

keeping. The fact that sexual abuse was so pervasive and that virtually every other priest who came to the attention of the Defendants for molesting children (during the time that Greg was abused) was returned to ministry without restriction undercuts the Defendants' claims that they would have done something about Father Shanley, had they had access to all of the relevant information. The Defendants' pattern of conduct also undermines the defense asserted by the Defendants that there was no institutional memory about abusive priests and that there was "inadequate record keeping" with respect to abusive priests. As shown below, the record keeping was hardly inadequate. For all of these reasons the Court should grant the Plaintiffs' motion in limine.

RELEVANT FACTS

In addition to the extensive discovery taken by deposition, the Plaintiffs obtained more than forty-five (45,000) thousand documentary pages pertaining to one hundred and forty-one (141) priests who are alleged to have sexually abused minors. In order to illustrate the patterns of conduct that have characterized the actions of the Defendants, what follows represents a factual sampling and summary of 25 priests, in which those patterns of conduct become apparent.

A. Father Paul R. Shanley

The following represents a general summary of the evidence the Plaintiffs

intend to present concerning how the RCAB, by and through the actions and inactions of the Defendants and others, dealt with accusations against Father Shanley over the years. The summary below by no means is intended to be exhaustive and the Plaintiffs reserve the right to proffer additional evidence at trial.

On February 2, 1960, Father Shanley was ordained following his graduation from St. John's Seminary. See II-0144.³ Father Shanley's classmates at seminary included, among others, Bishop McCormack, Joseph Birmingham, Bernard Lane, and Eugene O'Sullivan (all of whom have been accused publicly of sexual abuse with the exception of Bishop McCormack). See Relevant Facts, infra. Father Shanley entered the priesthood following work in other areas, including work with youth activities. See RCAB 00326-00329. On February 16, 1960, Father Shanley was assigned to St. Patrick's Parish in Stoneham, Massachusetts ("St. Patrick's"), see II-0144, where he replaced Father Coughlin, who had molested children at the parish.⁴

While at St. Patrick's, the RCAB received notice that Father Shanley had molested a child. Specifically, in or about 1960 or 1961, Father Shanley asked a

³ The documents referenced in this section "A. Father Paul Shanley" will be found behind the tab "A" in the Addendum which is attached to the brief. The documents are in the following order: Bates stamped documents; Affidavits; Deposition Transcripts; Complaints and Other Pleadings; Miscellaneous documents.

⁴ See infra. Father Coughlin was later sent to California where he was accused of molesting choir boys in Orange County. See infra.

teacher at the St Patrick's elementary school, Mary Corcoran, to arrange for Thomas Peter Devlin, Jr., then a twelve or thirteen year old boy, to go to the Rectory to speak with Father Shanley. See Affidavit of Thomas Peter Devlin, Jr., dated July 16, 2003 ("Devlin Aff."), ¶¶ 1-3. At the time, Mr. Devlin was the son of a well-known physician in Stoneham. See Devlin Aff. ¶ 1. When Mr. Devlin entered the Rectory office, Father Shanley offered him a cigarette and told Mr. Devlin that he was a psychologist. See Devlin Aff. ¶¶ 4-5. He also told Mr. Devlin that he had been to Mr. Devlin's house looking for pornographic material and he knew Mr. Devlin was a "known bisexual" and leader of a "sex ring." See Devlin Aff. ¶ 6. Father Shanley then proceeded to sexually molest Mr. Devlin. See Devlin Aff. ¶¶ 7-9.

Later that day, after Mr. Devlin arrived home, he learned from his parents that Father Shanley had indeed been to his home on the pretense of looking for pornography. See Devlin Aff. ¶ 11. When confronted by his parents, Mr. Devlin told them the full story, including the fact that he had been abused. See Devlin Aff. ¶ 16. Shortly after, Mr. Devlin's mother wrote a letter to the Chancery and the pastor of the St. Patrick's, Monsignor Sexton. See Devlin Aff. ¶ 16. Mr. Devlin read the letter and it described the abuse and named Father Shanley as the perpetrator. See Devlin Aff. ¶ 16. Mr. Devlin's mother asked him to mail the

letter, which he clearly remembers mailing, and that “it was addressed to the Chancery in Brighton, Massachusetts.” See Devlin Aff. ¶ 16.

In 1967, Father Shanley was transferred from St. Patrick’s to St. Francis of Assisi Parish in Braintree, Massachusetts (“St. Francis”). See II-0144. Prior to the transfer, the RCAB had received a second claim that Father Shanley had molested a child and perhaps children. See RCAB 00001-00003. Specifically, Arthur Chabot (“Father Chabot”), a priest with the Our Lady of LaSalette order in Attleboro, wrote to the RCAB concerning Father Shanley reportedly masturbating a boy at a cabin in the Blue Hills, Milton, Massachusetts. See RCAB 00001-00003; Affidavit of John Doe 1 ([REDACTED]), dated July 15, 2003 (“Doe 1 Aff.”), ¶ 9.⁵ Father Chabot told John Doe 1 that he would be contacting the Chancery about Father Shanley. See Doe 1 Aff. ¶ 11. Father Chabot did that by sending a letter to the Chancery, a copy of which was produced by the RCAB in April of 2002. See RCAB 00001-00003. In addition, two other potential victims of Father Shanley were identified by name by John Doe 1 and those names were contained in Father Chabot’s letter to the Chancery. See RCAB 00001-00003.

