

NO. **11CI00622**

JEFFERSON CIRCUIT COURT

DIVISION _____

GARY WEITER, SR.
1232 Rammers Avenue
Louisville, Kentucky 40204

JEFFERSON CIRCUIT COURT
DIVISION SEVEN (7)

and

MARGIE WEITER
1232 Rammers Avenue
Louisville, Kentucky 40204

PLAINTIFFS

VS. VERIFIED COMPLAINT

JOSEPH KURTZ *CM*
ROMAN CATHOLIC ARCHBISHOP/BISHOP OF LOUISVILLE
212 East College Street
Louisville, Kentucky 40204

FATHER ANTHONY OLGES *CM*
ST. THERESE CATHOLIC CHURCH
1010 Schiller Ave.
Louisville, Kentucky 40204

FILED IN CLERK'S OFFICE
DAVID L. NICHOLSON, CLERK
JAN 27 2011
BY *NS*
DEPUTY CLERK

and

JAMES R. SCHOOK *CM*
Bishop David Apartments
5146 Dixie Highway
Louisville, Kentucky 40216

Jimmy Fee

and

ROMAN CATHOLIC BISHOP OF LOUISVILLE *CM*
SERVE: Archbishop Joseph Kurtz
212 East College Street
Louisville, Kentucky 40204

DEFENDANTS

Come the Plaintiffs, Gary and Margie Weiter, Sr., by Counsel, Mikell T. Grafton and for their Complaint against the Defendants respectfully state and aver as follows:

1. At all times material herein, Defendant Anthony Olges ("Olges") was and is a priest employed and/or acting on behalf of the Archdiocese/Diocese of Louisville ("Archdiocese") as a Pastor at St. Therese Catholic Church, Louisville, Kentucky.

2. At all times material herein, Defendant James Schook ("Schook") was and is a Priest employed by and/or acting on behalf of the Archdiocese/Diocese of Louisville as a Pastor or in other similar capacities.

3. At all times material herein, the Archdiocese of Louisville/Defendant Roman Catholic Bishop of Louisville was and is an unincorporated association and an ecclesiastical province located at 212 East College Street, Louisville, Kentucky and elsewhere, which upon information and belief is served by 122 Parishes and missions including Defendant St. Therese Catholic Church located at 1010 Schiller Avenue, Louisville, Kentucky, and is currently under the control of the Defendant Archbishop of Louisville, Joseph Edward Kurtz ("Kurtz.")

4. At all times material herein, Plaintiffs Gary and Margie Weiter, Sr. were residents of Louisville, Jefferson County, Kentucky and were or became practicing members of the St. Therese Catholic Church in Louisville, Jefferson County, Kentucky which upon information and belief operates under the name or authority of the Defendant Roman Catholic Bishop of Louisville and/or the Archdiocese of Louisville.

STATEMENT OF CASE

5. On or about and between the September of 1964 until the end of August 1965, Plaintiff Gary Weiter, Sr., a then 15 year old resident of Louisville, Jefferson County, Kentucky and the son of a member of the St. Therese Parish was repeatedly assaulted and sexually abused by Edwin Scherzer, the then Parish Priest at St. Therese.

6. It was Scherzer's practice during and as part of his sexual abuse of Plaintiff Gary Weiter and other children at St. Therese, including those aged nine (9) and above, to strangle them, including Plaintiff Gary Weiter, until Plaintiff and other children approached unconsciousness while Scherzer reached sexual climax, causing Plaintiff Gary Weiter and the others not only the distress and horror of sexual abuse, but also physical injury and the extreme fear that he and others would not survive each repeated instance of abuse.

7. On or about April 8, 1967, Plaintiffs, Gary and Margie Weiter. Sr. was married.

8. On or about the 1st day of September, 1974, Plaintiffs Gary Weiter, Sr., having attended St. Therese with his parents and Margie Weiter, residents of Germantown, became members of Defendant St. Therese Catholic Church located in Germantown, Louisville, Jefferson County, Kentucky.

