

STATE OF ILLINOIS)
COUNTY OF C O O K) SS:
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - LAW DIVISION
JOHN OOE #116,
Plaintiff,)
vs.) No. 07 L-8761
THE CHICAGO PROVINCE OF THE)
SOCIETY OF JESUS,)
Defendant.)

The continued discovery deposition of
FATHER JAMES GSCHWEND, taken in the above-entitled
cause, before Elizabeth L. Vela, a notary public of
Cook County, Illinois, on the 13th day of October,
2009 at the time of 10:48 a.m. at 70 West Madison
Street, Chicago, Illinois, pursuant to Notice.

(Proceedings concluded at 4:25 p.m.)

Reported by: Elizabeth L. Vela, CSR
License No.: 084-003650

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4 BY MR. PEARLMAN

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1 APPEARANCES:
2 KERNS, FROST & PEARLMAN, LLC, by
3 MR. MARC PEARLMAN and
4 MR. MICHAEL BROOKS,
5 70 West Madison Street, Suite 5350
6 Chicago, IL 60602
7 (312) 261-4550
8 Representing the Plaintiff,
9
10 LAW OFFICES OF McCARTHY & TOOMEY, by
11 MR. TIMOTHY TOOMEY,
12 4433 West Touhy, Suite 262
13 Lincolnwood, IL 60712
14 (847) 675-0060
15 Representing the Defendant.
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1 (Witness sworn.)
2 MR. PEARLMAN: Good morning, Father. How are
3 you?
4 THE WITNESS: Why am I the only one that swears
5 to tell the truth? No answer.
6 MR. PEARLMAN: So Father, you'll recall the
7 last time, we went over some rules.
8 I'm going to ask you a series of
9 questions. I'll try to make my questions concise.
10 If I ask a yes or no question, please answer yes or
11 no if you can.
12 If there's other things that you feel like
13 you need to answer, your counsel will have an
14 opportunity to ask you questions at the end, but
15 for purposes of my questioning, I'd ask that you
16 just limit your answers to my questions, okay? You
17 have to answer --
18 THE WITNESS: Yes.
19 MR. PEARLMAN: -- verbally. Thank you.
20 THE WITNESS: Yes.
21
22
23
24

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1 (Pages 361 to 364)

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EXHIBIT 45

1 some point having a discussion with Mr. O?
2 A. Yes.
3 Q. Okay. Can you tell me what you recall
4 about that discussion?
5 A. I remember having a phone conversation
6 with him and I remember him expressing concerns
7 about Father McGuire and his son. And I remember
8 urging him several times to have his son speak with
9 me.
10 And I believe -- there are two families.
11 I may be getting them mixed up, but I believe it
12 was his son who would not follow the parents'
13 directives to not associate with Father McGuire and
14 they could not get him to speak with me or anybody
15 in the province. I recall that pretty strongly.
16 Q. Do you recall them expressing
17 frustration -- strike that.
18 Do you recall in dealing with the
19 learning that they had come forward in 2000? There
20 was a history with the
21 A. Is that in here?
22 Q. It is in your notes, actually. If you
23 look at Page 00138, one, two, three -- the fourth
24 line, it says started with assistant in August

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1 A. I probably did, if there was such. I
2 can't recall any right now.
3 Q. Do you recall that the Jesuits' position
4 was that they dealt with the Father McGuire
5 situation and that they weren't going to tell them
6 anything else because that was a matter of
7 private -- it was a private matter?
8 A. No.
9 Q. No?
10 A. No.
11 Q. Okay. Were you aware -- when you were
12 talking to the did you tell them what you knew
13 regarding Father McGuire and his history?
14 A. I -- no, I didn't tell them, but I told
15 the provincial that I would like to go and visit
16 with the and I would like to get them to
17 convince their son to speak with us and -- but I
18 did not feel that it was my place to inform the
19 about everything that was in Don McGuire's file.
20 Q. And why not? Why didn't you think that
21 was in your place?
22 A. Because what I said before.
23 Q. Canon 1772?
24 A. No. Confidentiality -- professional

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1 1999. Do you see that?
2 A. That's not
3 MR. TOOMEY: No.
4 THE WITNESS: That's started as -- oh.
5 BY MR. PEARLMAN:
6 Q. Servant assistant in -- okay. Strike
7 that. Sorry about that.
8 I'm asking you, without reviewing your
9 notes, sir -- I don't want to go through all the
10 notes, but I'm asking you whether you know whether
11 the had had communications with the province
12 prior to 2003.
13 A. Oh, I believe they had. I believe I -- I
14 think that was something that I had found that -- I
15 think probably Father Daly and Father McGurn had
16 both had conversations.
17 Q. And do you recall that -- do you recall
18 the being frustrated from the lack of
19 responsiveness by the Jesuits in that time period,
20 that previous time period?
21 A. No, I don't.
22 Q. You don't? Did you ever go back and
23 review the correspondence between the Jesuits and
24 the in the 2000 time period?