The letter was reviewed at the Chancery by Msgr. Francis Sexton, the Chancellor of the Archdiocese (no relationship to the pastor of St. Patrick’s,

⁵ John Doe 1’s name has been provided to defense counsel and the Court in this action.

Stoneham). Notwithstanding the fact that, in Father Shanley's mind, Msgr. Sexton thought "the accusations against me [Father Shanley] must have seemed just[,]" and without interviewing John Doe 1 or Father Chabot, Msgr. Sexton "accepted as true" Father Shanley's explanation of the situation and denial that he "did not masturbate this boy. . . ." See RCAB 00046-00048. There is no indication that Msgr. Sexton conducted any investigation apart from accepting Father Shanley's version of the story. See RCAB 00001-00003 and 00046-00048.

In 1967, Father Shanley was transferred to St. Francis of Assisi in Braintree. There, he continued to molest children. See Affidavit of [REDACTED] [REDACTED] (" [REDACTED] Aff."). In 1970, Father Shanley was reassigned as a "street priest" and was eventually appointed as Minister of Alienated Youth, a position he held until 1979.

Despite the specific allegation of sexual abuse, Father Shanley operated with impunity and to say or do anything without consequence. For example, Bishop Daily continuously failed to investigate various complaints that Father Shanley was making public statements contrary to Church teaching, including, without limitation:

1. a report made by Charles Lerrigo in May of 1973;
2. two letters from Thomas J. Flatley in March of 1974, and May of 1975;

3. an article in the Brockton Enterprise in March of 1974;
4. a letter from Dianne M. Adams in March of 1974;
5. a letter from Reverend Arthur L. Reardon in April of 1974;
6. a letter from Joseph J. Reilly in April of 1974; and
7. a letter from Mr. and Mrs. Joseph A. Melia in May of 1974.

See Defendant, Most Rev. Thomas V. Daily's Responses to Request for Admissions, dated January 21, 2003 ("Daily Admissions"), Response Nos. 8-41 and 46-50. Remarkably, Bishop Daily asserts he did not even review the RCAB's files on Father Shanley in response to those complaints, see Daily Admissions, Response Nos. 8-41 and 46-50, which would have contained the report by Father Chabot. Likewise, even considering the fact that, as of May of 1974, Bishop Daily considered Father Shanley to be a "troubled" priest, i.e., "a priest who is disturbed in one sort or another," Bishop Daily alleges that he did not review the RCAB's files on Father Shanley or ask anyone to review those files. Daily Admissions, Response Nos. 43-44.

The Plaintiffs expect that the evidence will show that, in 1974, while Father Shanley was speaking publicly against RCAB teachings, John Doe 2 (██████████)⁶ was walking his dog and encountered Thomas Reaves, who later became one of the outspoken founders of The North American Man-Boy

⁶ John Doe 2's name has been provided to defense counsel.

Love Association (“NAMBLA”). At the time, John Doe 2 was a 15 year old high school student. Mr. Reaves referred John Doe 2 to Father Shanley. Father Shanley used strip poker, the very same technique he would later use with Greg in the 1980s, to entice John Doe 2 into having sex.

John Doe 2 kept a journal of his encounters with Father Shanley and his mother discovered his journal. Outraged that her son had reported sexual conduct with a Catholic priest, John Doe 2’s mother complained to then Cardinal Humberto Medeiros (“Cardinal Medeiros”). Father Shanley later reprimanded John Doe 2, indicating that he had been brought into meet with Cardinal Medeiros concerning John Doe 2’s mother’s allegations. Nothing, however, was done to curtail Father Shanley’s behavior and Father Shanley promptly resumed his sexual abuse of John Doe 2 and began sending him out to have sex with other men. This was at least the third time that senior officials at the RCAB were notified that Father Shanley had sexually molested a child.

In November of 1977, Cardinal Medeiros and Bishop Daily received further notice about Father Shanley’s deviant behavior and beliefs. See Daily Admissions, Response No. 51; RCAB 00013-00014 and 00020. Specifically, in a letter that was sent to Cardinal Medeiros, a woman (Jeanne Sweeney) from Rochester, New York described remarks that were heard by another woman (Dolores Stevens), who had attended a lecture given by Father Shanley. See

Daily Admissions, Response Nos. 51-53; RCAB 00013-00014 and 00020. Ms. Stevens' eyewitness account was enclosed. Ms. Stevens reported that Father Shanley publicly:

Spoke of pedophilia (which is a non coerced sexual manipulation of sex organs including oral-genital sex between an adult and child) . . . [and that Father Shanley stated] the adult is not he seducer – the “kid” is the seducer . and further the kid is not traumatized by the act per se, the kid is traumatized when the police and authorities ‘drag’ the kid in for questioning . . . [and that Father Shanley stated] he can think of no sexual act that causes psychic damage – ‘not even incest or bestiality’.

