IN THE IOWA DISTRICT COURT IN AND FOR CLINTON COUNTY

DONALD J. GREEN, Plaintiff, vs. FATHER JAMES JANSSEN AND THE DIOCESE OF DAVENPORT, Defendants.	)	Law No. LA 29990 PLAINTIFF'S STATEMENT OF DISPUTED FACTS IN RESISTANCE TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

COMES NOW, Plaintiff, Donald J. Green, by and through his attorneys, Betty, Neuman & McMahon, L.L.P. and Jeff Anderson & Associates, P.A., and in resistance to Defendant Diocese of Davenport's Motion for Summary Judgment, states as follows:

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INTRODUCTION

Sexual abuse of Donald J. Green and other children by Defendant Janssen is now a well documented fact. The cover up of his perversion by the Bishop, priests and other personnel of the Davenport Diocese is a chilling story of the Diocese choosing to avoid a "scandal" instead of protecting the children of the Diocese.

I. SEXUAL ABUSE OF DON GREEN AND OTHER CHILDREN BY DEFENDANT JANSSEN IS A WELL DOCMENTED FACT

In the summer of 1982, 30 years after specific complaints were made about Father Janssen's sexual perversion with minors, Father Janssen invited Don Green and two other young men to attend the World's Fair in Knoxville, Tennessee. At the time, Father Janssen was Don Green's parish priest and spiritual advisor. He and his parents trusted Father Janssen and before they left for Knoxville, Don stayed overnight with Janssen in Janssen's sister's home in Davenport, Iowa. When he arrived in Knoxville, they stayed overnight with relatives of Janssen's in a home that was a mansion. Father Janssen arranged to have the three boys and himself stay in one room with two double beds. Each night a different young man had to take a turn sharing the bed with Janssen. During the night when Don Green was required to spend the night in bed with Janssen, Janssen curled up behind him draping his arm across him and placing his hand in Don's underwear holding Don's penis. Janssen was awake and when Don woke up, Janssen asked him "Do you trust me?" As a result of this sexual abuse by Janssen, Don Green has suffered from mental disease and illness since the time of the abuse. As a result of his

mental illness and disease, he was unable to file his lawsuit until November 17, 2003. (See Green Exhibit 1).

Defendant Janssen's abuse of children other than Don Green started more than 30 years earlier and occurred at almost every assignment Janssen held in the Davenport Diocese.

II. DEFENDANT DIOCESE OF DAVENPORT HAS FRAUDULENTLY CONCEALED THE ABUSE BY DEFENDANT JANSSEN

Until Bishop Franklin's news conference of February 25, 2004, all information about the sexual perversion of Defendant Janssen was concealed from the children and adults of the Diocese by Bishops, priests and other knowledgeable Diocese officials. This horrible secret was hidden to avoid scandal and liability. The result was a 50 year systematic fraudulent concealment of the abuse of children by the Diocese of Davenport. The late admission and recognition that a "sacred trust has been violated" does not soften the deception practiced against the child victims. (See Plaintiff's Statement of Disputed Facts in Resistance to Defendants' Motions for Summary Judgment in Wells vs. Diocese of Davenport, et al, Scott County Law No. 101220).

The information that was known and in the Diocese files was concealed from Janssen's victims. As a result, Don Green and his parents did not know, before or during the time period that Don was abused, the following facts:

a) The Diocese had been warned of Janssen's immaturity and questionable qualifications to serve as a priest. (See Exhibit 2 of Plaintiff's Statement of Disputed Facts in Resistance to Defendants' Motions for Summary Judgment in Wells vs. Diocese of Davenport, et

al, Scott County Law No. 101220 hereinafter referred to as "Wells Exhibit").

b) That complaints about sexual misconduct had been made. (Wells Exhibits 5, 8, 9, 16, 23, 25, 28 and 30).

c) That Janssen was forbidden from returning to Clinton, Iowa. (Wells Exhibit 21).