9. On information and belief, on or about 1999, the Parish at St. Therese and St. Elizabeth Catholic churches was joined under one Pastor/Parish Priest Stiles, and on or about June 17, 2009 St. Therese and St. Elizabeth were ordered clustered with the Catholic Church known as Holy Family where Defendant Olges became parish priest of all three clustered churches.

10. On or about the 2nd day of March, 2002, Plaintiff Margie Weiter was employed by Defendant Archdiocese as a bookkeeper and secretary at the Defendant St. Therese Catholic Church.

11. On or about April, 2002, Plaintiff Gary Weiter, Sr. after having reported to Defendant Archdiocese his repeated abuse by the above Archdiocese Priest Scherzer, participated as a Plaintiff in a lawsuit against then Archbishop Kelly/ Archdiocese of Louisville along with other Plaintiffs who also had been sexually abused by priests, including Edwin Scherzer, under the auspices of the Defendant Archbishop Kelly.

12. On or about the 10th day of June, 2003, Plaintiff Gary Weiter, Sr. along with other victims of sexual abuse, settled their cases against the Archdiocese/Archbishop wherein the Archdiocese paid money damages to the abused Plaintiffs as a result of the abuse by various parish priests including Scherzer suffered by Plaintiff Gary Weiter and others in Louisville and elsewhere.

13. It was a part of said settlement that the then Archbishop of the Defendant Archdiocese (Kelly) apologized to the Plaintiffs and as such was aware, as were the parish priests, of the repeated abuse of the Plaintiffs including Plaintiff Gary Weiter, Sr.

14. On or about 2003 a "Safe Environment Program" for all church employees and all in the church who have contact with youth was put in place by Defendant Archdiocese/Roman Catholic Bishop of Louisville in order to educate those employees about the potential and dangers of sexual abuse by Priests among others.

15. On or about June of 2003, the then Archbishop Kelly apologized to the above victims of abuse stating:

"No child should ever have had to experience what happened to you," and he said, "I promise that we are doing everything we can to prevent child abuse in the church. I apologize again for what we did and what we failed to do. I hope that the settlement is seen as a sign of our willingness to support you in your healing period."

16. On or about June of 2004, the Archdiocese held a "Service of Atonement" at the Cathedral of the Assumption and a Healing Service at Holy Spirit Church wherein the then Archbishop Kelly stated:

"I ask forgiveness from you who are survivors of abuse," he said at Holy Spirit "I know you have been hurt by the church, by the failure of moral leadership," and he asked for forgiveness.

17. In January of 2007 then, Archbishop Kelly stated:

"We continue to seek and ask for their (victim's) forgiveness, to pray that such horrible things may not happen again **and to take every step conceivable to prevent that from happening.** We can never heal the harm that was done, **but we must certainly continue to do everything possible to protect our children.**" (Emphasis added) (Source publication Archdiocese of Louisville) (Exhibit 1)

18. On or about July 30, 2009, Defendant James R. Schook, then Pastor of St. Ignatius Martyr was placed on leave of absence after the Defendants Kurtz and Roman Catholic Bishop of Louisville received information from a victim that Defendant Schook had sexually abused a teenager while serving as Parish Priest. As early as 2003, in reference to sexual abuse by priests, then Bishop of Knoxville Kurtz had pledged, "In addition, I am committed to ensuring that a safe environment and program... is cultivated within the Diocese."

19. On or about July of 2009, Parish Priest Roy Stiles retired as Pastor from the above clustered churches including St. Therese, appointing in his place, Defendant Anthony Olges as Pastor/Priest of all three.

20. Upon information and belief, Defendants Schook and Olges served together at St. Polycarp Church on Columbine Drive in Louisville, Kentucky where Defendant Schook was alleged to have abused at least one (1) minor child, which occasioned his dismissal as Pastor, and at St. Rita Catholic Church where upon information and belief, Defendant Schook sexually abused at least one other child.

21. Upon Defendant Olges' installation as Pastor for the clustered churches more particularly described above, including St. Therese, Defendant Olges caused Defendant Schook to be secretly relocated to the St. Therese Rectory, although as Defendant Olges then well knew, Defendant Schook was under investigation for sexual child abuse and was not to be around children or among other unaware parishioners.