See RCAB 00013-00014; Daily Admissions, Response Nos. 51-53. Bishop Daily did not speak with Ms. Sweeney or Ms. Stevens about their accusations against Father Shanley. See Daily Admissions, Response Nos. 54-55. In addition, Bishop Daily asserts that he did not review the RCAB's files on Father Shanley, speak with Father Shanley, or even investigate whether Father Shanley made the deviant statements reported by Ms. Stevens. See Daily Admissions, Response Nos. 56-59.

Then, in late 1977 or early 1978, Cardinal Medeiros and Bishop Daily received a complaint that Father Shanley gave a “scandalous” talk at a college in New York, but Bishop Daily did not review the RCAB's files on Father Shanley, speak with Father Shanley, or investigate whether or not Father Shanley gave such a scandalous talk. See Daily Admissions, Response Nos. 59-63. Nonetheless, by the end of 1978, Bishop Daily believed Father Shanley needed

psychological help and mental health treatment. See Daily Admissions, Response Nos. 64-65. Father Shanley, however, simply was allowed to continue his work as a street priest ministering to alienated youth without any known restriction.

By 1979, Cardinal Medeiros shared Bishop Daily's assessment of Father Shanley and wrote to the Vatican that he thought Father Shanley was a "troubled priest. . . ." See RCAB 00027-00034. Cardinal Medeiros proffered that explanation in response to concerns raised by the Vatican about some of Father Shanley's public activities. See RCAB 00027-00034. In addition, on April 2, 1979, an attorney from New York (Joseph McGeady, Esq.) wrote a letter to Cardinal Medeiros, which enclosed articles from "Gay Community News" and "Gaysweek." See RCAB 00813, 00763, and 00816-00817 (received on April 6, 1979); Daily Admissions, Response Nos. 66-68. The articles reported that Father Shanley was among various persons attending a conference organized by Mr. Reaves (the individual who introduced John Doe 2 to Father Shanley and a later founder of NAMBLA), during which views were aired in support of man-boy love and sex between men and boys. See RCAB 00813, 00763, and 00816-00817. Indeed, Father Shanley reportedly supported the concept of man-boy love and sex by telling a story of a boy who reported his male adult lover to the police and that the child was harmed not by the sex, but by the police involvement. See

RCAB 00813, 00763, and 00816-00817. Attorney McGeady's enclosures mirrored the theme already presented to Cardinal Medeiros and Bishop Daily by Mses. Sweeney and Stevens, i.e., that Father Shanley believed in the propriety of sex between men and boys. Compare RCAB 00813, 00763, and 00816-00817 with RCAB 00013-00014 and 00020.

Although disturbed by the statements attributed to Father Shanley in the articles, Bishop Daily (1) did nothing to get the facts as to what Father Shanley actually said at the conference; (2) did not speak with the authors of the articles to determine if the statements attributed to Father Shanley were accurate; (3) did not speak with Attorney McGeady; and (4) did not verify whether Father Shanley actually attended the conference referred to in the articles. See Daily Admissions, Response Nos. 70-74. Similarly, although Bishop Daily was aware it was reported that at the end of the conference the participants "caucused" to form the Man Boy Lovers of North America organization (later known as NAMBLA), Bishop Daily (1) did nothing to verify if Father Shanley actually participated in the caucus; (2) did not review the RCAB's files on Father Shanley; and (3) did not speak with Father Shanley. See Daily Admissions, Response Nos. 75-78.

On April 12, 1979, approximately six (6) days after receiving the letter from Attorney McGeady and with knowledge of the information set forth above,

Cardinal Medeiros appointed Father Shanley as Associate Pastor at St. Jean's Parish in Newton. See RCAB 00352; Daily Admissions, Response Nos. 79 and 81. At the time Cardinal Medeiros appointed Father Shanley as Associate Pastor, Bishop Daily knew that Father Shanley had access to children at St. Jean's. See Daily Admissions, Response Nos. 80. At the time, Greg was not yet two (2) years old and his parents were unaware that there was a serial pedophile in their midst posing as a priest. Yet, Bishop Daily did not place any restrictions on, did not recommend that any restrictions be placed on, and was not aware of any restrictions being placed on Father Shanley by anyone that would have prevented him from having access to children at St. Jean's. See Daily Admissions, Response Nos. 85-88.

Father Shanley's predatory behavior continued at St. Jean's and, in March of 1980, Father Shanley raped a sixteen year old boy who had been sent to him for counseling. See generally, Affidavit of Andrew Magni, dated July 17, 2003 ("Magni Aff."). Specifically, one night after speaking with Father Shanley, Father Shanley advised Mr. Magni that it was too late for him to return home and that Mr. Magni should stay at the St. Jean's Rectory. See Magni Aff. ¶ 10. In fact, Father Shanley persuaded Mr. Magni to stay in his room, and Mr. Magni awoke in the middle of the night to find Father Shanley penetrating him anally with his penis. See Magni Aff. ¶¶ 10-16. In addition, starting in or around 1980 (and

continuing through in or around 1984), Father Shanley molested [REDACTED] [REDACTED] who has never met Gregory Ford. See generally, Affidavit of [REDACTED] [REDACTED] dated July 15, 2003 (“[REDACTED] Aff.”).