d) That he was ordered not to return to Newton, Iowa. (Wells Exhibit 21).

e) That he was ordered not to go to the YMCA in Newton, Iowa. (Wells Exhibit 8).

f) That he was sent for psychiatric treatment as a result of his sexual perversions. (Wells Exhibit 12).

g) That Bishop Hayes was warned that Janssen needed to be assigned a spiritual director and have regular and frequent follow-up visits with a director. (Wells Exhibit 13).

h) That he was caught and admitted to improper sexual conduct with a child during the time he was receiving psychotherapy. (Wells Exhibits 16, 20).

i) That he was sent to a monastery because of his sex conduct with a child. (Wells Exhibit 20).

j) That Bishop Hayes privately and secretly forbade Janssen to have boys ride in the car with him, (Wells Exhibits 22, 27) go to a cabin with him, (Wells Exhibit 27) go to Newton, (Wells Exhibit 21) go to Clinton, (Wells Exhibit 21) take off his collar (Wells Exhibit 10) or enter a "Y" because of sexual misconduct with minor aged boys (Wells Exhibit 10)

Even after the abuse of Don Green, the Diocese concealed Janssen's pattern of sexual abuse until Bishop Franklin's report on February 25, 2004. The Defendant Diocese accuses Don Green of waiting too long to file a lawsuit against the Diocese. However, when Don Green requested information about Janssen after

his abuse, no investigation was performed. Although Don Green, as a childhood victim of abuse by his priest, sought information from the Diocese where he received his religious and ethical instruction and education, none was disclosed until February 25, 2004. Although the Bishop, himself, has admitted this was a "sacred trust violated", he denies any legal responsibility for these actions because somehow the information the Diocese concealed from Don Green should have been known by him earlier. The wrongdoer is attempting to benefit from its secret wrongdoing.

The Bishop and priests of the Diocese have repeatedly expressed the intent and carried out the intent to keep information about Janssen's perversions "secret" from anyone:

1. Much of the information documenting Janssen's abuse was kept in a locked "secret archive". Original sworn Answers to Interrogatories were untrue because officials of the Diocese did not know about the hidden documents. (Wells Exhibit 55).

2. When Janssen was suspended for improper sexual activity with a minor on October 3, 1958, the Chancellor Father Maurice Dingman, while touching the Holy Bible with his hand swore to "maintain secrecy regarding all facts of the case".

3. None of the numerous ongoing complaints about Janssen were made public by the Diocese until 2004.

4. That a July 23, 1990, memo by Father McAleer detailing Janssen's

abuse was kept in an envelope or with a cover sheet stating "Strictly Confidential – Bishop Eyes Only", (Wells Exhibit 56). The Diocese then announced on July 31, 1990 that Janssen resigned as Diocesan Chaplain for Scouting and that he was taking an "indefinite leave of absence for health reasons effective on August 15, 1990". (Wells Exhibit 57). The true reason for these actions was kept secret from the public.

5. On April 1, 1996, the Diocese, by Vicar General Morrissey, secretly restricted Janssen's activity by order from the Bishop and told Janssen in a letter "Both you and the church are fortunate that this is not being pursued in a more public forum" (Wells Exhibit 58).

6. On May 24, 1996, Vicar General Morrissey wrote a letter "To Active Priests in the Diocese of Davenport" with a heading that stated "Confidential – For Your Information Only". It stated "Father Janssen is not available for fill-up, substitute work nor assisting you in other duties". At this point, the Diocese advised all priests in the Diocese of the restriction in Janssen's duties, but not members of the public or victims of his abuse. (Wells Exhibit 59).

7. On February 5, 1997, Bishop Franklin sent a letter to Janssen further restricting his activities, although not publicly revealing the restrictions. He stated keeping it secret "allows Father Janssen to function as a priest, protects his reputation and shows the concern of the Diocese for its members, clergy, religious and laity", (Wells Exhibit 60). It will be for the jury to determine how concern was shown for the members of the public when no information was provided explaining

why Janssen's activities were being restricted.

