

Dean Weissmuller
c/o Jeffrey Anderson
Jeff Anderson and Associates
366 Jackson Street, Ste. 100
St. Paul, MN 55101,

File No.:
Case Code: 30107

Plaintiff,

COMPLAINT

vs.

Archdiocese of Milwaukee
3501 South Lake Drive
P.O. Box 070912
Milwaukee, WI 53207,

And

St. John's School for the Deaf,
Formerly located at
3680 S. Kinnickinnic Ave.
St. Francis, WI

Defendant.

PARTIES

1. Plaintiff Dean Weissmuller is an adult male resident of the State of Arizona. Plaintiff Dean Weissmuller was a minor at the time of the sexual abuse alleged herein, which occurred from approximately 1970 to 1972.

2. At all times material to the complaint, Defendant Archdiocese of Milwaukee (hereinafter Archdiocese), was and continues to be a non-profit religious corporation, authorized to conduct business and conducting business under the laws of the State of Wisconsin, with its principle place of business at 3501 South Lake Drive, P.O. Box 070912,

Milwaukee, WI 53207.

3. At all times material to the complaint, Defendant St. John's was a school in Milwaukee for deaf children with its principal place of business at 3680 S. Kinnickinnic Ave. in St. Francis, WI. On information and belief, St. John's closed in 1983.

4. At all times material, Lawrence Murphy, (hereinafter AMurphy@), was a Roman Catholic priest, counselor and a teacher educated by, and under the direct supervision, authority, employ and control of each Defendant.

5. At all times material, Thomas Tannehill, (hereinafter "Tannehill"), was a agent or employee, under the direct supervision, authority, employ and control of each Defendant.

FACTS

6. Lawrence Murphy was ordained as a Roman Catholic priest by Defendant Archdiocese in 1950 and remained under Defendant Archdiocese's direct supervision, employ and control during all times material to this Complaint.

7. During Murphy's tenure as a priest, Defendant Archdiocese placed Murphy at St. John's School for the Deaf in St. Francis, Wisconsin from approximately 1950 to 1975 and then placed Murphy at St. Anne Church in Boulder Junction, Wisconsin.

8. On information and belief, sometime in approximately 1955 to 1957, Father David Walsh reported to Archbishop Albert Meyer that several deaf boys had reported to him that Father Murphy had sexually molested them. Archbishop Meyer was in charge of the Archdiocese at that time. On information and belief, Murphy admitted to Archbishop Meyer that he sexually abused boys at St. Johns.

9. In October of 1972, the Archdiocese received a letter from the mother that outlined an "unfortunate episode involving your daughter [redacted] and the administration at St.

John's School for the Deaf in the person of Father Murphy.”

10. In approximately 1972 or 1973 a boy at St. John's told James Heidenthal, an employee and agent of Defendants working at St. Johns, that Father Murphy and Thomas Tannehill had sexually molested him. Mr. Heidenthal confirmed with numerous other minor students that they too were sexually abused by Tannehill and Murphy.

11. On information and belief, both Tannehill and Murphy knew that the other were sexually abusing children before Plaintiff was first abused by either one.

12. On information and belief, in 1973 a deaf child reported to the St. Francis Police Department that Murphy had sexually molested him as a child.

13. On information and belief, Defendant Archdiocese knew about this report to the police in 1973.

14. In approximately 1974, Father David Walsh reported to Archbishop Cousins that Father Murphy was still sexually active with deaf children from St. John's.

15. In 1974 a group of deaf students reported to the Milwaukee police and the St. Francis police that they had been sexually molested by Murphy.

16. In 1974, a group of deaf students delivered approximately 15 to 20 affidavits to Defendant Archdiocese of Milwaukee that stated that they had been sexually molested by Murphy when they were children.

17. On information and belief some of these deaf students met with Archbishop Cousins, the then head of the Archdiocese of Milwaukee, in 1974. The Archbishop told the students that the Archdiocese had been aware of Murphy's problem of sexually molesting minor students but that he was too valuable to the deaf school to remove him.