Notwithstanding that the RCAB and Bishop Daily already knew about Father Shanley, in 1981 or 1982, a parishioner at St. Jean’s (Jacquelyn Gauvreau) learned that Father Shanley had molested a boy he was transporting back to a DYS facility. See Deposition of Jacquelyn Gauvreau (“Gauvreau Depo.”), dated October 25, 2003, pp. 14-25; Affidavit of Daniel Quinn, dated July 16, 2003 (“Quinn Aff.”), ¶¶ 9-11. Ms. Gauvreau reported the molestation to many officials within the RCAB, see Gauvreau Depo., October 25, 2002, pp. 25-30; Quinn Aff., ¶ 13, and a current RCAB priest will testify that he indeed recalls Ms. Gauvreau reporting to him her claims against Father Shanley in the early 1980s. In addition, Ms. Gauvreau twice spoke to Cardinal Law about Father Shanley’s molestation, once at a televised Mass at which Cardinal Law appeared and during which Ms. Gauvreau sang in the choir and once at a Mass at Our Lady Help of Christians parish in Newton. See Gauvreau Depo., October 25, 2002, pp. 44-60. Cardinal Law was not able to contradict Ms. Gauvreau’s allegations at his deposition, although he said he could not recall speaking with her. See Deposition of Bernard Cardinal Law (“Law Depo.”), dated August 14, 2002, pp. 138-39.

Furthermore, in 1982, Bishop Daily received a letter from Father Shanley reporting that a Brockton woman was making calls to Father Shanley and complaining about Father Shanley. See Daily Admissions, Response No. 91. Despite Bishop Daily's knowledge of Father Shanley's history and belief that Father Shanley was a troubled priest in need of mental health treatment, Bishop Daily did not ask Father Shanley what the woman was complaining about and, in fact, made no effort to contact the woman whatsoever. See Daily Admissions, Response Nos. 92-93. Indeed, Bishop Daily did not even investigate whether the woman had credible complaints against Father Shanley. See Daily Admissions, Response No. 94.

Continuing in 1982 and 1983, Cardinal Medeiros and Bishop Daily received letters (addressed to Cardinal Medeiros) from Pastor Hugh W. Weston and Joseph H. Moynihan, respectively, questioning whether Father Shanley was representing the RCAB at the founding conference of NAMBLA, as reported in a book entitled "The Homosexual Network," and claiming that Father Shanley had personally endorsed the propriety of sex between men and boys. See II-0669; II-0686, II-0687, and II-0689; Daily Admissions, Response Nos. 95-96 and 103-04. Although in June of 1983, Bishop Daily knew that NAMBLA was an organization of people supporting sexual relations between men and boys, Bishop Daily asserts he did not (1) review the RCAB's files on Father Shanley, (2) speak with

Father Shanley, (3) verify whether Father Shanley had attended the founding conference of NAMBLA and endorsed the sexual relations between men and boys at the conference, or (4) otherwise investigate the questions raised by Pastor Weston and Mr. Moynihan. See Daily Admissions, Response Nos. 97-101 and 103-08.

In November of 1983, despite all that he knew about Father Shanley's history, Bishop Daily appointed Father Shanley as Administrator and acting pastor of St. Jean's. See RCAB 00366; Daily Admissions, Response Nos. 109 and 111. Prior to appointing Father Shanley as Administrator, Bishop Daily did not ask Father Shanley about his views on sexual relations between men and boys, although he knew that Father Shanley had been associated with endorsing the views of NAMBLA. See Daily Admissions, Response Nos. 112 and 113. In addition, Bishop Daily did not place any restrictions and was not aware of any restrictions placed on Father Shanley that would have prevented him from having unsupervised access to children at St. Jean's. See Daily Admissions, Response Nos. 117 and 118.

In December of 1984, Cardinal Law appointed Father Shanley as Pastor of St. Jean's. See II-0692. Prior to leaving the RCAB in or around 1984, Bishop Daily neither relayed to Cardinal Law the institutional memory he had concerning Father Shanley or as contained in documents that were in the RCAB's files

concerning claims against Father Shanley, nor did Bishop Daily tell Cardinal Law that he believed Father Shanley was a potential threat to children. See Daily Admissions, Response Nos. 121 and 139.

Then, in 1985, Cardinal Law was sent written notice that Father Shanley harbored deviant beliefs about the propriety of sex between adults and children. See RCAB 00058. Specifically, in April of 1985, another resident of Rochester, New York, Wilma M. Higgs, wrote a letter to Cardinal Law and complained about a speech that Father Shanley had given the previous November. See RCAB 00058. In particular, Mrs. Higgs complained about that which was now familiar to the RCAB: that Father Shanley had stated again that when adults have sex with children, it is the fault of the child. Compare RCAB 00058 (“When adults have sex with children, the children seduce them. Children may later regret having caused someone to go to prison, knowing that they are the guilty ones.”) with RCAB 00013-00014, 00020, 00813, 00763, 00816, and 00817. Mrs. Higgs made it clear that her complaint was not just about Father Shanley’s remarks on homosexuality and that she also had a tape of some portions of Father Shanley’s speech. See RCAB 00058.

