

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

**SUPERIOR COURT DEPT.
OF THE TRIAL COURT
CIVIL ACTION NO.: 02-1296-H**

**JAMES M. HOGAN, ET AL. ,
Plaintiffs,**

v.

**ROMAN CATHOLIC ARCHBISHOP OF
BOSTON, a Corporation Sole, JOHN B.
MCCORMACK, JOHN J. JENNINGS,
ROBERT J. BANKS, THOMAS J.
FINNEGAN and BERNARD CARDINAL
LAW, a.k.a., CARDINAL BERNARD F.
LAW,
Defendants.**

**THIRD AMENDED COMPLAINT
AND JURY DEMAND**

INTRODUCTION

This action is brought by plaintiff James M. Hogan (hereinafter "Jamie"), Stephen Blanchette ("Stephen"), John Morris ("John"), Bernard McDaid ("Bernie"), Robert Abraham ("Bobby"), Edward Bergeron ("Edward"), Gary Bergeron ("Gary"), James Davin ("James"), Thomas Blanchette ("Thomas"), Laurent Bedard ("Laurent"), Robert Courtney ("Robert"), Stevan Gauthier ("Stevan"), Russell Bergeron ("Russell"), Olan Horne ("Olan"), David Lyko ("David"), Mark Janeczko ("Mark"), Roger Hamilton ("Roger"), Lawrence Finn ("Larry"), James Murphy ("Jim"), Lawrence Sweeney ("Lawrence"), Donald Blanchette ("Donald"), Edward Davin ("Ed"), Michael McCabe ("Mike"), George Costanza ("George"), Charles Fitzpatrick ("Charles"), Daniel Finnegan ("Daniel"), William Zielinski ("William"), William Smith ("Bill"), Heath Vachon ("Heath"), Paul Ciaramitaro ("Paul"), Michael Barros

("Michael"), Joseph Favalora ("Joseph), Norman Gendron ("Norman"), Richard Smith ("Rick"), JOHN DOE 1-4, JANE DOE, RICHARD ROE 1-9, MICHAEL MOE 2-4 and JAMES JOE 1-2 (hereinafter collectively referred to as "Plaintiffs") against the ROMAN CATHOLIC ARCHBISHOP OF BOSTON, a Corporation Sole ("RCAB"), John B. McCormack, currently the Bishop of Manchester, New Hampshire (hereinafter "Bishop McCormack" or "Father McCormack"), John J. Jennings ("Monsignor Jennings"), Robert J. Banks, currently the Bishop of Green Bay, Wisconsin, Thomas J. Finnegan ("Monsignor Finnegan") and Bernard Cardinal Law, a.k.a., Cardinal Bernard F. Law (hereinafter "Cardinal Law") arising from Defendants' intentional, reckless, and/or negligent acts or omissions in allowing Joseph Birmingham ("Father Birmingham") to repeatedly sexually molest Plaintiffs while they were minors and failing to take appropriate action to abate the emotional distress and other ongoing damages suffered by Plaintiffs upon becoming aware of the abuse.

THE PARTIES

1. Plaintiff James M. Hogan is an adult residing in Wilmington, Delaware.
2. Plaintiff Stephen J. Blanchette is an adult residing in Sudbury, Massachusetts
3. Plaintiff John Morris is an adult residing in Shelton, Connecticut.
4. Plaintiff Bernard McDaid is an adult residing in Lynn, Massachusetts.
5. Plaintiff Robert Abraham is an adult residing in Salem, Massachusetts.
6. Plaintiff Gary Bergeron is an adult residing in Lowell, Massachusetts.
7. Plaintiff Edward Bergeron is an adult residing in Hilton Head Island, South Carolina.
8. Plaintiff James Davin is an adult residing in Merrimack, New Hampshire.
9. Plaintiff Thomas Blanchette is an adult residing in Vineyard Haven,

Massachusetts.

