Plaintiff.

28 65. Defendants, individually and in concert with the each other, recklessly
endangered the health and well being of Catholic children, including Plaintiff
by exposing them to Monsignor Lindenmeyer who was a substantial risk of

1 of all Defendants, Defendants and each of them caused, permitted, allowed,
2 and/or established patterns, practices, customs, and traditions that placed John
3 R.E. Doe in a situation in which his person, physical health, and
4 mental/emotional health were endangered.

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6 73. Defendants, and each of them, intentionally, recklessly and or negligently
7 endangered and sexually abused Plaintiff.

8 74. As a direct and proximate cause of Defendants' sexual abuse of Plaintiff,
9 Plaintiff suffered and will continue to suffer in the future great pain of mind
10 and body, shock, emotional distress, embarrassment, loss of self-esteem,
11 disgrace, humiliation, anger, rage, frustration, loss of enjoyment of life, loss
12 of consortium, loss of love and affection, sexual dysfunction, past and future
13 medical expenses for psychological treatment, therapy, and counseling.

14
15 **COUNT VIII**
16 **ASSAULT AND BATTERY**
17 **(A.R.S. §§ 13-1204, 13-1203, and the common law)**
18 **(All Defendants)**

19 75. Plaintiff incorporates all other paragraphs.

20 76. At all times relevant to this complaint, Monsignor Lindenmeyer was over the
21 age of 18 and John R.E. Doe was under the age of 15.

22 77. Monsignor Lindenmeyer intentionally, knowingly and/or recklessly caused
23 serious physical and mental/emotional injury to Plaintiff.

24 78. Monsignor Lindenmeyer intentionally, knowingly, recklessly and/or
25 negligently placed Plaintiff in reasonable apprehension of imminent physical
26 injury.

27 79. Monsignor Lindenmeyer intentionally, knowingly, recklessly and/or
28 negligently touched Plaintiff with the intent to injure, insult or provoke.

80. The allegations set forth in this Count constitute negligence and negligence
per se for violation of A.R.S. §§ 13-1204, 13-1203 and other relevant statutes

1 and laws, including the common law, enacted for the protection of a specific
2 class of persons of which Plaintiff is a member.

- 3
4 81. As a direct and proximate cause of Defendants' abuse of Plaintiff, Plaintiff
5 suffered and will continue to suffer in the future great pain of mind and body,
6 shock, emotional distress, embarrassment, loss of self-esteem, disgrace,
7 humiliation, anger, rage, frustration, loss of enjoyment of life, loss of
8 consortium, loss of love and affection, sexual dysfunction, past and future
9 medical expenses for psychological treatment, therapy, and counseling.

10 **PRAYER FOR RELIEF**

- 11 82. Plaintiff requests judgment in favor of Plaintiff and against Defendants as
12 follows to:

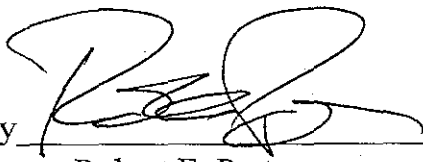
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14 a. For Plaintiff's general and special damages in an amount to
15 be proven at trial by jury;
- 16 b. For Plaintiff's incurred costs together with interest at the
17 highest lawful rate on the total amount of all sums awarded
18 from the date of judgment until paid;
- 19 c. For the fair and reasonable monetary value of Plaintiff's past,
20 present, and future pain and suffering in an amount to be
21 proven at trial by jury;
- 22 d. For the medical expenses incurred up to the date of trial and
23 any additional expenses necessary for future medical care and
24 treatment;
- 25 e. For punitive damages or exemplary damages to be set by a
26 jury in an amount sufficient to punish Defendants for their
27 outrageous conduct and to make an example out of them so
28 that others do not engage in similar conduct in the future;
- f. For such other and further relief as this Court may deem just and

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proper.

DATED this 6th day of May 2013.

MONTOYA, JIMENEZ & PASTOR, P.A.

By 

Robert E. Pastor
Attorneys for Plaintiff