

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT  
OF HARRISON COUNTY, MISSISSIPPI

JOHN DOE 1

PLAINTIFF

V.

CIVIL ACTION NO. *A2401-08-06*

CATHOLIC DIOCESE OF BILOXI,  
MISSISSIPPI, BISHOP RODI,  
his predecessors and assigns, BISHOP  
HOWZE, THE ROMAN CATHOLIC  
CHURCH, and JACK DOES 5 through 10

**FILED**  
JAN 04 2008

GAYLE PARKER, CIRCUIT CLERK  
By *[Signature]* DC  
DEFENDANTS

**COMPLAINT**  
(Jury Trial Requested)

**I. Introduction**

Plaintiff, John Doe 1 files this his Complaint complaining of Bishop Emeritus Joseph Howze ("Bishop Howze"), The Roman Catholic Church and The Catholic Diocese of Biloxi, Mississippi, who committed or allowed unspeakable acts of sexual abuse against John Doe 1. These Defendants have also conspired to prevent the lawful criminal or civil prosecutions of claims arising therefrom, and who subsequently perpetrated certain fraudulent actions intended to induce Plaintiff to relinquish his claims against certain entities.

**II. Parties**

1. Plaintiff John Doe 1 resides in Gulfport, Mississippi. Plaintiff John Doe 1 is 50 years of age. The identity of John Doe 1 was made known to the Defendants and to Bishop Rodi, the presiding Bishop of the Diocese of Biloxi, prior to the filing of this lawsuit.
2. Defendant Catholic Diocese of Biloxi, Mississippi is a Catholic diocese and is an unincorporated religious association.
3. Defendant Bishop Rodi, his predecessors and assigns, are the present, past, and

future Bishops of the Roman Catholic Diocese of Biloxi. Bishop Rodi was the Bishop during the time of the abuse alleged herein.

4. Defendant Roman Catholic Church is upon information and belief an unincorporated religious association with members in all 50 states.

5. Defendant Bishop Howze is an adult resident of Mississippi whose address is 6162 Kimbrough Blvd., Biloxi, MS.

6. Defendants Jack Does 5 through 10 are entities or persons affiliated with or part of the Roman Catholic Church who knew or should have known of facts alleged herein, had a duty to act and failed to do so. Said entities will be added with specificity upon discovery of their identities.

### III. Facts

7. John Doe 1 was born in or about December of 1957. He is a married, white male who resides in a FEMA trailer in or near Gulfport, Mississippi.

8. John Doe 1 has worked for Bishop Howze on and off over the years.

9. Following severe physical injury, John Doe 1 became addicted to pain medicine. His affliction worsened over the years. John Doe 1 took affirmative steps to recover from his addiction, including but not limited to Clonidine treatment to aid in withdrawal.

10. John Doe 1 sought spiritual assistance in his recovery from Bishop Howze in his capacity as a friend and as a spiritual leader in the Catholic Church.

11. John Doe 1 also sought to chronicle his recovery for family members by video recording events from his life in his FEMA trailer in Gulfport, Mississippi.

12. On or before January 4, 2007, John Doe 1 sought the spiritual assistance of

Bishop Howze in his recovery. Specifically, John Doe 1 asked Bishop Howze to sit with him during his prescribed "Clonidine" regimen.

13. On or after January 4, 2007, Bishop Howze sat with John Doe 1 during his Clonidine regimen. The purpose of Bishop Howze's requested presence by John Doe 1 was to insure the physical and spiritual safety of John Doe 1.

14. Once John Doe 1 was under the influence of the Clonidine, Bishop Howze sexually assaulted John Doe 1. Said assault included but is not limited to the untoward touching of John Doe 1's genitalia, torso, rump anus, and pudendum. Said assault includes but is not limited to, untoward kissing. At all times, John Doe 1 was under the influence of Clonidine or other narcotic which rendered him unable to prevent to untoward assault of Bishop Howze.

15. John Doe 1 notified Defendant Bishop Rodi of the assault to no avail.

16. In or about June of 2002, a Catholic Bishops conference was held in Dallas, Texas to address the issue of widespread sexual abuse of parishioners by Catholic priests.