10. Plaintiff Laurent Bedard is an adult residing in Danvers, Massachusetts.
11. Plaintiff Robert Courtney is an adult residing in Wells, Maine.
12. Plaintiff Stevan Gauthier is an adult residing in Salem, Massachusetts.
13. Plaintiff Russell Bergeron is an adult residing in Salem, Massachusetts.
14. Plaintiff Olan Horne is an adult residing in Lowell, Massachusetts.
15. Plaintiff David Lyko is an adult residing in Dracut, Massachusetts.
16. Plaintiff Mark Janeczko is an adult residing in Lowell, Massachusetts.
17. Plaintiff Roger Hamilton is an adult residing in Lowell, Massachusetts.
18. Plaintiff Lawrence Finn is an adult residing in Lowell, Massachusetts.
19. Plaintiff James Murphy is an adult residing in Salisbury, Massachusetts.
20. Plaintiff Lawrence Sweeney is an adult residing in North Chelmsford,

Massachusetts.

21. Plaintiff Donald Blanchette is an adult residing in Gloucester, Massachusetts.
22. Plaintiff Edward Davin is an adult residing in Bradenton, Florida.
23. Plaintiff Michael McCabe is an adult residing in Manchester, Massachusetts.
24. Plaintiff George Costanza is an adult residing in Springfield, Massachusetts.
25. Plaintiff Charles Fitzpatrick is an adult residing in North Conway, New

Hampshire.

26. Plaintiff Daniel Finnegan is an adult residing in Lowell, Massachusetts.
27. Plaintiff William Zielinski is an adult residing in Dracut, Massachusetts.
28. Plaintiff William Smith is an adult residing in Tewksbury, Massachusetts.
29. Plaintiff Joseph Favalora is an adult residing in New York, New York.

30. Plaintiff Heath Vachon is an adult residing in Colorado Springs, Colorado.
31. Plaintiff Paul Ciaramitaro is an adult residing in Gloucester, Massachusetts.
32. Plaintiff Michael Barros is an adult residing in Lowell, Massachusetts.
33. Plaintiff Norman Gendron is an adult residing in Lowell, Massachusetts.
34. Plaintiff Richard Smith is an adult residing in Springfield, Massachusetts.
35. Plaintiffs John Doe 1-4 and Jane Doe are adults who were sexually abused by Father Birmingham during Father Birmingham's tenure at Our Lady of Fatima, Sudbury, Massachusetts.
36. Plaintiffs Richard Roe 1-9 are adults who were sexually abused by Father Birmingham during Father Birmingham's tenure at St. James, Salem, Massachusetts.
37. Plaintiffs Michael Moe 2-4 are adults who were sexually abused by Father Birmingham during Father Birmingham's tenure at St. Michaels, Lowell, Massachusetts.
38. Plaintiff James Joe 1-2 are adults who were sexually abused by Father Birmingham during Father Birmingham's tenure at St. Columbkille Parish, Brighton, Massachusetts.
39. Defendant, the RCAB is a Corporation Sole, with its principal place of business at 2121 Commonwealth Avenue, Boston, Suffolk County, Massachusetts. The RCAB operates parishes, schools and programs for children.
40. Defendant Bishop John B. McCormack is an adult residing at the Archdiocese of Manchester, 153 Ash Street, Manchester, New Hampshire. Bishop McCormack is the head of the Diocese of Manchester, which operates parishes, schools, and programs for children in New Hampshire. Bishop McCormack was ordained a priest in 1960, a Bishop in 1995 and installed as Diocesan Bishop of Manchester in 1998.

41. Defendant John J. Jennings is an adult residing at Carmel Terrace, 933 Central Street, Room 220, Framingham, Middlesex County, Massachusetts. Monsignor Jennings was ordained a priest in 1949.

42. Defendant Bernard Cardinal Law, a.k.a., Cardinal Bernard F. Law, is an adult residing at 2121 Commonwealth Avenue, Brighton, Suffolk County, Massachusetts. Cardinal Law was elevated from Archbishop to Cardinal in 1985. Cardinal Law is the head of the RCAB.