On May 15, 1985, Bishop McCormack (who had replaced Bishop Daily) wrote to Ms. Higgs and stated that: **“Archbishop Law received a letter April 29, 1985. He is sorry to hear** you were disturbed about the talk given by Father Paul

Shanley last November regarding homosexuals **and asked that I respond on his behalf.**" See RCAB 00056 (emphasis added). Notwithstanding the fact that Bishop McCormack (1) received and read the letter from Ms. Higgs, (2) by 1985, knew there was a potential for RCAB priests to sexually abuse children, (3) believed the statements reportedly made by Father Shanley were terrible and was shocked about the alleged statements concerning sex between adults and children, and (4) had concerns about Father Shanley as a result of what was reported by Ms. Higgs, Bishop McCormack did not speak to or instruct anybody to speak to Ms. Higgs to verify whether Father Shanley had made the statements reported in the letter or request a copy of the tape referenced in the letter. See Responses of Defendant, Most Rev. John B. McCormack, to Plaintiffs' Requests for Admissions, dated January 6, 2003 ("McCormack Admissions"), Response Nos. 11, 16-24. In addition, Bishop McCormack did not review the RCAB's files on Father Shanley. See McCormack Admissions, Response No. 25.

The only action Bishop McCormack took to verify whether Father Shanley made the statements reported by Ms. Higgs was to speak with Father Shanley and accept his explanation of the matter. See RCAB 00059; Response No. 26. In addition, notwithstanding the fact that Bishop McCormack wrote to Ms. Higgs on May 15, 1985, and stated that had already "been in contact with Father Shanley and will be speaking with him about this matter soon[,]" see RCAB

00056, Bishop McCormack in reality only first informed Father Shanley about the letter from Ms. Higgs and the “**note**” he “**received**” from Cardinal Law on June 4, 1985, a couple of weeks later. See RCAB 00053. Bishop McCormack admitted that, prior to sending his response to Ms. Higgs, he had not spoken to Cardinal Law or Father Shanley about Ms. Higgs’s letter. See McCormack Admissions, Response Nos. 27-30. Moreover, when Bishop McCormack finally informed Father Shanley of the letter, he merely questioned whether Father Shanley “would care to comment” on the letter and asked him to put his comments (seemingly if he chose to comment at all) in writing or they could “get together some day about it.” See RCAB 00053. Finally, although Bishop McCormack knew that Father Shanley had unsupervised access to children as Pastor at St. Jean’s, he did not place any restrictions and he was not aware of any restrictions placed on Father Shanley from 1985 through 1990 that would have prevented him from having such access to children, including Greg. See McCormack Admissions, Response Nos. 36 and 38.

On May 31, 2002, Cardinal Law answered, under the pains and penalties of perjury, Plaintiffs’ Request for Admissions. See Responses of the Defendant, Bernard Cardinal Law, to Plaintiffs’ Requests for Admissions (“Law Admissions”). In response to the first request, Cardinal Law responded that he “does not believe he read the ‘Higgs Letter’ in 1985. . . .” See Law Admissions,

Response No. 1. On the first day of his deposition, however, Cardinal Law admitted that it was more probable than not that he did receive the letter from Ms. Higgs and wrote a “note” to Bishop McCormack asking him to respond to Ms. Higgs, as Bishop McCormack explained in his letter to Ms. Higgs. See Law Depo., June 5, 2002, pp. 222-25. In fact, Cardinal Law indicated that he wanted to amend his sworn answer to the Plaintiffs’ request for admissions on that very same subject to: **“the defendant believes that he did read the Higgs letter in 1985.”** See Law Depo., June 5, 2002, pp. 222-25. Two days later, after admitting that he had discussed the subject with his counsel, Cardinal Law again changed his sworn answer and stated that: “The defendant does not believe he read the ‘Higgs Letter’ in 1985.” See Law Depo., June 7, 2002, pp. 55-66. Father Helmick, personal secretary to Cardinal Medeiros and Cardinal Law, however, testified that he would have expected under the policies at the time that Bishop Robert J. Banks (“Bishop Banks”) would have spoken to Cardinal Law about the letter sent by Ms. Higgs. See Deposition of William Helmick (“Helmick Depo.”), dated May 22, 2002, pp. 211-212. As a result, it is clear that Bishop McCormack received and, at the very least, Cardinal Law likely knew about the letter from Ms. Higgs in 1985, yet neither did anything about it -- not even look at the RCAB’s files on Father Shanley, which contained various allegations of sexual

molestation and deviant beliefs about the propriety of sex between men and boys.

Throughout this time, from around 1983 to 1989, Father Shanley was sexually molesting not only Greg, but also [REDACTED], Paul Busa, [REDACTED], [REDACTED], and Anthony Driscoll who were all parishioners at St. Jean's where Father Shanley had unsupervised access to children. See generally, "*Plaintiffs' Memorandum In Support Of Motion In Limine To Admit Evidence Of Paul R. Shanley's Sexual Molestation Of Others*," dated July 21, 2003, which was filed contemporaneously herewith ("*Plaintiffs' Other Molestation Memorandum*"). Father Shanley now faces criminal prosecution for rape and indecent assault and battery with respect to all four victims who contend that they were molested at St. Jean's. Father Shanley pled the Fifth Amendment at his deposition with respect to questions concerning whether he abused those persons and others. See generally, Deposition of Paul R. Shanley, dated December 29, 2002 ("*Shanley Depo.*").