18. In approximately 1975 the Archdiocese moved Murphy out of St. Johns and

placed him to work as a priest in Boulder Junction, Wisconsin and sometime later at Lincoln Hills School in Irma, Wisconsin.

19. On information and belief, each Defendant allowed Lawrence Murphy to have unsupervised and unlimited access to children at St. John's.

20. On information and belief, each Defendant allowed Tannehill to have unsupervised and unlimited access to children at St. John's.

21. By placing Lawrence Murphy and allowing him to function as a priest in good standing with the Archdiocese of Milwaukee, at St. John's in approximately 1950 and continuing until approximately 1974, Defendant Archdiocese, through its agents including Archbishop Albert Meyer, Archbishop William Cousins and/or Archbishop Weakland, affirmatively represented to minor children and their families, including Plaintiff Dean Weissmuller, that Lawrence Murphy did not have a history of molesting children, that Defendant Archdiocese did not know or suspect that Lawrence Murphy had a history of molesting children and that Defendant Archdiocese did not know that Lawrence Murphy was a danger to children.

22. By placing Lawrence Murphy and allowing him to function as a priest in good standing, at St. John's in approximately 1950 and continuing until approximately 1974, Defendant St. John's, through its agents including Archbishop Albert Meyer, Archbishop William Cousins and/or Archbishop Weakland, affirmatively represented to minor children and their families, including Plaintiff Dean Weissmuller, that Lawrence Murphy did not have a history of molesting children, that Defendant did not know or suspect that Lawrence Murphy had a history of molesting children and that Defendant did not know that Lawrence Murphy was a danger to children.

23. By placing Thomas Tannehill and allowing him to function as an agent in good

standing with the Archdiocese of Milwaukee, at St. John's before Plaintiff was first abused until Tannehill left St. John's, Defendant Archdiocese, through its agents including Archbishop Albert Meyer, Archbishop William Cousins and/or Archbishop Weakland, affirmatively represented to minor children and their families, including Plaintiff Dean Weissmuller, that Tannehill did not have a history of molesting children, that Defendant Archdiocese did not know or suspect that Tannehill had a history of molesting children and that Defendant Archdiocese did not know that Tannehill was a danger to children.

24. Each Defendant was in a specialized position where it had knowledge that Plaintiff did not. Each Defendant was in a position to have this knowledge because it was Murphy's employer and because the each Defendant was responsible for Murphy. Plaintiff on the other hand was a child. As a child he was not in a position to have information about Murphy's molestation of other children or each Defendant's knowledge of the danger Murphy posed to children.

25. Each Defendant was in a specialized position where it had knowledge that Plaintiff did not. Each Defendant was in a position to have this knowledge because it was Tannehill's employer and because the each Defendant was responsible for Tannehill. Plaintiff on the other hand was a child. As a child he was not in a position to have information about Tannehill's molestation of other children or each Defendant's knowledge of the danger Tannehill posed to children.

26. In addition to the representations being made directly to Plaintiff, each Defendant, through its agents including Archbishop Cousins and other agents at St. John's, made these representations with knowledge and intent that they would be communicated to the minor Plaintiff through his parents/caregivers words and actions. Each Defendant also had reason to

believe that the representations made to Plaintiff's parents/caregivers would influence Plaintiff and particularly that the representations would influence the amount and type of time spent alone with Murphy and Tannehill, Murphy's and Tannehill's access to Plaintiff, and Murphy's and Tannehill's ability to molest Plaintiff.

27. Particularly, each Defendant knew that Lawrence Murphy was a child molester and knew that Lawrence Murphy was a danger to children before Murphy molested Plaintiff.

28. Particularly, each Defendant knew that Thomas Tannehill was a child molester and knew that Tannehill was a danger to children before Tannehill molested Plaintiff.