43. Defendant Thomas J. Finnegan is an adult residing in East Falmouth, Barnstable County, Massachusetts.

44. Defendant Robert J. Banks is an adult residing at the Diocese of Green Bay, Wisconsin, 1825 Riverside Drive, Green Bay, Wisconsin 54305-3825. Bishop Banks is the head of the Diocese of Green Bay, which operates parishes, schools, and programs for children in Wisconsin. Bishop Banks was ordained a priest in 1951. He was ordained an auxiliary bishop for Boston on September 19, 1985, and was then installed as the Diocesan Bishop of Green Bay on December 5, 1990.

STATEMENT OF RELEVANT FACTS

General Background

45. Father Birmingham was ordained a priest in 1960. In approximately 1961, the RCAB assigned Father Birmingham to Our Lady of Fatima ("Our Lady") in Sudbury, Massachusetts. In approximately 1965 or 1966, Father Birmingham was transferred to St. James in Salem, Massachusetts. In or about 1970, Father Birmingham was transferred from St. James to St. Michael's in Lowell, Massachusetts. Father Birmingham was then transferred in 1978 to St. Columbkille in Brighton, Massachusetts. In or about 1986, Father Birmingham was

transferred from St. Columbkille to St. Ann's in Gloucester. In 1985, Father Birmingham was promoted to pastor of St. Ann's. In 1988, Father Birmingham was transferred from St. Ann's to St. Brigid's in Lexington, Massachusetts. After holding a series of positions in various parishes, Father Birmingham died in 1989.

46. When Father Birmingham was promoted to pastor of St. Ann's in 1985 Bishop McCormack was Secretary of Ministerial Personnel and Bernard F. Law was the Cardinal.

Our Lady of Fatima, Sudbury, Massachusetts

47. Father Birmingham sexually abused Stephen, Thomas, Donald, James, Ed, Mike, George, John Doe 1-4 and Jane Doe while a curate at Our Lady in Sudbury, Massachusetts.

48. The abuse ranged from fondling to rape.

49. In 1964, when Mike's father, Howard McCabe ("Mr. McCabe") was speaking to Mike about the "facts of life," Mike told his dad that Father Birmingham was touching him.

50. Mr. McCabe called his friend who told him to not to tell anyone. But about one week later, Mr. McCabe's neighbor ("Neighbor") contacted him about Neighbor's son ("John Doe 4") who was also being abused by Father Birmingham. Neighbor was furious and Mr. McCabe calmed him down. Mr. McCabe and Neighbor called Father Robert Hurley, the church's pastor, and told them about the abuse suffered by their sons.

51. Father Hurley asked Neighbor, John Doe 4, Mr. McCabe and Mike to go to a meeting at the Archdiocese Chancery in Brighton ("the Chancery Meeting"). Present at the meeting was Father Hurley, Father Birmingham, Monsignor Francis Sexton, Monsignor Thomas J. Finnegan, Neighbor, John Doe 4, Mr. McCabe and Mike. At the meeting the two boys, John Doe 4 and Mike, were asked to recount the abuse. See Typewritten notes of Monsignor Finnegan, a true and accurate copy of which is attached as Exhibit "A"

52. Father Birmingham denied the allegations of abuse and stated that he only put his arms around John Doe 4 and Mike in a “spontaneous gesture of grabbing [one of the boys] around the waist.” Mr. McCabe jumped up and said, “You did more than that. You put your hands down their pants and played with their penises.”

53. In response to a question by Monsignor Sexton, Mike replied “Fr. B’s hands were inside my pants, inside my underwear.” See Exhibit “A”

54. Mr. McCabe, Mike, Neighbor and John Doe 4 left the Chancery after the meeting. Later that day, Mr. McCabe and Neighbor were together when Father Hurley approached them and told them that Father Birmingham was being moved to Salem to work at Salem Hospital as a chaplain and to get psychiatric treatment. Mr. McCabe and Neighbor were relieved. That representation, however, was untrue.

55. Approximately one year later, Mike went on a ski trip to Gunstock, Maine and saw Father Birmingham with a “busload of children.” Upon information and belief, those children were parishioners at St. James’ Parish in Salem.