22. Upon information and belief, Defendant Olges was aware and should have been aware that Plaintiff Gary Weiter, Sr., a victim of priest sexual abuse, more particularly described in Paragraph 5 and 6 above, was a member of and active in the Parish at St. Therese including having direction of and supervisory responsibility for the church's bingo games and fund-raising parties for at least thirteen (13) years prior to Defendant Olges' installation as Pastor for St. Therese.

23. Upon Defendant Schook's arrival at St. Therese, Plaintiff Margie Weiter approached Defendant Olges in order to inform him that she, among others, did not believe it appropriate or proper for the Parish at St. Therese to house Defendant Schook.

24. In response to Plaintiff Margie Weiter's complaint regarding the presence at St. Therese of Defendant Schook, a known accused child abuser, Defendant Olges not

only ignored her complaints, but instructed her that she was not to reveal to any person that Defendant Schook was housed at St. Therese.

25. When Plaintiff Margie Weiter complained to the Business Manager and to the Pastoral Associate, both managerial employees of Defendant Archdiocese/Bishop of Louisville, about Defendant Schook's presence at Defendant St. Therese, the Pastoral Associate, Secord and the Business Manager, Daunhauer informed Plaintiff that they believed that Defendant Schook should be placed at the Rectory at St. Therese and "deserved to be taken care of."

26. In late July of 2009, Defendant Olges informed Plaintiff Margie Weiter that Defendant Schook was not supposed to be in contact with other parishioners and children, although the Pastoral Association Secord continued to introduce Defendant Schook to other parishioners who were present at the Rectory for meetings, and Defendant Olges continued to permit Defendant Schook to move freely throughout the parish and rectory without supervision.

27. Upon information and belief, and as had been previously represented by Defendant Olges to Plaintiff Margie Weiter, because Defendant Schook had been accused of abuse of a child, by its own Policies, the Defendant Archbishop was required to remove Defendant Schook from the active ministry, segregate him from unsupervised contact with children and notify parishioners and others from the church with whom he could come into contact of the accusations of child abuse pending any investigation conducted by Defendant Archbishop and/or the police.

28. In stark contrast to what Plaintiff Weiter had been assured, Defendant Schook was openly present at St. Therese and walked around unsupervised at the

Parish and Rectory at St. Therese in shorts and/or swimming trunks, sandals and T-shirts in front of Plaintiffs Gary and Margie Weiter and others, including children, who were frequently at the St. Therese Rectory.

29. As a result of the presence of Defendant Schook at the rectory, his lack of appropriate attire, and his obvious presence in the Rectory in the presence of children, and others including Plaintiff Gary Weiter, Plaintiff Margie Weiter continued to complain to employees of Defendant Archdiocese, including Defendant Olges, that Defendant Schook spent the majority of his day unsupervised in the area of the Rectory frequented by children and other parishioners, and in addition frequented Plaintiff's office wearing few and/or inappropriate clothing.

30. In response to Plaintiff Margie Weiter's continued complaints, the Pastoral Associate Secord and Defendant Olges continued to caution Plaintiff Margie Weiter that she was not to reveal to anyone the presence of Defendant Schook on the premises, that she was to ignore his inappropriate dress and activities, and that Defendant Schook deserved to live in the St. Therese Rectory, all of which caused Plaintiff Margie Weiter and Plaintiff Gary Weiter Sr. severe emotional distress.

31. Plaintiff Gary Weiter, Sr. who suffers from depression and post traumatic stress as a result of his physical assault and sexual abuse by Priest Scherzer in the same room at the rectory at St. Therese where Defendant Schook was secreted, was horrified by the presence of Defendant Schook at his Parish at St. Therese and as a result, was unable to continue to come to the St. Therese Rectory to perform the paperwork necessary to run the church bingo, and to worship at his church at St. Therese, as the presence of Defendant Schook returned him psychologically to the

incidents of abuse he had endured as a teenager in the same rectory at St. Therese, causing him further severe depression and emotional distress.

32. As a result of Plaintiff Margie Weiter's concern for the emotional and physical welfare of her husband, and of the other parishioners including children, Plaintiff Margie Weiter approached Defendant Schook to suggest it was inappropriate and wrong for him to be living at St. Therese to which Defendant Schook responded that the Archdiocese owed him a place to live regardless of his crimes, causing Plaintiff Margie Weiter extreme emotional distress and anxiety.