29. Because of the superiority and influence that each Defendant had over him, Plaintiff believed and relied upon these misrepresentations.

30. In reliance upon each Defendant misrepresentations, from approximately 1970 to 1972, Lawrence Murphy sexually molested the minor Plaintiff on numerous occasions.

31. In reliance upon each Defendant misrepresentations, in approximately 1972, Thomas Tannehill sexually molested the minor Plaintiff on numerous occasions.

32. Had Plaintiff or his family known what each Defendant knew - that Lawrence Murphy was a suspected child molester and a danger to children before Plaintiff was first molested by Murphy, Plaintiff would not have been sexually molested.

33. Had Plaintiff or his family known what each Defendant knew - that Thomas Tannehill was a suspected child molester and a danger to children before Plaintiff was first molested by Murphy, Plaintiff would not have been sexually molested.

34. Plaintiff did not discover that he had been defrauded or have any reason to believe that Defendant Archdiocese had defrauded him until recently.

35. Plaintiff did not discover that he had been defrauded or have any reason to believe

that Defendant St. John's had defrauded him until recently.

36. As a direct and proximate result of each Defendant's misrepresentations, fraud, and misconduct, Plaintiff Dean Weissmuller has suffered and continues to suffer great pain of mind and body, shock, emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life, was prevented and will continue to be prevented from performing his normal daily activities and obtaining the full enjoyment of life, has sustained loss of earning capacity and has incurred and will continue to incur expenses for medical and/or psychological treatment, therapy and counseling. The amount of Plaintiff's damages will be fully ascertained at trial.

37. Defendant Archdiocese intentionally or recklessly disregarded Plaintiff's rights and safety such that punitive damages should be awarded against Defendant.

38. Defendant St. John's intentionally or recklessly disregarded Plaintiff's rights and safety such that punitive damages should be awarded against Defendant.

FIRST CAUSE OF ACTION
FRAUD AGAINST DEFENDANT ARCHDIOCESE

39. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count.

40. Defendant Archdiocese affirmatively represented to Plaintiff and his family that Lawrence Murphy did not have a history of molesting children, that Defendant Archdiocese did not know or suspect that Lawrence Murphy had a history of molesting children and that Defendant Archdiocese did not know that Lawrence Murphy was a danger to children.

41. Defendant Archdiocese affirmatively represented to Plaintiff and his family that Tannehill did not have a history of molesting children, that Defendant Archdiocese did not know

or suspect that Tannehill had a history of molesting children and that Defendant Archdiocese did not know that Tannehill was a danger to children.

42. Lawrence Murphy did have a history of sexually molesting children. Defendant Archdiocese knew that Lawrence Murphy had a history of sexually molesting children and that he was a danger to children.

43. Tannehill did have a history of sexually molesting children. Defendant Archdiocese knew that Tannehill had a history of sexually molesting children and that he was a danger to children.

44. Plaintiff justifiably relied upon Defendant Archdiocese's misrepresentations which caused him to be sexually molested by Lawrence Murphy and Tannehill and suffer the other damages described herein.

45. Defendant Archdiocese knew that its misrepresentations were false or at least were reckless without care of whether these representations were true or false.

46. Defendant Archdiocese made the misrepresentation with the intent to deceive Plaintiff and to induce him to act on the misrepresentations to his detriment.

WHEREFORE, Plaintiff demands judgment against Defendant Archdiocese in an amount to be determined at trial, plus costs, disbursements, reasonable attorneys' fees, interest, and such other relief that the Court deems just and equitable. Plaintiff also demands punitive damages against Defendant Archdiocese in an amount to be determined at trial.

SECOND CAUSE OF ACTION
FRAUD (INTENTIONAL NON-DISCLOSURE)
AGAINST DEFENDANT ARCHDIOCESE

47. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count.

48. Defendant Archdiocese knew that Lawrence Murphy had a history of sexually molesting children before Murphy sexually molested Plaintiff.