56. The RCAB knew that Father Birmingham was sexually molesting children while a curate at Our Lady in Sudbury, Massachusetts. This knowledge prompted the RCAB to transfer Father Birmingham to St. James in Salem, a parish with a thriving grammar school.

St James, Salem, Massachusetts

57. Father Birmingham continued to sexually abuse children while assigned to St. James in Salem, Massachusetts, including Jamie, John, Bernie, Bobby, Laurent, Robert, Stevan, Russell, Jim, and Richard Roe 1-9.

58. The abuse included fondling, oral rape, attempted anal rape and upon information and belief, anal rape.

59. Father McCormack was also a priest at St. James during some of the years that Father Birmingham was sexually abusing Jamie, John, Bernie, Bobby, Laurent, Robert, Stevan, Russell, Michael, Jim, and Richard Roe 1-9.

60. Jamie was born in 1954 and grew up in Salem, Massachusetts. In approximately 1964 or 1965, Jamie became an altar boy at St. James.

61. While Jamie was a minor, between the ages of approximately ten (10) and fourteen (14), Father Birmingham repeatedly sexually molested him over a period of three (3) to four (4) years.

62. Jamie was first molested by Father Birmingham in or about 1965. Father Birmingham removed Jamie from his fifth grade classroom at St. James' grammar school and brought him to a conference room just outside the classroom. After complimenting Jamie and telling him how smart he was, Father Birmingham hugged Jamie and placed Jamie's hands on his penis.

63. Thereafter, nearly every time Father Birmingham spent time with Jamie, on approximately hundreds of occasions, he would sexually molest him. The abuse escalated and included oral sex, mutual fondling of the genitals and attempted rape.

64. Jamie's mother died in January 1966, when Jamie was in the sixth grade. Father Birmingham used the death of Jamie's mother to spend more time with Jamie. Also, despite there being no signs that Jamie was struggling academically, Father Birmingham convinced Jamie's father that Jamie should repeat the seventh grade because his mother's death had affected him greatly. Upon information and belief, Father Birmingham did this in order to keep Jamie in the grammar school an extra year so that he had additional opportunities to abuse him.

65. Upon information and belief, while Jamie was repeating the seventh grade, in

approximately 1968, his former classmates, then in the eighth grade, wrote a note addressed to Cardinal Cushing. Upon information and belief, the note stated that they, the undersigned children, were tired of Father Birmingham "sticking his hands down their pants." Upon information and belief, Sister Ellen Maureen saw a student passing the note around for signatures and read what the note said. Upon information and belief, Sister Maureen confiscated the note.

66. In or about 1965-1966, after Father Birmingham had arrived at St. James, John confessed to Father McCormack that he had been having "dirty thoughts" and performing "dirty actions" because of the time he was spending with one of the parish priests. Instead of trying to discover the problems John was having and ensure his future safety and the safety of other children, Father McCormack's response was to give John his penance.

67. Bishop McCormack knew or should have known that Father Birmingham was sexually molesting Jamie, John, Bernie, Bobby, Laurent, Robert, Stevan, Russell, Jim, and Richard Roe 1-9. Bishop McCormack knew that Father Birmingham was taking young boys on overnight trips to places like Killington, Vermont; Mount Snow, Vermont and Phoenix, Arizona.

68. Furthermore, on numerous occasions Father McCormack saw Father Birmingham escort Jamie into Father Birmingham's bedroom and close the door.

69. At or around the times he was molested by Father Birmingham, Jamie was too terrified and ashamed to tell anyone about Father Birmingham's abuse. When questioned by his father in or about 1968 or 1969, ashamed and embarrassed, Jamie denied that Father Birmingham had ever touched him.

70. When public revelations were made with respect to the recent wide spread abuse of children in the parishes of the RCAB, Jamie decided that he must speak to someone about the abuse he suffered at the hands of Father Birmingham. It was only recently that Jamie, and many

of the Plaintiffs were able to speak to their families about the abuse they suffered as children.

St. Michael's, Lowell, Massachusetts

71. While serving as a priest at St. Michael's, approximately 1971-1977, Father Birmingham sexually abused Gary, Edward, Olan, David, Mark, Roger, Larry, Lawrence, Charles, Daniel, William, Bill, Michael, Norman, Rick and Michael Moe 2-4.