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1 confidentiality.
2 Q. You understood the situation was that the
3 were concerned that something sexually
4 inappropriate occurred with McGuire and their son,
5 correct?
6 A. I can't say that.
7 MR. TOOMEY: Yeah.
8 BY MR. PEARLMAN:
9 Q. You can't say that that was a concern of
10 theirs?
11 A. Exactly. I can say that I think that --
12 MR. TOOMEY: Don't volunteer. Let's just --
13 let him ask you a question.
14 BY MR. PEARLMAN:
15 Q. What was your impression?
16 A. That they were concerned that their son
17 was being dominated by Father McGuire and taken
18 away from them and they couldn't get their son to
19 speak clearly with them or with us.
20 Q. And you had a lot more information
21 regarding Father McGuire at that point in time than
22 they had, correct, all this history?
23 A. I don't know what they had.
24 Q. Strike that.

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1 A. I don't know what they had.
2 Q. Strike the question. You had a lot of
3 information regarding Father McGuire's history and
4 allegations against him at that time, 2003,
5 correct?
6 A. I was beginning to get a completer
7 picture.
8 Q. Well, I believe if -- did you have a
9 chance to review your testimony from the previous
10 days?
11 A. No.
12 Q. By 1994 or 5, you had a pretty complete
13 picture in your mind, didn't you, Father?
14 A. Complete picture of?
15 Q. About what you were -- about your views of
16 McGuire, what he was like, and whether he had
17 committed sexual abuse of children?
18 A. A clear view? I had an increasing --
19 that's the whole problem with this is that there
20 weren't any clear views.
21 Q. So I want to -- you don't -- when you
22 received the s telephone call, were you
23 concerned that their son was sexually abused by
24 Father McGuire?

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1 having a conversation with them.
2 And I know that I would not have had that
3 conversation over the phone. And I know that I was
4 advised not to confer with them until the trial was
5 over.
6 Q. By whom?
7 A. Probably counsel.
8 Q. Did the provincial tell you that or did
9 counsel tell that you?
10 A. I don't remember.
11 Q. If you'd just turn to Page -- in this
12 document, Page 00140. Do you see that page? It's
13 a January 10th, 2001 letter --
14 A. I see it.
15 Q. -- from Father McGurn to the . . . And I
16 just want to know if this refreshes your
17 recollection whether you ever saw this document
18 before.
19 A. I don't know whether -- I probably saw
20 this.
21 Q. Okay.
22 A. I recognize it as explaining the policy.
23 Q. Okay. So you -- this refreshes your
24 recollection about what I was talking about about

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1 A. I guess I was more interest -- I don't
2 know what I thought at that time.
3 Q. Based on what you knew about
4 Father McGuire, did that thought cross your mind?
5 A. I can't say what thoughts crossed my mind.
6 Q. As the delegate and a Ph.D. in psychology,
7 did you -- were you aware that victims of sexual
8 abuse often deny it?
9 A. Yes.
10 Q. Were you aware that they minimize what
11 happens?
12 A. Yes.
13 Q. Are you aware that it's very difficult for
14 them to come forward?
15 A. Yes.
16 Q. Okay. And in light of what you knew, you
17 didn't think it was critical -- strike critical.
18 In light of what you knew -- your
19 experience, your background, and what you knew
20 about Father McGuire, you didn't view it relevant
21 to tell the parents of that McGuire had a
22 history and that they were justified in being
23 concerned?
24 A. I believe that I was very concerned about

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1 the previous correspondence with the saying that
2 Father McGuire's right of privacy precluded them
3 from telling them anything, correct?
4 A. I wouldn't have remember it -- this letter
5 at all, but now that I see it, I --
6 Q. Is this the same right of privacy that you
7 think precluded you from telling the C in 2003
8 about what you knew about Father McGuire?
9 A. I believe I was following what was the
10 province policy until the thing was resolved in
11 Wisconsin.
12 Q. What was -- was it the -- I just want a
13 clarification here.
14 Was it the privacy and confidentiality
15 that precluded you from telling the or was it
16 the trial pending in Wisconsin?
17 A. I think the one was a directive of the
18 other.
19 Q. Sir, you know that in October 2003, there
20 were no charges pending against Father McGuire,
21 correct?
22 A. In October of 2003? I don't remember when
23 charges were brought.
24 Q. Well, at the time -- if I represent to you

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