

## Statement of John Doe No. 26

I am one of father Tony's victims. It happened when I was an altar boy for St. James church. Many years have passed and I thought I could put it away in the back of my head and forget it. But, when I saw his picture last Friday, all of my nightmares came back. I feel so bad that there are more victims out there that have had the same thing done to them. Every time I would hear the news about a priest abusing a child, I hoped it was not another victim of Father Tony. I would take a deep breath of release and keep on with my life. This time, I could not be quiet because when I saw the picture, it was the priest who abused me and I knew I had to come out and tell my story.

IN THE CIRCUIT COURT OF THE 11TH  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

JOHN DOE NO. 26,

CASE NO.:

**06 - 224 49 CA 02**

Plaintiffs,

vs.

ARCHDIOCESE OF MIAMI, INC., ARCHDIOCESE  
OF MIAMI, A CORPORATION SOLE, and  
ARCHBISHOP FAVALORA AS CORPORATE SOLE  
OF THE ARCHDIOCESE OF MIAMI,

Defendants.

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### COMPLAINT

Plaintiff, JOHN DOE NO. 26, brings this Complaint against Defendants, ARCHDIOCESE OF MIAMI, INC., ARCHDIOCESE OF MIAMI, A CORPORATION SOLE, and ARCHBISHOP FAVALORA AS CORPORATE SOLE OF THE ARCHDIOCESE OF MIAMI, as follows:

### PARTIES AND JURISDICTION

1. This is an action for damages arising from the sexual abuse of a child by a Priest with the ARCHDIOCESE OF MIAMI. The abuse was committed by Father ANTHONY MERCECA when JOHN DOE NO. 26 was an altar boy at ST. JAMES CHURCH in North Miami, Florida.
2. This action seeks compensation in excess of \$10 million.
3. Plaintiff JOHN DOE is sui juris. Because this Complaint concerns sexual abuse upon a minor, Plaintiff brings this Complaint under a fictitious name to protect his identity.
4. Defendant ARCHDIOCESE OF MIAMI, INC. is a non-profit Florida Corporation. Defendants ARCHDIOCESE OF MIAMI, INC., ARCHDIOCESE OF MIAMI, A CORPORATION SOLE and ARCHBISHOP FAVALORA AS CORPORATE SOLE OF THE

ARCHDIOCESE OF MIAMI (collectively the "ARCHDIOCESE" or the "ARCHDIOCESE OF MIAMI") are responsible for the interests of the Roman Catholic Church in Broward and Miami-Dade Counties. Father MERCIECA, at all relevant times, was employed by and acting under the authority of the ARCHDIOCESE. The ARCHDIOCESE is also responsible for and controls the operations of ST. JAMES CHURCH in North Miami, Florida.

### **SEXUAL ABUSE OF JOHN DOE**

5. JOHN DOE was born in 1965. As a boy, he and his family were devout Catholics. He became an altar boy at ST. JAMES when he was approximately 10 years old, and continued as an altar boy for approximately 2-3 years. At the Church and while serving as an altar boy, JOHN was befriended and groomed by MERCIECA, whom he and the other boys affectionately called Father "Tony."

6. When JOHN was approximately 12-13 years old, he rode his bicycle to ST. JAMES on Saturday for altar boy practice. After practice, Father "Tony" asked JOHN if he would like to go on a bike ride with him. JOHN accepted, excited and in awe that a Priest would go on a bike ride with him. They rode their bicycles around the neighborhood of the Church. As they returned to the Church, their conversation turned to the bell tower of the Church; JOHN asked if there were actual bells in the tower. MERCIECA invited JOHN to the top of the bell tower to show him what was there. When they reached the bell tower, JOHN sat down. Father MERCIECA came over and touched JOHN's penis over his shorts, whereupon JOHN pushed MERCIECA's hand away. Father MERCIECA persisted and unzipped JOHN's shorts, at which time he fondled JOHN and performed oral sex on him. Afterward, MERCIECA instructed JOHN not to tell anyone what he had done.

7. Upon information and belief, MERCIECA sexually abused other boys before and during the time he abused JOHN. Upon information and belief, the ARCHDIOCESE knew or should have known that MERCIECA was sexually abusing boys and took no action to protect JOHN.

8. Upon information and belief, at all relevant times, the ARCHDIOCESE had knowledge of MERCIECA's history of sexual perversity and inappropriate contact with children.

9. Upon information and belief, the Defendants concealed information that was pertinent and necessary for JOHN to bring civil claims in this matter. Upon information and belief, after finding out about the abuse, the Defendants actively took steps to conceal the abuse.

10. Despite its knowledge, the ARCHDIOCESE took no action against MERCIECA and continued to give him unfettered access to young boys.