49. Defendant Archdiocese knew that Tannehill had a history of sexually molesting children before Tannehill sexually molested Plaintiff.

50. Whether or not Murphy had a history of sexual abuse was a material fact to Plaintiff.

51. Whether or not Tannehill had a history of sexual abuse was a material fact to Plaintiff.

52. Plaintiff relied on this non-disclosure.

53. Defendant Archdiocese intentionally did not disclose this fact to the then minor Plaintiff in order to induce him to act on the misrepresentations to his detriment.

54. Plaintiff relied upon this intentional non-disclosure, which caused him to be sexually molested by Murphy and Tannehill and suffer the other damages described herein.

WHEREFORE, Plaintiff demands judgment against Defendant Archdiocese in an amount to be determined at trial, plus costs, disbursements, reasonable attorneys' fees, interest, and such other relief that the Court deems just and equitable. Plaintiff also demands punitive damages against Defendant Archdiocese in an amount to be determined at trial.

THIRD CAUSE OF ACTION
FRAUD (NEGLIGENT MISREPRESENTATION)
AGAINST DEFENDANT ARCHDIOCESE

Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count.

55. Defendant Archdiocese, through its agents including Archbishop Cousins, represented to Plaintiff and his family that Murphy did not have a history of molesting children

and that Murphy was not a danger to children.

56. Defendant Archdiocese, through its agents including Archbishop Cousins, represented to Plaintiff and his family that Tannehill did not have a history of molesting children and that Tannehill was not a danger to children.

57. Murphy did have a history of sexually molesting children and was a danger to children.

58. Tannehill did have a history of sexually molesting children and was a danger to children.

59. The Archdiocese did not intend or anticipate that the Plaintiff would be harmed or abused because of its representations.

60. The Archdiocese owed a duty of care to Plaintiff because it should have known that Murphy would have access to children including Plaintiff, should have known that Murphy was a danger to children, and should have known that Murphy had molested children before he molested Plaintiff, and should have known that parents and children would place the utmost trust in Murphy.

61. The Archdiocese owed a duty of care to Plaintiff because it should have known that Tannehill would have access to children including Plaintiff, should have known that Tannehill was a danger to children, and should have known that Tannehill had molested children before he molested Plaintiff, and should have known that parents and children would place the utmost trust in Tannehill.

62. The Archdiocese, through its agents including Archbishop Cousins, in acts separate from and before its representation, failed to use ordinary care in making the representation or in ascertaining the facts related to Murphy. The Archdiocese reasonably should

have foreseen that its representation would subject Plaintiff to the unreasonable risk of harm.

63. The Archdiocese, through its agents including Archbishop Cousins, in acts separate from and before its representation, failed to use ordinary care in making the representation or in ascertaining the facts related to Tannehill. The Archdiocese reasonably should have foreseen that its representation would subject Plaintiff to the unreasonable risk of harm.

64. The Archdiocese failed to use ordinary care to determine Murphy's history of molesting children and whether he was safe for work with children before it made its representation about Murphy. The Archdiocese's failures include but are not limited to: failure to ask Murphy whether he sexually molested children, failure to ask Murphy's co-workers whether he molested children or whether they had any concerns about Murphy and children, failure to investigate Murphy's interest in children, failure to have a sufficient system to determine whether Murphy molested children and whether he was safe, failure to train its employees properly to identify signs of child molestation by fellow employees, and failure to investigate warning signs about Murphy when they did arise.

65. The Archdiocese failed to use ordinary care to determine Tannehill's history of molesting children and whether he was safe for work with children before it made its representation about Tannehill. The Archdiocese's failures include but are not limited to: failure to ask Tannehill whether he sexually molested children, failure to ask Tannehill's co-workers whether he molested children or whether they had any concerns about Tannehill and children, failure to investigate Tannehill's interest in children, failure to have a sufficient system to determine whether Tannehill molested children and whether he was safe, failure to train its employees properly to identify signs of child molestation by fellow employees, and failure to

investigate warning signs about Tannehill when they did arise.