72. The abuse ranged in severity from fondling to oral rape to attempted anal rape.

St. Columbkille's, Brighton, Massachusetts

73. While serving as a priest at St. Columbkille's, from approximately 1978-1985, Father Birmingham sexually abused James Joe 1-2.

74. The abuse consisted of repeated fondling, both under and over the clothing.

St. Ann's, Gloucester, Massachusetts

75. While serving as a priest at St. Ann's, from approximately 1986-1987, Father Birmingham sexually abused Paul, Heath and Joseph.

76. The abuse ranged from repeated fondling and masturbation to oral and anal rape.

77. In or about 1987, Paul informed his mother that he had been sexually abused by Father Birmingham.

78. Paul's mother, Beatrice Ciaramitaro, called the RCAB Chancery and was told to speak to her bishop, who at the time was Bishop John Mulcahy ("Bishop Mulcahy"). See Affidavit of Beatrice Ciaramitaro ("Ciaramitaro Affidavit"), a true and accurate copy of which is attached hereto as Exhibit "B"

79. Bishop Mulcahy arranged for Paul and his mother to receive therapy. Mrs. Ciaramitaro went to Bishop Mulcahy personally for therapy while Paul was seen by various other counselors. See Ciaramitaro Aff. ¶6; See Bishop Mulcahy's typewritten notes, a true and

accurate copy of which is attached hereto as Exhibit "C"

80. Between 1989 and 1991, Cardinal Law served Mass at St. Ann's. After Mass, Mrs. Ciaramitaro approached Cardinal Law and told him that Paul had been abused by Father Birmingham and that he was "having a hard time." Cardinal Law only said, "Yes, I know. I'm sorry." See Ciaramitaro Aff. ¶8.

81. In or about 1991, Mrs. Ciaramitaro received a telephone call from Bishop Mulcahy. He was angry and shouting at her. He asked her, "Why are you suing the church? You said all you wanted was counseling." See Ciaramitaro Aff. ¶9.

82. Bishop Mulcahy told Mrs. Ciaramitaro that Paul had hired a lawyer and was suing the church for the sexual abuse by Father Birmingham. See Ciaramitaro Aff. ¶9.

83. Bishop Mulcahy continued to yell at Mrs. Ciaramitaro and threatened to withhold counseling from Paul if he continued his lawsuit against the church. Bishop Mulcahy intimidated and coerced Mrs. Ciaramitaro into convincing Paul to stop pursuing his lawsuit. Mrs. Ciaramitaro told Paul that he would be "kicked out of the family" if he continued to sue the church. See Ciaramitaro Aff. ¶10.

84. Shortly thereafter, Paul went to his attorney and told his attorney to settle the matter. Paul was only 19 years old. See Ciaramitaro Aff. ¶11.

Defendants' Actual Knowledge of Sexual Abuse Allegations Against Father Birmingham

85. Prior to Father Birmingham being transferred to St. James in Salem, the RCAB knew about Father Birmingham's predilection for pedophilia. At the Chancery Meeting in 1964, the two children recounted their experience with Father Birmingham. See Exhibit "A" Although Father Hurley represented to Mr. McCabe and Neighbor that Father Birmingham would be working as a chaplain at a hospital, and not with children, and that Father Birmingham

would receive psychological treatment, the RCAB recklessly transferred Father Birmingham to a parish where Father Birmingham was given unfettered access to young children.

86. Instead of informing the parishioners that Father Birmingham was transferred because of allegations of sexual abuse, so that they could find out if there were other children who had been abused and get them the help they needed, the RCAB intended on telling parishioners at Our Lady of Fatima that Father Birmingham had been “working to hard” and “needed a rest.” Father Birmingham in fact, was transferred to St. James in Salem where he continued his horrific abuse.

87. In addition to Father McCormack’s actual knowledge of Father Birmingham’s inappropriate conduct with Jamie and John, Father McCormack was approached by a number of individuals at St. James’ parish in 1969 and 1970.

