

IN THE IOWA DISTRICT COURT IN AND FOR CLINTON COUNTY

JOHN DOE,

Plaintiff,

vs.

FATHER JAMES JANSSEN and  
DIOCESE OF DAVENPORT,

Defendants.

Law No. LA 29513

PETITION AT LAW

MAILEY K. JUFFE  
CLERK DISTRICT COURT  
CLINTON COUNTY, IOWA

2003 MAY 19 AM 8:28

FILED

COMES NOW, Plaintiff, John Doe, by and through his attorneys, Betty, Neuman & McMahon, L.L.P., and for his Petition at Law against the Defendants, states as follows:

**COMMON ALLEGATIONS**

1. Plaintiff John Doe is now a resident of Clinton County, Iowa, and at all times material herein was a minor and resident of Clinton County, Iowa.

2. Plaintiff John Doe was a baptized and confirmed member of the Sugar Creek Parish of the Davenport Diocese. He attended catechism classes in this Parish, served for many years as an altar boy, and, with his family, attended weekly mass.

3. Defendant Diocese of Davenport is an Iowa corporation duly organized under the laws of the State of Iowa.

4. Plaintiff John Doe's treating psychologist believes that his identity should be kept confidential to avoid further psychological harm and damages to him beyond those caused by Defendants.

5. Defendant Father James Janssen (hereafter "Janssen") is an ordained Roman Catholic priest. At all times material, Defendant Janssen was placed as the

Parish Pastor, educator and designated holy figure at the Sugar Creek Parish in Clinton County, Iowa, under the authority, direct supervision, employ and control of the Diocese of Davenport.

6. Defendant Janssen has been assigned to and held the following positions in the Diocese of Davenport:

- A. Assistant Pastor at St. Paul the Apostle in Davenport, Iowa;  
(1948)
- B. Assistant Pastor at St. Paul Parish in Burlington, Iowa;  
(1948-1950)
- C. Assistant Pastor at St. Irenaeus Parish in Clinton, Iowa;  
(1950-1953)
- D. Assistant Pastor at St. Joseph Parish in East Pleasant Plain;  
(1953)
- E. Assistant Pastor at Sacred Heart Parish in Newton, Iowa;  
(1953-1956)
- F. Substitute Pastor at St. Michael Parish in Holbrook;  
(1958)
- G. Administrator at St. Patrick's Parish, Delmar, Iowa;  
(1959)
- H. Assistant Pastor at St. Mary's Parish in Davenport, Iowa;  
(1959-1961)
- I. Assistant Pastor at St. Joseph Parish in Fort Madison, Iowa;  
(1961-1967)
- J. Pastor at St. Joseph Parish in Sugar Creek, Iowa;  
(1967-1979)
- K. Pastor at St. Mary Parish in Bryant, Iowa;  
(1972-1979)

L. Co-Pastor at St. Anthony Parish in Davenport, Iowa; and  
(1979-1980)

M. Pastor at Ss. Philip & James Parish in Grand Mound, Iowa  
(1980-1990)

7. As a pastor, teacher and spiritual advisor, Defendant Janssen was a person of great influence and persuasion as a holy man and authority figure. Plaintiff, therefore, developed great admiration, trust, reverence and respect for the Roman Catholic Church and its agents.

8. At all times material, Defendant Janssen was under the direct supervision, employment and control of the Defendant Diocese of Davenport.

9. From 1961-1967, Defendant Janssen was an Assistant Pastor at the St. Joseph Parish in Fort Madison, Iowa. While in his position of authority, trust, reverence and control as a Roman Catholic Priest, he engaged in repeated harmful, illegal and immoral sexual contact with minor children of the parish. After learning of Defendant Janssen's improper and illegal conduct, Defendant Diocese of Davenport failed to take actions, including, but not limited to, investigating his actions, defrocking him, reporting him to law enforcement, warning members of the Diocese about him, disciplining him, documenting and maintaining records of his abuse and taking all reasonable steps to insure such actions, while under the Church's authority, control and employ, would not occur again. Instead, the Defendant Diocese of Davenport reassigned Defendant Janssen to the parish in Sugar Creek where similar conduct occurred with the Plaintiff and other minor children.

10. The Defendant Diocese of Davenport has engaged in a pattern and practice of transferring priests committing improper sexual conduct with minors from one parish to another without adequately warning or protecting the minor members or their parents in the new parish. Defendant Diocese of Davenport's conduct in Iowa is consistent with the conduct of other Diocese in the country, including, but not limited to, Father Porter in Falls River, Massachusetts, Father Bos in Dallas, Texas, Father Georgeon in Boston, Massachusetts and Father Gauthe in Louisiana. Records documenting this have either not been maintained or have been destroyed.