11. At all relevant times, the ARCHDIOCESE had a policy of concealment in response to discovery of child sexual abuse or allegations of abuse. Among other things, a 1962 "confidential" policy document issued by the Vatican to all Catholic Bishops, including the Archbishop of the ARCHDIOCESE, instructed that allegations or incidents of sexual abuse were to be maintained in the "strictest" secrecy, and threatened those who violated this policy with excommunication. The policy was intended to conceal sexual abuse by clergy.

12. Upon information and belief, the ARCHDIOCESE, through its officers and agents, destroyed incriminating documents and files intending to conceal the sexual abuse of priests known to abuse minors, including MERCIECA.

13. MERCIECA and JOHN were in a fiduciary relationship. MERCIECA was in a position of trust and confidence with JOHN. JOHN looked to MERCIECA for counseling and guidance.

14. The ARCHDIOCESE was in a fiduciary relationship with JOHN. The ARCHDIOCESE was in a position of trust and confidence with JOHN. JOHN looked to the ARCHDIOCESE and its representatives for counseling and guidance. In addition, the ARCHDIOCESE knew that JOHN had a special and privileged relationship with MERCIECA in light of JOHN's service as an altar boy.

15. The ARCHDIOCESE owed JOHN a fiduciary duty to:

- a) Investigate and warn JOHN of the potential for harm from MERCIECA;

- b) Disclose their awareness of facts regarding MERCIECA that created a likely potential for harm;
  - c) Disclose their own negligence with regard to hiring, supervision and retention of MERCIECA;
  - d) Provide a safe environment for JOHN where he would be free from abuse; and
  - e) Protect JOHN from exposure to harmful individuals like MERCIECA.
16. The ARCHDIOCESE breached its fiduciary duty to JOHN by failing to:
- a) Investigate and warn JOHN of the potential for harm from MERCIECA;
  - b) Disclose its awareness of facts regarding MERCIECA that created a likely potential for harm;
  - c) Disclose their own negligence with regard to hiring, supervision and retention of MERCIECA;
  - d) Provide a safe environment for JOHN where he would be free from abuse; and
  - e) Protect JOHN from exposure to harmful individuals like MERCIECA.
17. The DEFENDANTS actively and fraudulently concealed information pertinent and relevant to claims relating to the sexual abuse in this matter for the purpose of protecting themselves from civil liability and evading same.

**COUNT I**  
**NEGLIGENCE**

18. Plaintiff JOHN DOE repeats and realleges Paragraphs 1 through 17 above.
19. At all material times, the ARCHDIOCESE owed a duty to Plaintiff to use reasonable care to insure the safety, care, well being and health of the minor JOHN while he was under the care, custody or in the presence of the ARCHDIOCESE. The ARCHDIOCESE's duties encompassed the hiring, retention and supervision of MERCIECA and otherwise

providing a safe environment for JOHN.

20. The ARCHDIOCESE breached these duties by failing to protect the minor JOHN from sexual assault and lewd and lascivious acts committed by the agent and employee of the ARCHDIOCESE, MERCIECA.

21. At all relevant times, the ARCHDIOCESE knew or in the exercise of reasonable care should have known that MERCIECA was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and protection.

22. With such actual or constructive knowledge, the ARCHDIOCESE provided MERCIECA with unfettered access to JOHN and gave him unlimited and uncontrolled privacy.

23. At all relevant times, the ARCHDIOCESE created an environment which fostered child sexual abuse against children it had a duty to protect, including JOHN.

24. At all relevant times, the ARCHDIOCESE had inadequate policies and procedures to protect children it was entrusted to care for and protect, including JOHN.

25. As a direct and proximate result of the ARCHDIOCESE's negligence, JOHN suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

WHEREFORE, Plaintiff JOHN DOE demands judgment against the ARCHDIOCESE OF MIAMI, for compensatory damages, costs and such other and further relief as this Court deems proper. Plaintiff intends to move to further amend the Complaint in accordance with Florida Statutes to assert a claim for punitive damages.

**COUNT II**  
**RESPONDEAT SUPERIOR / VICARIOUS LIABILITY**

26. Plaintiff JOHN DOE repeats and realleges Paragraphs 1 through 17 above.

27. MERCIECA was at all material times hereto the employee, appointee and agent of the ARCHDIOCESE.

28. MERCIECA was authorized to be alone with JOHN and to have unfettered and

unsupervised access to young JOHN in the rectory and elsewhere.

29. The acts described above occurred on the premises of land operated and/or controlled by the ARCHDIOCESE (or at a place authorized by the ARCHDIOCESE), occurred during working hours, and occurred in the course and scope of the performance of MERCIECA's duties. MERCIECA's contact and relationship with JOHN was in furtherance of the business of the ARCHDIOCESE. In addition, MERCIECA was authorized to touch JOHN and display affection in a manner consistent with providing counseling, spiritual guidance and leadership. MERCIECA extended and converted this authorized touching into the sexual abuse of JOHN as described above.