88. In or about 1969 or 1970, an adult parishioner at St. James (the “Parishioner”) became aware that Father Birmingham was sexually abusing children in the parish. The Parishioner confronted Father McCormack, who, upon information and belief, was working for Catholic Charities in Salem, Massachusetts at the time. Father McCormack was not surprised at the allegation nor did he deny that the alleged abuse occurred, but rather acknowledged that there was a problem and stated “It’s being taken care of.”

89. In approximately 1969-1970, other parishioners learned of the sexual abuse allegations against Father Birmingham. Sister Grace Kenning, the principal of St. James’ school (“Sister Grace”) held a meeting for parishioners. Sister Grace acknowledged that there was a problem with Father Birmingham and assured the parishioners that the issue would be resolved.

90. In January 1970 a fellow priest wrote to Monsignor Jennings at the Archdiocesan Personnel Office concerning the inappropriate sexual behavior of Father Birmingham. See

Letter from Rev. Patrick Kelly to Rev. John J. Jennings ("Monsignor Jennings"), a true and accurate copy of which is attached as Exhibit "D"

91. In his letter, Rev. Kelly states that he spoke with Monsignor Jennings about Father Birmingham on two other occasions, January 1970 and November 1969. Rev. Kelly's letter also discussed two meetings he had about Father Birmingham's behavior with (1) a parishioner, whom upon information and belief was Mr. McDaid, Plaintiff Bernie McDaid's father and (2) Sister Superior of St. James' School, whom upon information and belief was Sister Grace Kenning. See Exhibit "D"

92. Upon information and belief, Father Birmingham was transferred from St. James as a result of complaints from various parents that Father Birmingham was molesting their children. The RCAB placed Father Birmingham at St. Michael's parish in Lowell, Massachusetts where, upon information and belief, he was affiliated with the grammar school.

93. At or about 1970, after Father Birmingham was transferred to St. Michael's, Sister Grace visited the RCAB Chancery in Brighton. Sister Grace spoke with Monsignor Jennings regarding the complaints against Father Birmingham. Upon information and belief, Monsignor Jennings dismissed Sister Grace as a "meddlesome female" and told her to go back to St. James.

94. After Sister Grace notified Monsignor Jennings of her concerns, a group of five (5) women, mothers of children in St. James' parish ("mothers"), went to the RCAB Chancery in Brighton to meet with Monsignor Jennings. These women asked Monsignor Jennings for three things: (1) that the pastor at St. Michael's be told about the abuse by Father Birmingham; (2) that Father Birmingham be given psychiatric counseling; and (3) that Father Birmingham be kept away from young children, possibly be assigned to a high school rather than a grammar school.

Monsignor Jennings categorically rejected their demands and threatened the mothers by warning them of the penalties for slander.

95. Approximately 2-3 days later, one of the five women, Parishioner II, approached Father McCormack at Catholic Charities. Parishioner II told Father McCormack about her visit with Monsignor Jennings. Father McCormack again acknowledged that there was a problem with Father Birmingham and that the church was taking care of it but then dismissed Parishioner II with a prayer.

96. When Parishioner II got home from her meeting with Father McCormack she was furious. Almost immediately, Monsignor Jennings called Parishioner II at her home. Parishioner II, angry at being rebuffed by both Monsignor Jennings earlier in the week and Father McCormack only minutes before, hung up the phone before she was able to hear what Monsignor Jennings had to say.

97. When Cardinal Law became Archbishop in 1984, he knew or should have known about the abuse Father Birmingham perpetrated against young children. He had the ability to locate individuals who had been affected, but recklessly chose not to do so.

98. Again in 1989, Cardinal Law was given the opportunity to reach out to victims of Father Birmingham's horrific past when Thomas approached Cardinal Law at Father Birmingham's funeral. Thomas specifically informed Cardinal Law that there were many young men in need of counseling because of the abuse they suffered at the hands of Father Birmingham. Thomas asked Cardinal Law to reach out to the victims and get them help. Cardinal Law's response was "we don't want to destroy the reputation of this fine man's [Father Birmingham] ministry." The ministry Father Birmingham was involved in, was a ministry of pedophilia.