11. Defendant Janssen identified Plaintiff's family as one with a young male child, sought and gained the trust and confidence of Plaintiff's mother as friend, spiritual guide, pastor, confessor and priest; sought and gained parental consent for Plaintiff to participate in counseling and other activities and to spend time alone with him; and sought and gained parental directive to Plaintiff that he respect Janssen's authority and guidance and comply with his instructions. Janssen also sought and gained Plaintiff's trust, friendship, admiration and obedience. As a result, Plaintiff was conditioned to comply with Janssen's direction and to look to him as an authority on matters spiritual, moral, ethical and temporal.

12. On more than one occasion, before improper sexual contacts with the Plaintiff, Defendant Janssen would state "This is how we build trust".

13. Beginning in 1967, while the Pastor at St. Joseph Parish in Sugar Creek, Defendant Janssen, while using his position of authority, trust, reverence and control as a Roman Catholic Priest, engaged in repeated harmful and illegal sexual contact

with Plaintiff when Plaintiff was a child under the age of 14. Once committing harmful and illegal sexual contacts with Plaintiff under the age of 14, Defendant Janssen continued repeated improper and immoral sexual contacts with the Plaintiff while Plaintiff was a minor and member of the parish.

14. In fostering and developing trust to enable him to carry out his ongoing wrongful sexual contacts, Defendant Janssen committed the following acts with Plaintiff while Plaintiff was a minor:

a. Engaged in improper, illegal and immoral sexual contacts with a child under the age of 14.

b. Engaged in improper, illegal and immoral sexual contacts, including, but not limited to, forced oral genital sex while Plaintiff was a minor.

c. Took Plaintiff, while a minor, and other minor members of the church, to an adult xxx movie theater in Clinton, Iowa, to watch a graphic sexually explicit movie.

d. Took Plaintiff and other minor members of the church out of state where he encouraged them to shoplift.

15. The above referenced improper and harmful sexual contacts occurred on the property of the church rectory in Sugar Creek, Iowa, and elsewhere.

16. During the time that Defendant Janssen was molesting the Plaintiff, Defendant Diocese of Davenport either knew, or should have known, of the improper sexual abuse perpetrated by Defendant Janssen. Defendant Diocese of Davenport intentionally or negligently failed to take action against Defendant Janssen, including, but not limited to, investigating his actions, defrocking him, reporting him to law enforcement, warning members of the Diocese about him, disciplining him,

documenting and maintaining records of his abuse and taking all reasonable steps to insure such actions, while under the Church's authority, control and employ, would not occur again.

17. The sexual abuse of the Plaintiff and the concealment of the wrongful nature of it by the Defendant Diocese of Davenport caused Plaintiff to develop various psychological coping mechanisms and symptoms of psychological distress, including great shame, guilt, self-blame, depression, repression and disassociation. As a result, Plaintiff was unable to discover both the injury and the causal relationship between the injury and the abuse perpetrated upon him by Defendants until his complete mental and emotional breakdown requiring hospitalization in November of 2001.

**COUNT I**  
**ASSAULT AND BATTERY BY DEFENDANT JANSSEN**

1. Plaintiff incorporates Paragraphs 1-17 of the Common Allegations as if fully set forth herein.

2. Beginning in 1967 and continuing thereafter, Defendant Janssen engaged in wrongful sexual conduct and contact upon the person of the Plaintiff.

3. Plaintiff did not consent to the acts of assault and battery committed against him by Defendant Janssen.

4. As a result of the above described conduct, Plaintiff has suffered, and continues to suffer, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self esteem, loss of enjoyment of life, was and is permanently prevented from performing his normal daily activities and obtaining the full enjoyment to life, has and will continue to incur expenses for

medical and psychological treatment, therapy and counseling, and has incurred and will continue to incur loss of income and loss of earning capacity.

5. The acts of assault and battery committed by Defendant Janssen are a proximate cause of the injuries suffered by the Plaintiff.

6. Defendant Janssen acted willfully and recklessly and with intentional and willful disregard for the rights of the Plaintiff. Plaintiff is therefore entitled to punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendant Janssen for assault and battery in an amount that will fully and fairly compensate him for his injuries and damages, and for punitive damages in an amount sufficient to deter others and punish Defendant Janssen, and for any other relief the Court deems appropriate.

**COUNT II**  
**CHILDHOOD SEXUAL ABUSE BY DEFENDANT JANSSEN**  
**(IN VIOLATION OF IOWA CODE SECTION 709.1(3))**

1. Plaintiff incorporates Paragraphs 1-17 of the Common Allegations in this Petition as if set forth herein.

2. Beginning in 1967 and continuing thereafter, Defendant Janssen engaged in unlawful sexual abuse with the person of the Plaintiff in violation of Iowa Code Section 709.1(3).