66. Plaintiff believed and justifiably relied upon Defendant Archdiocese's representations which caused him to be sexually molested by Murphy and Tannehill and suffer the other damages described herein.

WHEREFORE, Plaintiff demands judgment against Defendant Archdiocese in an amount to be determined at trial, plus costs, disbursements, reasonable attorneys fees, interest, and such other relief that the Court deems just and equitable. Plaintiff also demands punitive damages against Defendant Archdiocese in an amount to be determined at trial.

FOURTH CAUSE OF ACTION
FRAUD AGAINST DEFENDANT ST. JOHN'S

67. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count.

68. Defendant St. John's affirmatively represented to Plaintiff and his family that Lawrence Murphy did not have a history of molesting children, that Defendant St. John's did not know or suspect that Lawrence Murphy had a history of molesting children and that Defendant St. John's did not know that Lawrence Murphy was a danger to children.

69. Defendant St. John's affirmatively represented to Plaintiff and his family that Tannehill did not have a history of molesting children, that Defendant St. John's did not know or suspect that Tannehill had a history of molesting children and that Defendant St. John's did not know that Tannehill was a danger to children.

70. Lawrence Murphy did have a history of sexually molesting children. Defendant St. John's knew that Lawrence Murphy had a history of sexually molesting children and that he was a danger to children.

71. Tannehill did have a history of sexually molesting children. Defendant St. John's knew that Tannehill had a history of sexually molesting children and that he was a danger to children.

72. Plaintiff justifiably relied upon Defendant St. John's's misrepresentations which caused him to be sexually molested by Lawrence Murphy and Tannehill and suffer the other damages described herein.

73. Defendant St. John's knew that its misrepresentations were false or at least were reckless without care of whether these representations were true or false.

74. Defendant St. John's made the misrepresentation with the intent to deceive Plaintiff and to induce him to act on the misrepresentations to his detriment.

WHEREFORE, Plaintiff demands judgment against Defendant St. John's in an amount to be determined at trial, plus costs, disbursements, reasonable attorneys' fees, interest, and such other relief that the Court deems just and equitable. Plaintiff also demands punitive damages against Defendant St. John's in an amount to be determined at trial.

FIFTH CAUSE OF ACTION
FRAUD (INTENTIONAL NON-DISCLOSURE)
AGAINST DEFENDANT ST. JOHN'S

75. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count.

76. Defendant St. John's knew that Lawrence Murphy had a history of sexually molesting children before Murphy sexually molested Plaintiff.

77. Defendant St. John's knew that Tannehill had a history of sexually molesting children before Tannehill sexually molested Plaintiff.

78. Whether or not Murphy had a history of sexual abuse was a material fact to

Plaintiff.

79. Whether or not Tannehill had a history of sexual abuse was a material fact to

Plaintiff.

80. Plaintiff relied on this non-disclosure.

81. Defendant St. John's intentionally did not disclose this fact to the then minor Plaintiff in order to induce him to act on the misrepresentations to his detriment.

82. Plaintiff relied upon this intentional non-disclosure, which caused him to be sexually molested by Murphy and Tannehill and suffer the other damages described herein.

WHEREFORE, Plaintiff demands judgment against Defendant St. John's in an amount to be determined at trial, plus costs, disbursements, reasonable attorneys' fees, interest, and such other relief that the Court deems just and equitable. Plaintiff also demands punitive damages against Defendant St. John's in an amount to be determined at trial.

SIXTH CAUSE OF ACTION
FRAUD (NEGLIGENT MISREPRESENTATION)
AGAINST DEFENDANT ST. JOHN'S

Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count.

83. Defendant St. John's, through its agents, represented to Plaintiff and his family that Murphy did not have a history of molesting children and that Murphy was not a danger to children.

84. Defendant St. John's, through its agents, represented to Plaintiff and his family that Tannehill did not have a history of molesting children and that Tannehill was not a danger to children.