99. In an attempt to silence Mr. Blanchette, Cardinal Law layed his hands on Mr. Blanchette's head and said, "I bind you by the power of the confessional never to speak about this to anyone else." Cardinal Law suggested that Thomas speak with Bishop Robert Banks ("Bishop Banks").

100. Thomas contacted Bishop Banks and suggested that the Archdiocese make an outreach to all parishes where Father Birmingham was assigned so that victims could be located and help provided. Bishop Banks told Thomas that it wasn't in the RCAB budget to implement an outreach program such as that suggested by Thomas.

101. Instead of taking prompt remedial action to abate the ongoing harm being suffered by these men, Cardinal Law and Bishop Banks worked to conceal Father Birmingham's acts of pedophilia. It is foreseeable that Cardinal Law's attempt to silence Thomas about the abuse perpetrated by Father Birmingham and Bishop Banks' dismissive response to Thomas' suggestion, would compound the suffering of the Plaintiffs.

102. As a direct and proximate result of all the Defendants' conduct, the Plaintiffs all suffered great emotional and psychological harm.

103. After enduring years of abuse at the hands of Father Birmingham, Plaintiffs were forced to watch the RCAB and Cardinal Law promote Bishop McCormack – someone who could have prevented much of the abuse suffered by Plaintiffs – to the position of Bishop of New Hampshire.

104. The RCAB served no notification on the Plaintiffs, then minors, or their family of the potential problems with Father Birmingham, despite the fact that the RCAB was aware that Father Birmingham preyed sexually on children. The RCAB's willful nondisclosure was a deliberate attempt to conceal any cause of action from the Plaintiffs so as to toll the statute of

limitations pursuant to the provisions of M.G.L. c. 260 § 12.

105. The Plaintiffs have suffered from severe emotional and psychological harm that is directly and causally related to childhood sexual abuse that was perpetrated against them by Father Birmingham.

STATEMENT OF CLAIMS

COUNT I
Negligence

(All Plaintiffs v. All Defendants)

106. Plaintiffs reallege and incorporate by reference herein in their entirety the allegations contained in above paragraphs.

107. The Defendants had a duty to (a) supervise and retain competent, fit, and otherwise qualified priests for the RCAB and to make sure that children involved in RCAB programs were safe and not exposed to known or suspected pedophiles; (b) fully investigate all claims of child abuse against Father Birmingham; (c) remove Father Birmingham from having contact with children once they knew or should have known that Father Birmingham was sexually molesting children and (d) notify the parishioners that they and their children were exposed to a known child molester.

108. As early as 1961, the RCAB knew or should have known that Father Birmingham was sexually molesting children.

109. The Defendants breached their duties by, among other things, the following acts or omissions: (a) failing to supervise Father Birmingham so that he would not pose an unreasonable risk of harm to the RCAB parishioners; (b) failing to fully investigate the claims and allegations of sexual abuse made against Father Birmingham; (c) failing to remove Father Birmingham from ministry and instead providing him unfettered access to children; and (d)

failing to take prompt remedial action by notifying parishioners that their children had been exposed to a known or suspected pedophile so that, among other things, the victims of Father Birmingham could receive mental health treatment to prevent any further harm to themselves and their families.

110. As a direct and proximate result of the Defendants' wrongful acts or omissions, Plaintiffs have suffered damages.

111. The actions or inactions of the Defendants deprived the Plaintiffs of treatment opportunities which could have mitigated their mental anguish, emotional distress and other damages which they suffered.

WHEREFORE, the Plaintiffs respectfully request the finder of fact to render a verdict in favor of the Plaintiffs in an amount which is fair and just, plus interest and costs therein.

COUNT II
Negligence-Premises Liability
(All Plaintiffs v. RCAB)

112. Plaintiffs reallege and incorporate by reference herein in their entirety the allegations contained in above paragraphs.

113. At all times relevant to this action, the RCAB had duty to provide reasonably safe premises for its parishioners, among others.

114. At all times relevant to this action, the RCAB knew or should have known that Father Birmingham's conduct would subject other minors to an unreasonable risk of harm on their property.