33. Beginning on or about July of 2009, during the course of her employment as the bookkeeper for St. Therese, Plaintiff Margie Weiter noticed that Defendant Olges had combined the payroll for the three churches, but caused the payroll for Holy Family to be paid out of the income received by and allotted and belonging to St. Therese, resulting in St. Therese's monthly payroll allocation for only two (2) full time employees to increase from \$8,000.00 per month to \$14,000.00 per month as a result of St. Therese's then payroll responsibility for all three (3) parishes, resulting in St. Therese's becoming economically at risk for insolvency.

34. When Plaintiff Margie Weiter approached Defendant Olges with her concerns regarding the payroll allocation and requested an explanation, Defendant Olges repeatedly suggested to her that that the financial matters of the parish were not her concern and the use of those funds donated to St. Therese by its parishioners was his decision, and not to be questioned.

35. On or about August of 2009 and thereafter, Defendant Olges knowing Plaintiff's husband was a victim of priest sexual abuse and a Plaintiff in the sexual

abuse litigation, repeatedly explained to Plaintiff Margie Weiter that the Defendant Archdiocese had been forced to pay monies to compensate victims of sexual abuse indicating to Plaintiff that Defendant Olges, as agent of Defendant Archdiocese, believed the payments to be unjust, unwarranted, and without factual support in stark contrast to the public position taken by the Defendant Archdiocese, causing Plaintiffs Margie and Gary Weiter additional distress and emotional pain and suffering.

36. In September of 2009, without corresponding increase in pay, Defendant Olges required Plaintiff Margie Weiter to take on the Cluster's receptionist duties as well as the bookkeeper and secretarial duties she was already assigned.

37. Although upon information and belief, Plaintiff Margie Weiter was paid less than all the other comparable employees of the cluster, when she sought to discuss her lower pay and increasing duties to Defendant Olges, he ignored her and refused to discuss her pay, and or acknowledge the disparate treatment.

38. On March 24, 2010, as a result of the substantiation of Schook's sexual abuse of children, and upon the recommendation of the Louisville Archdiocese Review Board, Defendant Archbishop Kurtz permitted Defendant Schook to remain a priest but permanently removed him from active priest duties, instructing Defendant Schook to live a life of "prayer and penance" and ordered that Defendant Schook no longer present himself publicly as a Priest, wear clerical clothing, or have any unsupervised contact with minors.

39. On or about April 2010, upon information and belief, Defendant Schook was moved to an apartment complex known as Bishop David Apartments where, upon

information and belief, the Archdiocese of Louisville houses priests whose abuse of children has been substantiated.

40. On or about May 11, 2010, Defendant Olges called a meeting of the St. Therese "Finance Committee" ostensibly for the purpose of discussing the alleged declining financial status of St. Therese and resulting potential cuts in the budget, and without notice to the Finance Committee and without its approval, at the close of the meeting, Defendant Olges announced to Plaintiff Margie Weiter without plausible explanation, that her position as a bookkeeper at St. Therese was to be eliminated. Upon her inquiries regarding the future of her additional position as a receptionist, Defendant Olges laughed and advised her that the receptionist position was to be eliminated as well, resulting in her loss of all income and benefits and leaving her without the benefit of unemployment insurance.

41. Upon information and belief, no other comparable position at the Cluster or at Holy Family was eliminated while the Defendant Olges, under the auspices and approval of the Defendant Archbishop/Bishop of Louisville, permitted Holy Family employees additional hours with applicable increase in wages.