8. As a direct result of Bishop Franklin keeping the information about Janssen's restrictions secret, Janssen was able to become a life guard at the Davenport Outing Club, as documented in the Quad City Times article of Friday, August 4, 2000 (Wells Exhibit 61).

9. Soon after the article appeared about Janssen being a life guard at a pool where children were present, Bishop Franklin, on August 30, 2000, secretly issued a "precept" against Janssen binding him to the following obligations:

1) To refrain from all contact with minors (those under the age of 18);

2) To cease work in places of employment where contact with minors is likely to occur;

3) To further avoid all places and situations that, from past experience, have been occasions of serious temptations in the areas of sexual morality.

10. Bishop Franklin apparently did not conduct any type of formal documented investigation into Janssen's activities, but took this action and stated ..."whatever the full truth of the alleged behaviors, in fact scandal has arisen among numerous members of the Diocesan community". (Wells Exhibit 62). This precept was not disclosed to victims, victims' families or members of the public until the Bishop's published report of February 25, 2004.

11. The single most telling piece of evidence of fraudulent concealment by the Diocese is Bishop Franklin's own February 25, 2004 report entitled "A Historical Accounting of Clergy Sexual Abuse of Minors and Action Taken

Regarding Certain Priests", (Wells Exhibit 63). The report states, at Page 4, that "the procedure for dealing with sexual abuse allegations against priests has dramatically changed over the years". It further states that "Dioceses were given recommendations by mental health care professionals that the problem had been satisfactorily addressed and that priests could safely be returned to ministry. Regrettably, this procedure was followed in the 1950's and the 1960's with Father Janssen." Bishop Franklin, in the next paragraph of the report, selectively quotes a portion of an August 24, 1957 letter by a Loyola University doctor to Bishop Hayes advising that Father Janssen "can become a very understanding and acceptable pastor...not likely to fall into past errors". However, intentionally deleted from the Bishop's report, following this quote, were the next two sentences that state: "<u>However, and this is strongly emphasized, it is urgent and essential that he have assigned to him particularly, a mature, understanding, spiritual director; one who can act almost one would say, as a father figure. Also that he have regular and frequent contact with this Director</u>". Despite this specific warning from Janssen's treating psychologist, no such spiritual director was ever assigned to Janssen, nor were there regular and frequent contacts with the director. He was assigned to an unsupervised parish in Holbrook, Iowa, where he continued to abuse the same boy he was abusing while receiving psychotherapy, (Wells Exhibit 38 [Webb Affidavit]). He also continued to abuse boys in Davenport, Fort Madison, Sugar Creek and Grand Mound after the Bishop failed to follow the psychologist's advice. The deletion of the psychologist's warning by Bishop Franklin from his report is direct

evidence that even in February of 2004, the Diocese is concealing the full truth it knew about Janssen's dangerous perversions.

12. The Diocese has never made any documented, comprehensive, independent investigation into Janssen's immoral sexual activities. In fact, the Diocese did not fully document complaints received about Janssen. In 1983, complaints were made about Janssen to Monsignor Morrissey by parishioners of the SS Phillip & James Parish in Grand Mound, Iowa, but no record of the complaint was made or the document no longer exists. (Wells Exhibit 64 [Bobbi R. Martin Affidavit]).

In summary, there is abundant evidence from which a jury can conclude the Diocese of Davenport concealed the truth about Janssen's sexual perversions from Don Green before, during and after his sexual abuse, making it impossible for him to have discovered the wrongdoing by the Diocese. (See Green Exhibit 1).

III. HIGH RANKING OFFICIALS OF THE DAVENPORT DIOCESE HAVE CONCEALED SEXUAL MISCONDUCT OF PRIESTS WITHIN THE DIOCESE

As the investigation into the fraudulent concealment of sexual abuse by priests of children continues, additional information has been learned that high ranking officials of the Davenport Diocese have concealed the sexual misconduct of priests.