3. As a result of the above described conduct, Plaintiff has suffered, and continues to suffer, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self esteem, loss of enjoyment of life, was and is permanently prevented from performing his normal daily activities and

obtaining the full enjoyment to life, has and will continue to incur expenses for medical and psychological treatment, therapy and counseling, and has incurred and will continue to incur loss of income and loss of earning capacity.

4. The sexual abuse committed by Defendant Janssen are a proximate cause of injuries suffered by the Plaintiff.

WHEREFORE, Plaintiff demands judgment against Defendant Janssen for sexual abuse pursuant to Iowa Code Section 709.1(3) in an amount that will fully and fairly compensate him for his injuries and damages, and for punitive damages in an amount sufficient to deter others and punish Defendant Janssen, and for any other relief the Court deems appropriate.

**COUNT III**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**(AGAINST ALL DEFENDANTS)**

1. Plaintiff incorporates Paragraphs 1-17 of the Common Allegations in this Petition as if set forth herein.

2. Beginning in 1967 and continuing thereafter, Defendant Janssen willfully and intentionally engaged in wrongful sexual conduct with Plaintiff, then a minor.

3. Defendant Diocese of Davenport either knew or should have known of Defendant Janssen's conduct and purposely and intentionally failed to take action against him or to prevent further abuse of the Plaintiff.

4. The conduct of the Defendants toward the Plaintiff was so outrageous as to go beyond all possible bounds of decency, and is to be regarded as atrocious and utterly intolerable in a civilized community.



5. Defendants did, and intended to inflict, emotional distress upon Plaintiff.

6. The outrageous conduct of the Defendants was a proximate cause of the severe emotional distress suffered by Plaintiff.

7. As a result of the above described conduct, Plaintiff has suffered, and continues to suffer, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self esteem, loss of enjoyment of life, was and is permanently prevented from performing his normal daily activities and obtaining the full enjoyment to life, has and will continue to incur expenses for medical and psychological treatment, therapy and counseling, and has incurred and will continue to incur loss of income and loss of earning capacity.

8. Defendants acted willfully and recklessly and with intentional and willful disregard for the rights of the Plaintiff. Plaintiff is, therefore, entitled to punitive damages.

WHEREFORE, Plaintiff prays for judgment against Defendants in an amount that will fully and fairly compensate him for his injuries and damages, and for punitive damages, in an amount sufficient to deter others and punish Defendants, and for any other relief the Court deems appropriate.

**COUNT IV**  
**BREACH OF FIDUCIARY DUTY**  
**(AGAINST ALL DEFENDANTS)**

1. Plaintiff incorporates Paragraphs 1-17 of the Common Allegations in this Petition as if set forth herein.

2. By holding themselves out as qualified Roman Catholic clergy, representatives of the Roman Catholic Church, priests, religious instructors, counselors and holy individuals, and by undertaking the religious instruction and spiritual and emotional counseling of Plaintiff, Defendants entered into a fiduciary relationship with the minor Plaintiff.

3. Defendants breached their fiduciary duty to the Plaintiff by engaging in intentional, negligent and unlawful conduct described herein.

4. As a result of Defendants' breach of their fiduciary duties, Plaintiff has suffered, and continues to suffer, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self esteem, loss of enjoyment of life, was and is permanently prevented from performing his normal daily activities and obtaining the full enjoyment to life, has and will continue to incur expenses for medical and psychological treatment, therapy and counseling, and has incurred and will continue to incur loss of income and loss of earning capacity.

WHEREFORE, Plaintiff prays for judgment against Defendants in an amount that will fully and fairly compensate him for his injuries and damages, and for punitive damages in an amount sufficient to deter others and punish Defendants, and for any other relief the Court deems appropriate.

**COUNT V**  
**FIDUCIARY FRAUD AND CONSPIRACY TO COMMIT FIDUCIARY FRAUD**  
**(AGAINST ALL DEFENDANTS)**

1. Plaintiff incorporates Paragraphs 1-17 of the Common Allegations in this Petition as if set forth herein.

2. By holding themselves out as qualified Roman Catholic clergy, representatives of the Roman Catholic Church, priests, religious instructors and counselors, and by undertaking the religious instruction and spiritual and emotional counseling of Plaintiff, Defendants entered into a fiduciary relationship with the minor Plaintiff.

3. As fiduciaries to Plaintiff, Defendants had a duty to obtain and disclose information relating to sexual misconduct of Defendant Janssen.

4. Defendants misrepresented, concealed or failed to disclose information relating to the sexual misconduct of Defendant Janssen.