In 1986, a social worker with the Department of Social Services ("*DSS*"), sent Cardinal Law a letter on official DSS stationary. See DG-0002; Affidavit of Bryan Schultz, dated July 15, 2003 ("*Schultz Aff.*"), ¶ 7. In that letter, Mr. Schultz stated that he had recently seen a television program concerning sexual abuse of minor children by parish priests and was concerned about the Catholic Church's

“lack of response” to the situation. See DG-0002. He also reported that he had been sexually abused by three priests and would be pleased to meet with Cardinal Law discuss the situation. See DG-0002. In response, Mr. Schultz received a letter from Father Helmick. Schultz Aff. ¶ 8. Father Helmick stated in the letter that he had been asked to respond on behalf of Cardinal Law and Mr. Schultz could be assured that if there was any abuse that occurred within the RCAB, it would be taken “most seriously. . . .” See Schultz Aff. ¶ 8. On August 25, 1986, Mr. Schultz responded to Father Helmick’s letter and conveyed his dissatisfaction with the response. See DG-0001. That letter also was sent on official DSS stationery. See DG-0001; Schultz Aff. ¶ 8. Mr. Schultz did not receive a response.

Had Cardinal Law held the requested meeting, he would have learned that Mr. Schultz had been sexually abused by three RCAB priests: Fathers Robert Gale (who has multiple allegations against him); Daniel Graham (who later admitted to abuse); and Shanley. See Schultz Aff. ¶ 9. At his deposition, Cardinal Law was unclear as to whether or not he had ever seen the letters from Mr. Schultz, **although both letters were addressed directly to him.** See Law Depo., October 11, 2002, pp 66-80; DG-0002 and 0202. In addition, Father Helmick testified that it was safe to say that Cardinal Law had asked him to respond to the letter of Cardinal Law’s behalf. See Helmick Depo., October 9,

2002, pp. 42-43. Nonetheless, when asked why there was never a meeting with Mr. Schultz, Cardinal Law attempted to minimize the letter and testified that Mr. Schultz had only reported that he was not sure he was sexually abused by a RCAB priest. See Law Depo., October 11, 2002, pp. 57-58.

In March of 1988, another complaint was presented to the RCAB about Father Shanley. See RCAB 00060. Specifically, a patient at McLean Hospital reported that Father Shanley had been speaking with him in detail about a specific sado-masochistic incident and was “coming on to him.” See RCAB 00060. The patient was interviewed by Bishop Banks, the Moderator of the Curiae and Auxiliary Bishop (second in command) of the RCAB, who also was personally familiar with the allegations in letter from Ms. Higgs. See Deposition of Robert J. Banks (“Banks Depo.”), dated November 7, 2002, pp. 177-78; 183-85. Indeed, as the second man in charge of the RCAB at the time, Bishop Banks had full access to the records of Father Shanley. See Banks Depo. pp. 68.

On March 18, 1988, Bishop Banks spoke with Father Shanley who “became irate at first, questioning why the matter should be brought up at all.” See RCAB 00060. After Father Shanley calmed down, “he indicated he remembered the person and the incident, **but did not remember anything in the conversation, especially on the subject that T. mentioned.**” See RCAB 00060 (emphasis added). Father Shanley, however, did not deny the allegation. See

RCAB 00060; Banks Depo. pp. 195-96. On March 19, 1988, Bishop Banks, however, telephoned the patient and “told him that Father S. **had denied the allegation, and that there really was nothing I [Bishop Banks] could do.**” See RCAB 00060; Banks Depo. pp. 199-200. Considering that Bishop Banks was aware of both the letter from Ms. Higgs and the allegations of the McLean patient, even Cardinal Law could not defend his actions. See Law Depo., August 14, 2002, pp. 184-85. In fact, Cardinal Law admitted at his deposition that Bishop Banks could have and should have done more than he had done with regard to his handling of the letter from Ms. Higgs and complaint from the patient at McLean’s. See Law Depo., August 14, 2002, pp. 184, 187, 195. At the time, Father Shanley was still sexually molesting Greg and others at St. Jean’s. See generally, Plaintiffs’ Other Molestation Memorandum.

On December 7, 1989, Cardinal Law acknowledged Father Shanley’s resignation. See RCAB 00664-00665. Cardinal Law not only warmly thanked Father Shanley for his thirty years of priestly service and his impressive record, but also stated that “all of us in the Archdiocese are grateful to you for your priestly care”. See RCAB 00664-00665. A host of reasons (none of them having to do with sexual abuse) were provided for Father Shanley’s departure. See Law Depo., October 11, 2002, pp. 85, 102. The first asserted reason was that Father Shanley refused to take a new oath from Rome. See Law Depo., August 14, 2002,

p. 200. As a sitting pastor, however, Father Shanley was not required to take the oath and an RCAB spokesperson, John Walsh, was quoted in a local newspaper stating that Father Shanley's refusal to take the oath was not an issue. See Law Depo., October 11, 2002, p. 82. Other reasons included allergies and stomach troubles. See Law Depo., October 11, 2002, pp. 85, 102. Father Shanley's personnel status within the RCAB changed continuously and is well summarized in a memorandum, dated January 2, 1990, and later in another memorandum dated February 6, 1990. See RCAB 00636-00637, respectively. Indeed, RCAB personnel director James McCarthy testified that he had never confronted a priest whose status had changed so much. See Deposition of James McCarthy ("McCarthy Depo."), September 25, 2002, pp. 161-162.