17. At said conference, a resolution was reached by a vote of the bishops resolving as follows:

As bishops, we acknowledge our mistakes and our role in that suffering, and we apologize and take responsibility for too often failing victims and our people in the past. With a firm determination to resolve this crisis, we bishops commit ourselves to a pastoral outreach to repair the breach with those who have suffered sexual abuse and with all the people of the Church. We renew our determination to provide safety and protection for children and young people in our accountability to God, to his people, and to one another in this grave matter. We commit ourselves to do all we can to heal the trauma that victims/survivors and their families are suffering and the wound that the whole Church is experiencing. We acknowledge our need to be in dialogue with all Catholics, especially victims and parents, around this issue.

Diocese/eparchies will not enter into confidentiality agreements except for grave and substantial reasons brought forward by the victim/survivor and noted in the text of the agreement.

We pledge that we will devote to this goal the resources and personnel necessary to accomplish it.

We pledge that we will work toward healing and reconciliation for those sexually abused by clerics.

18. The delay in treatment proximately caused additional emotional and psychological injuries to Plaintiff and his emotional and psychological injuries have become chronic due to the fact that they did not receive prompt and proper ongoing treatment and therapy for this sexual abuse.

19. Defendant Diocese of Biloxi wholly failed to conduct adequate investigation to determine whether Howze was suitable for a position of trust and confidence involving access to and power over others.

20. Defendant Diocese of Biloxi and Bishop Rodi knew of the assault upon John Doe 1 and have taken no measures to insure that similar assaults by Bishop Howze do not occur to others.

21. Upon information and belief the Catholic Diocese of Biloxi knew of the propensity for sexual assault by Bishop Howze and have actively sought to conceal his malfeasance.

#### **IV. Counts - Causes of Action Against All Defendants**

##### **Count I - Claims of Conspiracy**

22. The actions of Defendants alleged herein in Paragraphs 1 - 21 proximately caused

the incident in question and the damages sustained by the Plaintiffs.

23. Plaintiffs allege that at some point in the past unknown to the Plaintiffs, but occurring at least by the mid 1960's, the Catholic Vicars, including Vicar General Law, and Bishops of the United States and the Bishop of the Diocese of Biloxi became aware of the illegal sexual abuse by Catholic Priests.

24. Beginning in the 1960's a large network of Catholic owned and operated private psychiatric treatment centers and hospitals was established across the United States solely for the treatment of Catholic Priests upon referral by their Bishops or Superiors General. These treatment centers have treated Catholic Priests exhibiting psychosexual disorders. A report was given at the National Conference of Bishops in or about 1971, by Dr. Conrad Baare entitled "The Role of the Church in the Causation, Treatment and Prevention of the Crisis in the Priesthood." This report dealt with the issue of sexual abuse by priests. Then, the treatment center operated by the Servants of the Paraclete in New Mexico was established in 1976. This center treated hundreds of priest perpetrators from 1976-1983.

25. In Dioceses throughout the United States, including the Diocese of Biloxi, when cases of illegal sexual abuse by Catholic Priests have surfaced, these cases have been handled in such a uniform fashion as to demonstrate a common plan and scheme for concealing these crimes from the public, failing to report and thus avoiding criminal prosecution of priest perpetrators and the filing of civil claims by victims. This common plan and scheme was in existence before the abuse of the Plaintiff to conceal the crimes by Bishop Howze and other priests of the Catholic Church. The members of this common plan and scheme included the Defendant Bishop and agents of the Diocese of Biloxi, both past and present, and others unknown to the Plaintiff.