42. On or about May 25, 2010 a Parish meeting was held at St. Therese wherein Plaintiffs Weiter asked to address the Parish Counsel concerning the presence of Defendant Schook at the parish and Defendant Olges' termination of Plaintiff Margie Weiter. In contrast to Defendant Archbishop's assurance that the Archdiocese/Defendant Roman Catholic Bishop of Louisville intended to support the victims of abuse, Defendant Olges afforded Defendant Gary Weiter, Sr. five (5) minutes to address the concerns regarding his wife's termination and including Plaintiff Gary

Weiter, Sr.'s recurrent distress as a result of his prior abuse and the presence and concealment of Defendant Schook by the Defendants. At that meeting, Defendant Olges admitted that he was aware that Plaintiff Weiter was in fact a priest sexual abuse victim, that Defendant Olges had made the decision to relocate Defendant Schook to St. Therese's Rectory knowing Plaintiff Weiter was an abuse victim and that Defendant Schook would be not only be in the presence of Plaintiff Weiter's wife, Margie Weiter, but also around and in the presence of children and other parishioners, including Plaintiff Gary Weiter, Sr.

43. On or after the meeting of May 25, 2010 Defendant Olges notified the Parish of his intended employment of another employee to serve as receptionist at St. Therese although he had represented to Plaintiff Margie Weiter that the position would be abolished.

44. On or about the 14th of June, 2010 and the 21st of June, 2010 Plaintiff Gary Weiter, Sr. made multiple phone calls to the Archbishop to discuss his having been forced to leave his own Parish as a result of Defendant Olges' relocating Defendant Schook to his Parish, his permitting Defendant Schook's frequenting said Parish and association with parishioners and children, and Defendant Olges' removal of Plaintiff, Margie Weiter from her position of eight years. Instead of the Archbishop's communicating with Plaintiff Gary Weiter regarding the concealment by Defendants of Defendant Schook and Plaintiff Margie Weiter's termination, especially in light of Plaintiff Gary Weiter, Jr.'s prior sexual abuse at the hands of another St. Therese parish priest in the same rectory, and the Defendant Bishop of Louisville's agents' repeated verbal commitments to do whatever it (they) could for the victims of priest sexual abuse, the

Archbishop's staff and agents informed Plaintiff that the Archbishop would be "out of the state" and unavailable for the rest of the summer and thus, unavailable to Plaintiffs, when in truth and in fact the Archbishop's schedule published in the Catholic Record indicated otherwise.

45. On or about May 25, 2010, Defendant Olges advised Plaintiff Margie Weiter that any appeals from her dismissal/termination lay with the Due Process Board of the Louisville Archdiocese which she was instructed to reach by contacting its stated Chairman, John Laun.

46. On or after May 25, 2010 when Plaintiff Weiter sought to appeal her termination, she was told by various managerial employees of the Archdiocese/ Defendant Catholic Bishop of Louisville. that there was no such person or availability of appeal, further adding to Plaintiffs' severe emotional distress.

47. After there appeared to be no avenue of appeal, Plaintiff Margie Weiter went to Defendant Roman Catholic Bishop of Louisville/Archdiocese's Human Resource Department to discuss the issues more particularly set forth in Paragraphs 1 through 46 above, and agents of said Defendant, instead of rendering support as the Archbishop had promised, suggested to Plaintiffs that all policies of the Archdiocese had been complied with, suggested that Plaintiffs find another church to attend and that Plaintiff Gary Weiter, Sr. should simply "get over" his emotional distress as a result of the Defendants' actions coupled with those of the abusive priest.

COUNT I
WRONGFUL TERMINATION

48. Plaintiff hereby incorporates by reference herein each and every allegation contained in paragraphs 1 through 47 above.

49. On or about May 25, 2010 in Louisville, Jefferson County, Kentucky, Defendant Olges and Defendant Kurtz and Defendant Catholic Bishop of Louisville, in retaliation for and as a proximate and direct result of Plaintiff Margie Weiter's complaints and attempt to officially complain about and expose Defendant Olges', Defendant Schook's, Defendant Kurtz's and Defendant Archdiocese's/Catholic Bishop of Louisville's wrongful concealment and protection of Defendant Schook, which protection and concealment exposed Defendant Schook to the St. Therese parishioner population, including children without supervision, and others, including Plaintiff Gary Weiter, Sr., a known victim of diocesan priest sexual abuse, and as a proximate and direct result of Plaintiff Margie Weiter's attempt to challenge Defendant Olges' use of St. Therese funds to support and pay for his home parish, Holy Family and in retaliation therefore, Defendants Olges, Kurtz and the Archdiocese/ Roman Catholic Bishop of Louisville wrongfully terminated Plaintiff Margie Weiter from her position as a bookkeeper/secretary/receptionist for Defendant Archdiocese/Roman Catholic Bishop of Louisville.