85. Murphy did have a history of sexually molesting children and was a danger to

children.

86. Tannehill did have a history of sexually molesting children and was a danger to children.

87. St. John's did not intend or anticipate that the Plaintiff would be harmed or abused because of its representations.

88. St. John's owed a duty of care to Plaintiff because it should have known that Murphy would have access to children including Plaintiff, should have known that Murphy was a danger to children, and should have known that Murphy had molested children before he molested Plaintiff, and should have known that parents and children would place the utmost trust in Murphy.

89. St. John's owed a duty of care to Plaintiff because it should have known that Tannehill would have access to children including Plaintiff, should have known that Tannehill was a danger to children, and should have known that Tannehill had molested children before he molested Plaintiff, and should have known that parents and children would place the utmost trust in Tannehill.

90. St. John's, through its agents including Archbishop Cousins, in acts separate from and before its representation, failed to use ordinary care in making the representation or in ascertaining the facts related to Murphy. St. John's reasonably should have foreseen that its representation would subject Plaintiff to the unreasonable risk of harm.

91. St. John's, through its agents including Archbishop Cousins, in acts separate from and before its representation, failed to use ordinary care in making the representation or in ascertaining the facts related to Tannehill. St. John's reasonably should have foreseen that its representation would subject Plaintiff to the unreasonable risk of harm.

92. St. John's failed to use ordinary care to determine Murphy's history of molesting children and whether he was safe for work with children before it made its representation about Murphy. St. John's' failures include but are not limited to: failure to ask Murphy whether he sexually molested children, failure to ask Murphy's co-workers whether he molested children or whether they had any concerns about Murphy and children, failure to investigate Murphy's interest in children, failure to have a sufficient system to determine whether Murphy molested children and whether he was safe, failure to train its employees properly to identify signs of child molestation by fellow employees, and failure to investigate warning signs about Murphy when they did arise.

93. St. John's failed to use ordinary care to determine Tannehill's history of molesting children and whether he was safe for work with children before it made its representation about Tannehill. St. John's' failures include but are not limited to: failure to ask Tannehill whether he sexually molested children, failure to ask Tannehill's co-workers whether he molested children or whether they had any concerns about Tannehill and children, failure to investigate Tannehill's interest in children, failure to have a sufficient system to determine whether Tannehill molested children and whether he was safe, failure to train its employees properly to identify signs of child molestation by fellow employees, and failure to investigate warning signs about Tannehill when they did arise.

94. Plaintiff believed and justifiably relied upon Defendant St. John's' representations which caused him to be sexually molested by Murphy and Tannehill and suffer the other damages described herein.

WHEREFORE, Plaintiff demands judgment against Defendant St. John's in an amount to be determined at trial, plus costs, disbursements, reasonable attorneys fees, interest, and such

other relief that the Court deems just and equitable. Plaintiff also demands punitive damages against Defendant St. John's in an amount to be determined at trial.

Dated: _____

JEFF ANDERSON AND ASSOCIATES, P.A.

By: Jeffrey R. Anderson, #1019358
366 Jackson Street, Suite 100
St. Paul, Minnesota 55101
(651) 227-9990

and

Paul Scoptur

ATTORNEYS FOR PLAINTIFF

**DEMAND IS HEREBY MADE FOR A TRIAL
BY JURY TO A TWELVE-PERSON JURY**

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Therese Treichel, being first duly sworn, deposes and says that on August 13, 2009, she served the attached document(s):

Amended Complaint

upon the following attorneys by placing a true and correct copy thereof in an envelope addressed as follows:

John Rothstein
David Muth
Quarles & Brady
411 East Wisconsin Avenue
Milwaukee, WI 53202-4497

(which is the last known address of said attorney) and depositing the same via UPS next business day delivery at St. Paul, Minnesota.

Subscribed and sworn to before me
this _____ day of _____, 2008.

Notary Public