26. The Defendants herein were aware of the harm to Plaintiffs and the wrongful conduct of Howze at the beginning of the combination or agreement. These Defendants intended to accomplish the unlawful purpose of concealing crimes by Howze and other priests and/or intended to conceal their breach of duty by the unlawful means of failing to report Howze and other known perpetrators as required by law. These Defendants intended to cause further injury to Plaintiff and others as a result of the failure to report unlawful abuse as required by law. This combination had the result of concealing crimes and concealing others' subsequent complicity in those crimes by fraudulent and illegal means and concealing the facts giving rise to claims for civil damages by the Plaintiff against all Defendants by fraudulent and illegal means. Acts in furtherance of this civil conspiracy are continuing up to and until the date of the filing of this Complaint.

27. Plaintiff alleges that the above Defendants have entered into a civil conspiracy to accomplish an unlawful purpose (namely, concealing the illegal sexual assault ) and/or to accomplish a lawful purpose (namely, concealing their own complicity, negligence and breach of duty by the unlawful means of illegally failing to report such abuse to the authorities). This combination represents a meeting of the minds on the object or course of action to accomplish the above objectives and constitutes a civil conspiracy. Numerous unlawful overt acts have been committed in furtherance of this combination; namely, the covering up of and failure to report Howze in the early to mid 1970's as required by state reporting statutes as well as the failure to report other priests. Numerous overt acts have been committed in furtherance of this civil conspiracy. As a result of this combination, Plaintiff has suffered damages as the proximate result.

28. Plaintiff has also alleged that these Defendants, individually and collectively, have acted to fraudulently conceal the cause of Plaintiff's injuries, namely their knowledge and their negligence with regard to the illegal sexual assault by Howze and others, as well as the negligence, fraud, and breach of fiduciary duty on the part of these Defendants in concealing their knowledge and negligence. Each Defendant was knowledgeable of the existence of these claims. Each Defendant used deception to conceal these claims and their breach of duty in permitting the abuse to occur.

29. The elements of a "civil conspiracy" have therefore been met by the actions of Defendants Diocese of Biloxi, Bishop Howze, and the Roman Catholic Church as well as by the actions of other unknown Defendants Jack Does: (1) the combination consists of two or more persons; (2) the combination was designed to either accomplish an unlawful purpose (concealing the sexual assault and any involvement as accessories after the fact by failing to report said abuse) and/or to accomplish a lawful purpose (concealing their breach of duty by failing to report said abuse) by unlawful means; (3) there was a meeting of the minds on the object or course of action; (4) there are numerous unlawful, overt acts, i.e., the illegal sexual misconduct; and (5) damages to the victims as the proximate result.

30. All Defendants participated in coordinated action, including Defendant Biloxi Diocese, which resulted in the use of fraud and deception. This series of events was carried out as part of the civil conspiracy pled herein to keep the sexual abuse a secret, and avoid the prosecution of priest perpetrators. False representations were used to avoid public knowledge of these high-profile cases. Efforts to conceal this combination are on-going and have included the unlawful failure to report Howze to the proper authorities in Mississippi despite the church's

long-standing knowledge of these acts.

**Count II - Breach of Fiduciary Duty**

31. The actions of Defendants alleged herein in Paragraphs 1 - 69 proximately caused the incident in question and the damages sustained by the Plaintiff.

32. Plaintiff alleges that these Defendants breached their fiduciary duty to the Plaintiff by failing to disclose their knowledge of the malfeasance of Bishop Howze. This duty includes the duty of good faith, fair dealing, and a duty to disclose.

33. Plaintiff alleges that Defendant Bishop Howze breached his fiduciary duty to the Plaintiff. Bishop Howze placed himself in a position of trust and John Doe 1's spiritual and physical safekeeper during the time of John Doe 1's withdrawal.

34. Plaintiff further pleads that all Defendants knew or should have known of Defendant Howze dangerous propensities and failed to disclose such propensities and that such was a proximate cause of Plaintiff's injuries and damages.

35. Plaintiff further pleads that Defendant Howze breached his fiduciary duty owed to the Plaintiff when he assaulted John Doe 1 during his vulnerable state.