Father Shanley's past did not, however, prevent Bishop Banks from giving Father Shanley a glowing recommendation to the Diocese of San Bernadino. See RCAB 00379. As Bishop Banks stated in a letter to the Very Reverend Philip A. Behan at the Diocese of San Bernadino, dated January 16, 1990:

Reverend Paul R. Shanley, a priest in good standing and of the Archdiocese and was recently granted a medical leave for one year by His Eminence, Cardinal Law. . . . **I can assure you that Father Shanley has no problem that would be a concern to your diocese.** He has resigned from his parish on his own, and we shall place him in parish ministry when he returns.

See RCAB 00379 (emphasis added). When asked about the letter of recommendation and whether the Diocese of San Bernadino deserved to know

about the allegations raised in the letter from Ms. Higgs, Bishop Banks testified that, even assuming the allegations raised by Ms. Higgs were true, the new Diocese did not deserve to know **“if the priest had said he misspoke or that he changed his mind or that he was very sorry about the whole thing.”** See Banks Depo., November 7, 2002, pp. 243-44 (emphasis added).

Seemingly, Father Shanley was not pleased with his relocation to California and continuously pressured the RCAB for more money and actually threatened to “go public” with the story. See RCAB 00707-00710. In response, Father Shanley was provided with extra money by the RCAB. See McCarthy Depo., September 25, 2002, pp. 109-110. In addition, on December 11, 1990, Cardinal Law officially extended Father Shanley’s sick leave for another twelve months. See RCAB 00668.

In 1991, Bishop McCormack provided information to Edwin H. Cassem, M.D., the Chief of Psychiatry at Massachusetts General Hospital, who consulted (along with numerous other MGH doctors) with the RCAB during the late 1980s and through the 1990s about priests accused of sexual misconduct and other matters. See Deposition of Edwin Cassem, M.D. (“Cassem Depo.”), dated May 20, 2003, pp. 32, 116. Dr. Cassem testified, however, that he was not provided with relevant information from Father Shanley’s file, including, in particular, claims that Father Shanley supported the views of NAMBLA and believed in the

propriety of sex between men and boys. See Cassem Depo., May 20, 2003, pp. 131-134. Indeed, Dr. Cassem testified the he was “stupefied that I was not provided with the information,” see Cassem Depo., May 20, 2003, pp. 190-191, that he feels he was manipulated and mislead by Bishop McCormack, and that Bishop McCormack “is a liar.” See Cassem Depo., May 21, 2003, pp. 140, 169-170 (Dr. Cassem later attempted to change that testimony in an errata sheet by replacing it with “I do not believe that I received all of the information from Father McCormack.”).⁷

In 1993, more allegations were made against Father Shanley, which Father Shanley admitted were true. See RCAB 00622-00623. A settlement agreement was negotiated which required that Father Shanley not be placed into ministry where he would have unsupervised access to minors. See RCAB 00183-00193. Notwithstanding that agreement, Father Shanley relocated to New York, with the approval of Cardinal Law, where he became the assistant executive director of Leo House, a Catholic hotel, whose guests included children. See RCAB 00511. Even though he was working in another Catholic Diocese, the RCAB was less than candid about Father Shanley’s past. See RCAB 00521, RCAB 00538-

⁷ Notwithstanding Dr. Cassem’s errata sheet, a witness may not make wholesale changes to a deposition transcript.. See Boynton v. Boland, 1996 WL 1348859, at *3 (Mass. Super. Ct. March 14, 1996); see Rios v. Bigler, 847 F. Supp. 1538 (D. Kan. 1994) (explaining that an errata sheet may not be used to change what has been said under oath); Greenway v. International Paper, 144 F.R.D. 322, 325 (W.D.La. 1992) (a deposition is not a take home examination).

0539. As Father Brian Flatley (who replaced Bishop McCormack) wrote to Cardinal Law on September 13, 1995:

Monsignor O'Donnell [a representative of Cardinal O'Connor, former Archbishop of the Diocese of New York] does not know much about Father Shanley's history. Monsignor Murphy told him that there have been allegations of sexual misconduct about Father Shanley, and he felt that was all he needed to know at the time. Cardinal O'Connor would like him to find out more about Father Shanley's situation **In reviewing Father Shanley's file, I recognize that this is a very difficult situation.** Father Shanley was assessed at the Institute for Living in 1993. It was not a very positive assessment. He has a great deal of psychological pathology. . . . I do not think that Father Shanley is a threat to abuse youngsters. I do understand that he could become a problem that Cardinal O'Connor does not need.

See RCAB 00538 (emphasis added).