30. Upon information and belief, MERCIECA was authorized to touch JOHN in an improper manner.

31. The wrongful acts of MERCIECA was committed in the actual or apparent course and scope of his employment or agency with the ARCHDIOCESE.

32. The wrongful acts were committed while MERCIECA was doing what his employment or agency contemplated.

33. MERCIECA acted with willful or reckless disregard for JOHN's welfare.

34. MERCIECA's conduct was outrageous, going beyond all bounds of decency.

35. As a result of MERCIECA's conduct, JOHN suffered severe emotional distress.

36. Under the doctrine of respondeat superior, the ARCHDIOCESE is responsible for the negligent, reckless and intentional actions of its servant, MERCIECA, committed in the actual or apparent scope of his duties.

WHEREFORE, Plaintiff JOHN DOE demands judgment against the ARCHDIOCESE OF MIAMI for compensatory damages, costs and such other and further relief as this Court deems just and proper. Plaintiff intends to move to further amend the Complaint in accordance with Florida Statutes to assert a claim for punitive damages.

**DEMAND FOR JURY TRIAL**

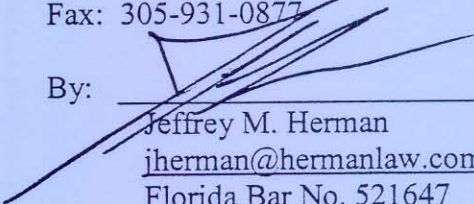
Plaintiff demands a jury trial in this action.

Dated: October 25, 2006.

Respectfully submitted,

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Survivors Network of those Abused By Priests  
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**Statement by Barbara Blaine of Chicago, founder of SNAP, the Survivors Network of those Abused by Priests (312 399 4747), on the first child molestation lawsuit to be filed against the priest who admitted fondling former Congressman Mark Foley**

Today, we're discussing a Malta native who became a priest in Brazil, moved to Florida, abused here, and is now back in Malta.

Later today, in California, we in SNAP will warn the public and the parishioners about two abusive priests from the Stockton diocese who are believed to be evading justice now in Mexico.

After that, in San Francisco, we in SNAP will ask the US District Attorney to investigate a different abusive priest and his supervisors, including his bishop. The priest admitted molesting kids this summer. But he was able to escape prosecution by fleeing to Mexico, because the bishop and at least four other top church officials waited several days before reporting the admission to law enforcement.

Yesterday, in Michigan news broke that a priest who had molested kids there was sentenced to a prison term. He had been on the run from the law in South America for years.

Last week, we publicly sounded that alarm that an Irish priest, defrocked and deported from the US after being criminally convicted of sexual abuse, is on the move again, reportedly heading for France or Canada.

Also last week, in Arizona, a priest pled guilty to sex charges involving kids. He was one of the very few accused abusive priests who was returned to the US from Mexico to face prosecution.

Last month, a civil lawsuit was filed that accuses two of the world's most prominent Catholic officials, Cardinal Mahony of Los Angeles and Cardinal Rivera of Mexico City, of shuffling a serial predator from country to country. The priest is accused of molesting dozens of boys.

We could go on and on, but here's the bottom line:

It's safe to say that as predator priests become more scared and their bishops become more desperate, more abusive clergy will go or be sent abroad. And gradually, as victims become more courageous, Catholics become more outspoken, investigators become more sophisticated, and prosecutors become more determined, the movement of abusive priests across national borders is gradually being exposed more and more.

While the actions and the potential trend is disturbing, of course, the exposure of such immoral, harmful and illegal cover-ups is encouraging.

Getting back to Mercieca, we don't know why he went from Malta to Brazil to the US and back to Malta. But that's one reason we're pressing for a thorough probe into Mercieca by police in the Florida communities where he worked and by the US District Attorney in Miami.

Given this lawsuit today, it's clear that Mercieca molested other children besides Mark Foley.

Given Mercieca's admissions, blame-shifting, denial, and lack of remorse, it's clear he's still dangerous.

Given that Mercieca's boss, the Malta bishop, has thus far refused to order Mercieca into a treatment center, it's clear the danger will continue.

Therefore, it's more crucial than ever that anyone with information about Mercieca and his crimes come forward now. We in SNAP believe criminal prosecution is still possible, but only if other witnesses and victims find the courage and strength to report to law enforcement, and only if law enforcement finds the will and makes the effort to prosecute.

For more information:

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[SNAPnetwork.org](http://SNAPnetwork.org)