36. The sexual assaults in this case arose from Bishop Howze's exercise of authority, power, and access created by his position and employment as a Catholic priest and auxiliary Bishop for the Diocese of Jackson. Plaintiff thus plead vicarious liability under the doctrine of respondeat superior and/or ratification in that the Biloxi Diocese and Roman Catholic Church knew or should have known of the dangerous propensities of Bishop Howze and could foresee Bishop Howze's actions as arising from the duties of Bishop Howze as a priest of the Jackson Diocese. Defendants' authority over their priests exceeds the customary employer/employee



relationship, thus Defendant Diocese of Biloxi is vicariously liable for all actions of Co-Defendant Howze.

37. During the existence of the fiduciary relationship pled herein, Defendant Diocese actively and constructively stated and/or represented numerous falsehoods including the fact that Howze was a man of good moral character, fit to be a Bishop within the Diocese, who could be entrusted with the care, counseling, teaching and instruction of parishioners. These representations, among others, outlined in this pleading, were false and untrue and were known to be false and untrue at the time they were made, or were made with a reckless disregard as to whether they were true or false. These falsehoods and non-disclosures were material facts made with the intent to deceive and to induce reliance.

38. These Defendants have a fiduciary relationship with, and fiduciary duty to the Plaintiff. This fiduciary relationship gives rise to the duty on the part of these Defendants to act with the highest degree of trust and confidence toward the Plaintiff. Defendants breached their fiduciary duty to the Plaintiff. This breach of fiduciary duty includes the duty to warn and disclose and to take affirmative action to rectify any harm known to have occurred at the Church's hands.

39. In light of this fiduciary relationship, Defendants have been negligent in their actions and have violated their duty to exercise reasonable care to protect Plaintiff from the foreseeable risk of sexual assault by Bishop Howze. Moreover, Defendants have failed to take any action whatsoever to rectify the harm known to have occurred to these Plaintiff since that date. As a result, Plaintiff has sustained damage.

**Count III - Intentional or Negligent Infliction of Emotional Distress**

40. The actions of Defendants alleged herein in Paragraphs 1 - 21 proximately caused the incident in question and the damages sustained by the Plaintiff.

41. Plaintiff alleges that the actions of these Defendants have been outrageous, beyond the bounds of decency recognized by a civilized society and have intentionally and/or negligently inflicted emotional distress upon the Plaintiff.

42. Plaintiff further pleads that all Defendants knew or should have known of Bishop Howze's dangerous propensities and failed to disclose such propensities and that such was a proximate cause of Plaintiff's injuries and damages. Moreover, once known, Defendants failed to act to correct the damage inflicted.

43. Defendants, at the time and on the occasion in question, acted with heedless and reckless disregard for the safety of Plaintiff, which disregard was the result of conscious indifference to the rights, welfare and safety of the Plaintiff in violation of the laws of the State of Mississippi. The conduct of these Defendants amounted to, at a minimum, gross negligence, as that concept is understood under Mississippi law. For these actions, Plaintiff seeks punitive damages.

44. Plaintiff also alleges that all Defendants acted in concert and are jointly and severally liable for all acts and/or omissions under the legal doctrine of concert of action as joint venturers, and as agents of these entities, pursuant to Section 876 of the Restatement (Second) of Torts. Thus, Plaintiff seeks damages from all Defendants jointly and severally.

**Count IV - Negligence: Assignment, Hiring and Retention**

45. The actions of Defendants alleged herein in Paragraphs 1 - 21 proximately caused the incident in question and the damages sustained by the Plaintiff.

46. Defendant Biloxi Diocese negligently assigned or employed Bishop Howze in a position of trust, confidence, and authority as a priest in direct contact with the vulnerable, such as John Doe 1, when Defendants knew or should have known of his dangerous sexual propensities.

47. Defendant Biloxi Diocese negligently failed to warn Plaintiff and parishioners of the Catholic faithful of Bishop Howze's dangerous propensities despite knowledge and notice of these propensities.

48. Defendant Biloxi Diocese failed to provide reasonable supervision of Bishop Howze.

49. Defendant Biloxi Diocese failed to investigate numerous notices that Bishop Howze was a danger to others and remove him from a position involving personal contact with parishioners.