1. Bishop O'Keefe testified falsely under oath in a lawsuit in 1991 that he had no knowledge beyond two complaints of filed lawsuits of prior complaints of

abuse by priests of children. Contrary to this sworn testimony, Bishop O'Keefe was aware of at least four other such instances. (Green Exhibit 2)

2. Monsignor Michael Morrissey also falsely testified in 1992 about the number of complaints of sexual misconduct by priests with children. Morrissey testified that he had read Bishop O'Keefe's testimony and agreed with it. He also agreed that to his knowledge, there were only two complaints of sexual impropriety between a priest and a minor child. (Green Exhibit 3) However, when confronted with his knowledge regarding four other priests (Janssen, Bass, Geerts and Wiebler) who were involved in such actions in a recent deposition, Monsignor Morrissey stated under oath he had "no explanation" for his earlier untruthful testimony. (Green Exhibit 4).

3. On August 5, 1998, the Davenport Diocese, through the Director of Communications for the Diocese, reported to the Quad City Times that there had been "no incidents in the Quad City Region, such as those that have occurred elsewhere in the Midwest". This is a misstatement of the facts known to the Diocese of Davenport. In particular, in 1998 complaints had been received regarding Father Janssen, Father Bass, Father Wiebler and Father Geerts, but all such complaints were kept secret from the public or parishioners. (Green Exhibit 5).

4. In addition, Irene Prior Loftus, the current Chancellor of the Davenport Diocese, testified in her deposition that recent complaints have been received about a priest in the Davenport Diocese of sexual misconduct with someone under the age of 18. The complaint was recent enough that the criminal statute of

limitations has not run. The Diocese paid for an attorney to represent the victim and the victim, at this time, has chosen not to proceed with prosecution. However, the Diocese has kept secret the name of the priest and any findings of the investigation (Green Exhibit 6). In addition, although it is known that the priest is on leave of absence, the reason for his leave of absence has not been disclosed to the public or parishioners, although this is required by the sex abuse policy of the Davenport Diocese.

In summary, the fraudulent concealment of improper sexual activities with priests of the Diocese and minors is a longstanding and continuing policy of the Davenport Diocese.

IV. DON GREEN, AS A CHILDHOOD SEX ABUSE VICTIM SUFFERS FROM MENTAL ILLNESS AND ITS EFFECTS AS A RESULT OF THE SEXUAL ABUSE BY DEFENDANT JANSSEN

Attached to this Statement of Disputed Facts is an Affidavit and Confidential Report and Curriculum Vitae by Dr. Carole Dillon, Ph.D. (Green Exhibit 7)

Dr. Carole Dillon was Don Green's treating psychologist. She has an M.A. Degree in Theology from Marquette University and was on the faculty of St. Ambrose University in the field of psychology and pastoral care during the time she treated Don Green. It is Dr. Dillon's opinion that Don Green suffers from a mental illness of sexual abuse and adjustment disorder and anxiety-chronic pursuant to the DSM-IV. It is also her opinion that he has had this condition since his abuse and that he was disabled from filing this lawsuit because of his mental condition from the time of his abuse until the lawsuit was filed. As a result of the Affidavit by Dr.

Dillon, there is a genuine issue of material fact whether the statute of limitations has run because of his mental illness.

CONCLUSION

In conclusion, Defendant Janssen sexually abused Plaintiff Don Green, and, as a result, caused his mental illness. Don's church failed to protect him by negligently supervising Janssen and fraudulently concealing the truth about him. There is overwhelming evidence of this negligent willful and wanton conduct.

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PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause by depositing a copy thereof in the United States Mail, postage prepaid, in envelopes addressed to each party at their respective address disclosed on the pleadings as follows:

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On the 20th day of July, 2004.

Laura Lenich