5. Defendants knew that they misrepresented, concealed or failed to disclose information relating to the sexual misconduct of Defendant Janssen.

6. Plaintiff justifiably relied upon Defendants for information relating to sexual misconduct of Defendant Janssen.

7. Upon information and belief, Defendants, in concert with each other and with the intent to conceal and defraud, conspired and came to a meeting of the minds whereby they would misrepresent, conceal or fail to disclose information relating to the sexual misconduct of Defendant Janssen.

8. By so concealing, Defendants committed at least one act in furtherance of the conspiracy.

9. As a direct result of the Defendants' fraud and conspiracy, Plaintiff has suffered, and continues to suffer, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self esteem, loss of

enjoyment of life, was and is permanently prevented from performing his normal daily activities and obtaining the full enjoyment to life, has and will continue to incur expenses for medical and psychological treatment, therapy and counseling, and has incurred and will continue to incur loss of income and loss of earning capacity.

WHEREFORE, Plaintiff prays for judgment against Defendants in an amount that will fully and fairly compensate him for his injuries and damages, and for punitive damages in an amount sufficient to deter others and punish Defendants, and for any other relief the Court deems appropriate.

**COUNT VI**  
**NEGLIGENT HIRING, SUPERVISING, WARNING, DOCUMENTING**  
**AND RETAINING BY DEFENDANT DIOCESE**

1. Plaintiff incorporates Paragraphs 1-17 of the Common Allegations in this Petition as if set forth herein.

2. Upon information and belief, Defendant Diocese of Davenport, by and through their agents, servants and employees, knew, or should have known, of Defendant Janssen's harmful and unlawful conduct.

3. Defendant Diocese of Davenport had a duty to exercise reasonable care in the hiring, supervising, documenting and retaining Defendant Janssen and to use reasonable care to provide adequate warning to Plaintiff, his family and parishioners of Defendant Janssen's harmful and unlawful conduct.

4. The failure of Defendant Diocese of Davenport to properly hire, supervise, warn third parties, document wrongs and discharge their employees, include, but are not limited to, the following acts and omissions:

- a. Failure to prevent Defendant Janssen from engaging in sexual abuse;
- b. Failure to reprimand or take preventative action against Defendant Janssen;
- c. Failure to supervise and/or control Defendant Janssen to ensure sexual abuse did not occur;
- d. Failure to document and/or maintain documents about Defendant Janssen's activities;
- e. Failure to conduct a proper and thorough investigation into Defendant Janssen's improper sexual contacts;
- f. Failure to provide adequate warning to Plaintiff, his family and parishioners of Defendant Janssen's harmful and unlawful conduct.

5. The failure of Defendant Diocese of Davenport to properly hire, supervise, warn third parties, document wrongs and discharge Defendant Janssen manifests a deliberate indifference to the rights of the Plaintiff.

6. The negligent hiring, supervising, warning, documenting and retaining Defendant Janssen by Defendant Diocese of Davenport was a proximate cause of Plaintiff's injuries.

7. As a direct result of Defendant Diocese of Davenport's negligent hiring, supervising, warning, documenting and terminating Defendant Janssen, Plaintiff has suffered, and continues to suffer, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self esteem, loss of enjoyment of life, was and is permanently prevented from performing his normal daily activities and obtaining the full enjoyment to life, will incur expenses for medical and

psychological treatment, therapy and counseling, and has incurred and will continue to incur loss of income and loss of earning capacity.

WHEREFORE, Plaintiff prays for judgment against Defendants in an amount that will fully and fairly compensate him for his injuries and damages, and for punitive damages, in an amount sufficient to deter others and punish Defendants, and for any other relief the Court deems appropriate.

**COUNT VII**  
**RESPONDEAT SUPERIOR AS TO DEFENDANT DIOCESE OF DAVENPORT**

1. Plaintiff incorporates Paragraphs 1-17 of the Common Allegations in this Petition as if set forth herein.

2. When committing the acts alleged herein, Defendant Janssen was a representative, agent and/or employee of Defendant Diocese of Davenport and was acting within the scope of his representative agency and/or employment.

WHEREFORE, Plaintiff prays for judgment against Defendants in an amount that will fully and fairly compensate him for his injuries and damages, and for punitive damages, in an amount sufficient to deter others and punish Defendants, and for any other relief the Court deems appropriate.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants in an amount in excess of the jurisdictional amount that is fair and reasonable to compensate him for the damages sustained as a result of years of sexual abuse inflicted upon him while he was a minor and for punitive damages in an amount sufficient to deter others and punish Defendants for their wrongful conduct.

BETTY, NEUMAN & McMAHON, L.L.P.

By \_\_\_\_\_

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