

IN THE IOWA DISTRICT COURT IN AND FOR CLINTON COUNTY

FILED
2004 JUL 27 AM 9:01
MARILYN K. HUFF
CLERK DISTRICT COURT
CLINTON COUNTY, IOWA

JOHN DOE II,

Plaintiff,

vs.

FATHER FRANCIS BASS,
FATHER JAMES JANSSEN AND THE
DIOCESE OF DAVENPORT,

Defendants.

Law No. LA 29867

PLAINTIFF'S INITIAL
RESISTANCE TO
DEFENDANT DIOCESE OF
DAVENPORT'S MOTION
FOR SUMMARY JUDGMENT
AND MOTION FOR PERMISSION
TO FILE AMENDED PETITION

COMES NOW, Plaintiff, John Doe II, by and through his attorneys, Betty, Neuman & McMahon, L.L.P., and in resistance to Defendant Diocese of Davenport's Motion for Summary Judgment, states as follows:

1. John Doe II was born on June 2, 1955. He was abused between the years of 1967 and 1974 by Father Janssen and Father Bass.

2. The Diocese of Davenport fraudulently concealed their knowledge of Defendant Janssen and Bass' sexual perversions from John Doe II. John Doe II was unaware that the Diocese concealed information regarding the sexual perversions of Bass and Janssen from he and his mother at the time the abuse occurred and continued to conceal it until approximately the time his lawsuit was filed.

3. That in addition, Defendant Janssen, acting as a spiritual leader and his priest, traveled with John Doe II across state lines and sexually abused him while he was under the age of 18. The California legislature passed an amendment to the California Code of Civil Procedure Section 340.1, which permitted victims of sexual

abuse to sue during a one year window under California statute of limitations that would not bar Plaintiff's claim.

4. As a part of his Resistance to the Motion for Summary Judgment, John Doe II requests the Court enter an Order permitting him to plead and prove the California statute as an additional exception to any statute of limitations argument raised by the Defendant Diocese of Davenport in this case.

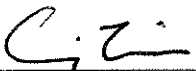
5. That in addition, the Diocese of Davenport has already raised and litigated the issue of fraudulent concealment of Defendants Janssen and Bass' activity in a consolidated case, John Doe III vs. Diocese of Davenport, et al, Scott County Law No. 101428. This Court has already ruled that the fraudulent concealment by the Defendant Diocese of Davenport of both Janssen's and Bass' activities tolled the statute of limitations and created a fact question for the Plaintiff in that case. The argument and authority in that case are incorporated in this case. In this case, John Doe II is a later victim than John Doe III was, and, therefore, the argument of fraudulent concealment would be even stronger.

6. That John Doe II requests the Court enter an Order providing him with an extension of time to fully complete his Resistance to Defendant Diocese's Motion for Summary Judgment and also enter an Order permitting him to move to amend and file an Amended Petition in this case pleading and proving the California exception to the statute of limitations. Plaintiff, John Doe II, believes that the California statute of limitations applies to Defendant Janssen and Defendant Diocese's conduct in this case when he was abused in California.

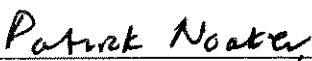
7. Plaintiff requests an Order from the Court extending the time required to file a full and complete Resistance to this Motion for Summary Judgment and also include a Statement of Disputed Facts and a Memorandum of Authorities.

WHEREFORE, Plaintiff John Doe II files this Initial Resistance to Defendant Diocese's Motion for Summary Judgment and also requests the Court enter an Order permitting him to move to amend his Petition.

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

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ATTORNEYS FOR PLAINTIFF
JOHN DOE II

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
Mura Chen