

2. Beginning in 1967 and continuing thereafter, Defendant Bass and 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 Bass and Defendant Janssen is a proximate cause of injuries suffered by the Plaintiff.

WHEREFORE, Plaintiff demands judgment against Defendant Bass and 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 Bass and Defendant Janssen, and for any other relief the Court deems appropriate.

COUNT III
INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS
(AGAINST ALL DEFENDANTS)

1. Plaintiff incorporates Paragraphs 1-21 of the Common Allegations in this Petition as if set forth herein.

2. Beginning in 1967 and continuing thereafter, Defendant Bass and 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 Bass' and Defendant Janssen's conduct and purposely and intentionally failed to take action against them 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 1-21 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 1-21 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 Bass and Defendant Janssen.
4. Defendants misrepresented, concealed or failed to disclose information relating to the sexual misconduct of Defendant Janssen and Defendant Bass.
5. Defendants knew that they misrepresented, concealed or failed to disclose information relating to the sexual misconduct of Defendant Bass and Defendant Janssen.
6. Plaintiff justifiably relied upon Defendants for information relating to sexual misconduct of Defendant Bass and 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 Bass and 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 1-21 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 Bass' and 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 Bass and Defendant Janssen and to use reasonable care to provide adequate warning to Plaintiff, his family and parishioners of Defendant Bass' and 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 Bass and Defendant Janssen from engaging in sexual abuse;
- b. Failure to reprimand or take preventative action against Defendant Bass or Defendant Janssen;
- c. Failure to supervise and/or control Defendant Bass and Defendant Janssen to ensure sexual abuse did not occur;
- d. Failure to document and/or maintain documents about Defendant Bass' and Defendant Janssen's activities;
- e. Failure to conduct a proper and thorough investigation into Defendant Bass' and Defendant Janssen's improper sexual contacts;
- f. Failure to provide adequate warning to Plaintiff, his family and parishioners of Defendant Bass' and Defendant Janssens' harmful and unlawful conduct.

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

6. The negligent hiring, supervising, warning, documenting and retaining Defendant Bass and 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 Bass and 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 1-21 of the Common Allegations in this Petition as if set forth herein.

2. When committing the acts alleged herein, Defendant Bass and Defendant Janssen were representatives, agents and/or employees of Defendant Diocese of Davenport and were acting within the scope of their 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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