The Order of Nuns which had founded Leo House also was concerned about rumors that Father Shanley had a history of abuse. See RCAB 00568. In a letter to Cardinal Law, dated December 14, 1995, Sister Anne Karline wrote:

Last evening, December 13, I received a phone call from the BOSTON AREA, presumably from a priest. I am somewhat disturbed, because after throwing out some wild accusations, he openly said that FATHER PAUL SHANLEY WAS A CHILD MOLESTER and we had better be aware! I didn't think that this person had any justification to state all that he did, but he ended up saying he would have to make it known to THE NEW YORK TIMES! . . . Would you be so kind as to clarify FATHER PAUL'S INTEGRITY AND REPUTATION AND CHARACTER.

See RCAB 00568. Father Flatley's response to Sister Karline's letter did not address the issue of whether Father Shanley had a history of abuse. See RCAB

00570-00571. Rather, Father Flatley gave the clear impression that there was no such history. See RCAB 00570-00571. As Father Flatley reported in a memorandum, dated January 25, 1996:

Father Shanley asked if I would be willing to speak with Sister Anne to allay her fears. . . . I called Sister Anne. She returned my call and we connected on Thursday, January 25, 1996. I told her that I was willing to answer any questions that she might have, **and told her of my opinion that Leo House is a good placement for Father Shanley.** She agreed that it seemed to be, but that she needed to pass her concerns along after the call in December. She does have some reservations about Father Shanley's moving into the Hotel after that call. **I told her that I felt that those are internal questions to be resolved there.** I asked if she were comfortable having Father Shanley discuss these matters with her and Sister Bertha. She said she would welcome it. **I believe that she said that hearing from me was enough to make her feel comfortable.**

See RCAB 00570-00571 (emphasis added).

In 1997, Father Shanley communicated with the RCAB about his desire to replace Francis Pilecki (the former president of Westfield State College who was convicted of sex crimes against children), the executive director of Leo House.

See RCAB 00598. Among the files produced by the RCAB is a letter signed by Cardinal Law to Cardinal O'Connor concerning the potential of placing Father Shanley in charge of Leo House. See RCAB 00600. As the letter stated:

Father Shanley has done good work at Leo House and is well regarded by staff, but, as you know, some controversy from his past has followed him to New York. Two conflicting issues arise in considering Father Shanley for the post. The first is that he has done good work and is surrounded by a competent staff which is aware of his situation. Opposing this is the likelihood that the role

of Executive Director will bring with it a greater notoriety. That could draw publicity to him, to Leo House and to the Church. I am aware that you will be discussing this with Monsignor Edward O'Donnell. It is my understanding that he has the most complete information of anyone. **If you do decide to allow Father Shanley to accept this position, I would not object.**

See RCAB 00600 (emphasis added). Cardinal Law later testified that he did not send the letter, but, instead spoke to Cardinal O'Connor about Father Shanley.

See Law Depo., October 16, 2002, p. 240. In any event, Cardinal O'Connor vetoed the idea of Father Shanley becoming Executive Director of Leo House, and Father Shanley left New York for California, where he resided before his arrest in May of last year. See Law Depo., October 16, 2002, pp. 240-241.

In February of 1996 Cardinal Law wrote to Father Shanley thanking him for his years of service upon granting him Senior Priest/Retirement status. See RCAB 00737. In that letter, Cardinal Law stated as follows:

This letter provides me with an opportunity to thank you in my name and in the name of the people of the Archdiocese for the ministry which you offered both in parishes and in a specialized way over the years from your ordination in 1960 until your Sick Leave began in 1990. For thirty years in assigned ministry you brought God's Word and His Love to His people **and I know that that continues to be your goal despite some difficult limitations.** That is an impressive record and all of us are truly grateful for your priestly care and ministry to all whom you have served during those years. Without doubt over all of these years of generous and zealous care, the lives and hearts of many people have been touched by your sharing of the Lord's Spirit. **Your are truly appreciated for all that you have done.**

See RCAB 00737 (emphasis added). Father Shanley is currently awaiting trial on rape and indecent assault and battery charges involving Gregory Ford, Paul Busa, [REDACTED] and Anthony Driscoll.

B. Other Priests

Listed below is a sample and general summary of the evidence the Plaintiffs intend to present concerning how the RCAB, by and through the actions and inactions of Defendants and others, dealt with accusations against other priests over the years. The sample and summary below by no means is intended to be exhaustive and the Plaintiffs reserve the right to proffer additional evidence at trial.

1. JOSEPH BIRMINGHAM⁸

In February of 1960, Joseph Birmingham was ordained, along with Father Shanley, Bishop McCormack, John M. Cotter, Bernard J. Lane (“Father Lane”) and Eugene M. O’Sullivan (“Father O’Sullivan”). Father Birmingham’s first assignment was at Our Lady of Fatima in Sudbury, Massachusetts. See Birmingham 2.1. In a matter of only three short years, Father Birmingham molested more than one dozen young boys. Two of those boys, Michael McCabe and Peter Taylor, reported what had happened to them and confront Father

⁸ The documents referenced in each numbered subsection (i.e. 1. Joseph Birmingham) will be found behind the corresponding numbered tab in the Addendum attached to the brief. The documents are in the following order: Bates stamped documents; Affidavits; Deposition Transcripts; Complaints and Other Pleadings; Miscellaneous documents.