50. Defendant Biloxi Diocese negligently failed to implement reasonable policies and procedures to prevent injury to others such as John Doe 1 even though they knew or should have known Bishop Howze was a danger to others.

51. Plaintiff alleges that the Roman Catholic Diocese of Biloxi is liable for the acts and/or omissions of Bishop Howze under the legal doctrine of negligent assignment, hiring, supervision and/or retention. Defendant Diocese realized or should have realized that Bishop Howze posed an unreasonable risk of harm to others, including Plaintiff. Plaintiff thus pleads Section 302B of the Restatement (Second) of Torts, Section 302B.

**Count V- Battery**

52. The actions of Defendants alleged herein in Paragraphs 1 - 21 proximately caused



the incident in question and the damages sustained by the Plaintiff.

53. The Defendant Bishop Howze did on or after January 4, 2007, commit battery upon the Plaintiff by untoward physical touching, to wit, the sexual assault of the Plaintiff including but not limited to untoward and unwanted touching of the Plaintiff's genitalia, torso, rear, anus, and pudendum and untoward and unwanted kissing.

54. Said acts were committed with intent and the knowledge that said acts were unwanted and unsolicited while the Plaintiff was in a state such that he could not fend off such unwanted attacks.

55. As a direct and proximate cause of the battery described herein, the Plaintiff has suffered damages as described herein below.

#### Count VI – Assault

56. The actions of Defendants alleged herein in Paragraphs 1 - 21 proximately caused the incident in question and the damages sustained by the Plaintiff.

57. The Defendant Bishop Howze did on or after January 4, 2007, commit assault upon the Plaintiff by the imminent threat of battery, to wit, the sexual assault of the Plaintiff including but not limited to untoward and unwanted touching of the Plaintiff's genitalia, torso, rear, anus, and pudendum and untoward and unwanted kissing.

58. Said acts were committed with intent and the knowledge that said acts were unwanted and unsolicited while the Plaintiff was in a state such that he could not fend off such unwanted attacks.

59. As a direct and proximate cause of the battery described herein, the Plaintiff has suffered damages as described herein below.

### VII. Damages

60. As a result of the incidents described herein, Plaintiff has incurred medical expenses in the past which were reasonable and necessary and in all reasonable probability will incur medical expenses in the future.

61. Plaintiff has experienced pain and suffering in the past and in all reasonable probability will sustain pain and suffering in the future as a result of his psychological injuries.

62. Plaintiff has experienced spiritual and mental anguish in the past and in all reasonable probability will sustain spiritual and mental anguish in the future.

63. Plaintiff has suffered a loss of earnings and earning capacity in the past and in all probability will sustain such losses in the future.

64. Plaintiff has incurred many other damages and in all reasonable probability his familial, social and professional adjustment will continue to be severely impacted in the future.

65. Plaintiff also seeks punitive and exemplary damages in order to punish and deter the outrageous conduct taken in heedless and reckless disregard for the safety of the Plaintiff and as a result of Defendants' conscious indifference to the rights, welfare and safety of the Plaintiff in violation of the laws of the State of Mississippi. The conduct of Defendants amounted to gross negligence, malice, and fraud as those concepts are understood under Mississippi law for which Plaintiff seeks exemplary damages.

This the 4<sup>th</sup> day of January, 2008.

Respectfully submitted,

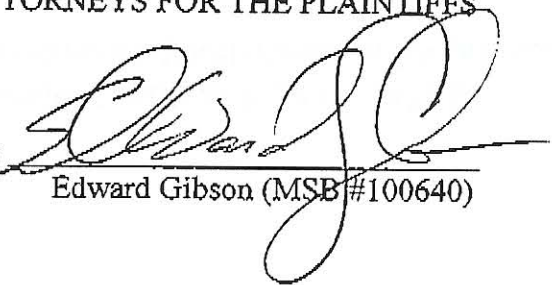
JOHN DOE I

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ATTORNEYS FOR THE PLAINTIFFS

By:

A handwritten signature in black ink, appearing to be 'Edward Gibson', written over a horizontal line.

Edward Gibson (MSB #100640)