115. The RCAB breached their duty by, among other things, the following acts or omissions: (a) failing to warn the minor Plaintiffs, who were entrusted to the care and attention of the Defendants and Father Birmingham, on premises owned and operated by the RCAB, that

they would be subject to an unreasonable risk of harm on their premises; (b) failing to inform parishioners, specifically the Plaintiffs, that they had been exposed to a known or suspected pedophile; (c) failing to take prompt remedial action, including notification to parishioners so that victims of Father Birmingham could receive mental health treatment to prevent any further harm to themselves and their families.

116. As a direct and proximate result of the Defendants' carelessness and wrongful acts and omissions, the Plaintiffs were damaged.

WHEREFORE, the Plaintiffs respectfully request the finder of fact to render a verdict in favor of the Plaintiffs in an amount which is fair and just, plus interest and costs therein.

COUNT III
Intentional/Reckless Infliction of Emotional Distress
(All Plaintiffs v. All Defendants)

117. Plaintiffs reallege and incorporate by reference herein in their entirety the allegations contained in above paragraphs.

118. The Defendants had knowledge of Father Birmingham's deviant behavior toward children and recklessly and/or intentionally allowed Father Birmingham to remain a parish priest and transferred Father Birmingham from parish to parish where he had unfettered access to children.

119. Defendants' conduct was extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community.

120. Defendants' conduct directly and proximately caused Plaintiffs' extreme emotional distress of a nature that no reasonable man could be expected to endure.

121. Defendants' conduct was not privileged.

122. As a direct and proximate result of Defendants' conduct, Plaintiffs have been

damaged.

WHEREFORE, the Plaintiffs respectfully request the finder of fact to render a verdict in favor of the Plaintiffs in an amount which is fair and just, plus interest and costs therein.

COUNT IV
Breach of Fiduciary Duty
(All Plaintiffs v. All Defendants)

123. The Plaintiffs reallege and incorporate by reference herein in their entirety the allegations contained in above paragraphs.

124. At all times relevant to this action, the Defendants fostered and encouraged the relationship between priest and parishioner. The Plaintiffs, who were minors, when they were sexually abused by Father Birmingham, reposed trust and confidence in the Defendants, to whom Father Birmingham reported.

125. The Defendants, as fiduciaries to the parishioners and to children entrusted to the care and attention of priests acting on behalf of the RCAB, owed the Plaintiffs a duty of trust and loyalty.

126. The Defendants breached their fiduciary duty owed to the Plaintiffs and abused its position of trust and confidence.

127. As a direct and proximate result of the Defendants' breach of fiduciary duty, the Plaintiffs have been damaged.

WHEREFORE, the Plaintiffs respectfully request the finder of fact to render a verdict in favor of the Plaintiffs in an amount which is fair and just, plus interest and costs therein.

COUNT V
Violation MASS. GEN. LAWS Ch. 12, §§ 11H and 11I
(Paul Ciaramitaro against the RCAB)

128. Plaintiffs reallege and incorporate by reference herein in their entirety the

allegations contained in above paragraphs.

129. At all times relevant, Bishop Mulcahy was an agent of the RCAB.

130. The RCAB, through Bishop Mulcahy, interfered with Paul Ciaramitaro's rights secured by the laws of the Commonwealth through threats, intimidation, or coercion, including the direct threats of withholding psychological counseling if Paul pursued legal action against the RCAB.

131. As a direct and proximate result of the RCAB's conduct, Paul has been damaged.

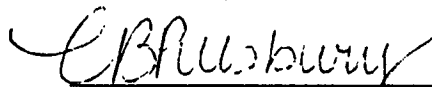
WHEREFORE, the Plaintiff respectfully requests the finder of fact to render a verdict in favor of the Plaintiff in an amount which is fair and just, plus interest and costs therein.

JURY DEMAND

PLAINTIFFS DEMAND A JURY TRIAL ON ALL ISSUES SO TRIABLE.

PLAINTIFFS

By their attorneys:



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Dated: August 5, 2002

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