50. As a result of said wrongful termination, Plaintiff Margie Weiter has suffered damage more particularly described in Paragraph 53 below.

COUNT II
OUTRAGE

51. Plaintiffs hereby incorporate by reference herein each and every allegation contained in Paragraphs 1 through 50 above as if specifically pled therein.

52. The conduct of the Defendants Olges, Schook, Kurtz, and Roman Catholic Bishop of Louisville more particularly described in Paragraphs 1 through 51 above is and was outrageous and constitutes a departure from all reasonable bounds of decency.

53. As a direct and proximate result of said aforementioned conduct of Defendants Olges, Schook, Kurtz and Roman Catholic Bishop of Louisville, Plaintiffs Gary and Margie Weiter, Sr. suffered injury, including but not by way of limitation, past, present and future lost wages, severe mental and emotional distress both past, present, and future, past, present and future medical expenses and the impairment of the power to labor and earn.

COUNT III
PUNITIVE DAMAGES

54. Plaintiffs hereby incorporate by reference herein each and every allegation contained in Paragraphs 1 through 53 above as if specifically pled herein.

55. The conduct of Defendants more particularly described in Paragraph 1 through 53 above was willful and wanton.

56. As a direct and proximate result of said aforementioned conduct, Plaintiffs Gary and Margie Weiter, Sr. suffered injury and are entitled to punitive damages.

WHEREFORE, Plaintiffs Gary and Margie Weiter, Sr. demand as follows:

A. Judgment for Plaintiffs Gary and Margie Weiter, Sr. against Defendants Joseph Kurtz, Anthony Olges, James Schook and Roman Catholic Bishop of Louisville;

B. Trial by Jury on all issues triable;

C. Compensatory damages in an amount sufficient to invoke the jurisdiction of this Court;

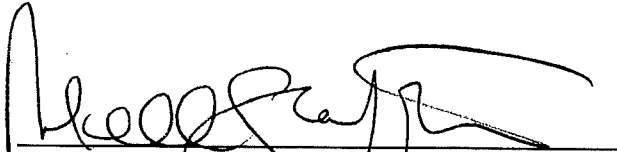
D. Punitive damages;

E. All costs herein expended;

F. Reasonable attorney's fees;

G. Any and all other relief to which Plaintiffs may otherwise appear entitled.

Respectfully submitted,



MIKELL T. GRAFTON
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(502) 584-8583

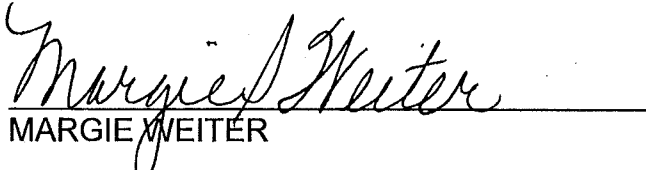
I, Gary Weiter, Sr. and Margie Weiter, hereby verify that we have read the foregoing Verified Complaint and it is true and correct to the best of our knowledge.


GARY WEITER, SR.

SUBSCRIBED AND SWORN TO before me by GARY WEITER, SR. on this 24th day of January, 2011.

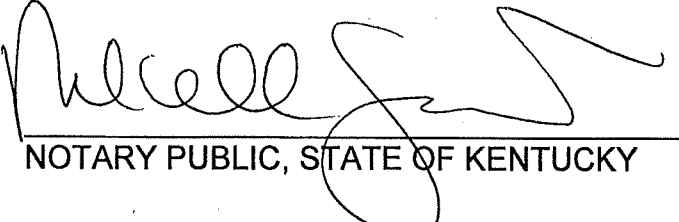
My Commission Expires: February 26, 2014


NOTARY PUBLIC, STATE OF KENTUCKY


MARGIE WEITER

SUBSCRIBED AND SWORN TO before me by MARGIE WEITER on this 24th day of January, 2011.

My Commission Expires: February 26, 2014


NOTARY PUBLIC, STATE OF KENTUCKY