

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Personal Injury

Doe 26,

Plaintiff,

SUMMONS

vs.

Archdiocese of St. Paul and Minneapolis,
and Fr. Jerome C. Kern,Defendants.

THIS SUMMONS IS DIRECTED TO THE DEFENDANTS ABOVE NAMED.

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this Summons.

2. **YOU MUST REPLY WITHIN 20 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this Summons a **written response** called an Answer within 20 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this Summons located at Jeff Anderson & Associates, P.A., 366 Jackson Street, Suite 100, St. Paul, MN 55101.

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

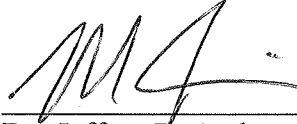
4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 20 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the Complaint. If you do not want to contest the claims stated in the Complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the Complaint.

5. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

6. **ALTERNATIVE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

Dated: 4/6/13

JEFF ANDERSON & ASSOCIATES, P.A.



By: Jeffrey R. Anderson, #2057
 Michael G. Finnegan, #033649X
 Attorneys for Plaintiff
 366 Jackson Street, Suite 100
 St. Paul, MN 55101
 (651) 227-9990

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
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Case Type: Personal Injury

Doe 26,

Plaintiff,

COMPLAINT

vs.

Archdiocese of St. Paul and Minneapolis,
and Fr. Jerome C. Kern,

Defendants.

Plaintiff, for his causes of action against Defendants, alleges that:

PARTIES

1. At all relevant times for this Complaint, Plaintiff Doe 26 resided in the State of Minnesota. The identity of Plaintiff Doe 26 has been disclosed under separate cover to Defendants.

2. At all times material, Defendant Archdiocese of St. Paul and Minneapolis (“Archdiocese”) was and continues to be an organization or entity, which includes, but is not limited to, civil corporations, decision making entities, officials, and employees, authorized to conduct business and conducting business in the State of Minnesota with its principal place of business at 226 Summit Avenue, St. Paul, Minnesota. The Archbishop is the top official of the Archdiocese and is given authority over all matters within the Archdiocese as a result of his position. The Archdiocese functions as a business by engaging in numerous revenue producing activities and soliciting money from its members in exchange for its services. The Archdiocese has several programs which seek out the participation of children in the Archdiocese’s activities.

The Archdiocese, through its officials, has control over those activities involving children. The Archdiocese has the power to appoint, supervise, monitor, and fire each person working with children within the Archdiocese.

3. At all times material, Defendant Fr. Jerome C. Kern (hereinafter “Kern”) was an adult male resident of the State of Minnesota.

FACTS

4. At all times material, Father Jerome C. Kern, was a Roman Catholic priest employed by Defendant Archdiocese. At all times material, Kern remained under the direct supervision, employ and control of Defendant. Defendant placed Kern in positions where he had access to and worked with children as an integral part of his work.

5. From 1966 through 2002, Father Kern was employed by Defendant Archdiocese. He worked at the following locations within the Archdiocese of St. Paul and Minneapolis:

- a. St. Mark’s, St. Paul, MN;
- b. Our Lady of Grace, Edina, MN;
- c. Immaculate Heart of Mary, Minnetonka, MN; and
- d. St. Peter’s, Forest Lake, MN.

6. In approximately 1969, while Kern worked at St. Mark’s, Officials of the Archdiocese learned or should have learned that Kern had sexually abused at least two children.

7. Upon receiving complaints about Kern’s involvement with the two children, the Archdiocese transferred Kern to Our Lady of Grace in Edina, Minnesota.

8. From approximately 1972 through 1976, Kern engaged in unpermitted sexual contact with Plaintiff Doe 26 while he was approximately 12 to 16 years old and in about seventh to eleventh grades.

9. The Archdiocese knew or should have known that Kern was a child molester and/or knew or should have known that Kern was a danger to children before Kern molested Plaintiff.

10. The Archdiocese negligently or recklessly believed that Kern was fit to work with children and/or that any previous problems he had were fixed and cured; that Kern would not sexually molest children and that Kern would not injure children; and/or that Kern would not hurt children.

11. The Archdiocese placed Kern at Our Lady of Grace in Edina, Minnesota. Kern had unlimited access to children at Our Lady of Grace. Children, including Plaintiff, and their families were not told what the Archdiocese knew or should have known - that Kern had sexually molested children previously and that Kern was a danger to them.

12. Plaintiff Doe 26 was raised in a devout Roman Catholic family and participated in activities at Our Lady of Grace. Plaintiff, therefore, developed great admiration, trust, reverence and respect for the Roman Catholic Church, including the Archdiocese and its agents.

13. By holding Kern out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, the Archdiocese entered into a fiduciary relationship with the minor Plaintiff. As a result of Plaintiff being a minor, and by the Archdiocese undertaking the care and guidance of the then vulnerable minor Plaintiff, the Archdiocese held a position of empowerment over Plaintiff.

14. Further, the Archdiocese, by holding itself out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented the then minor Plaintiff from effectively protecting himself and the Archdiocese thus entered into a fiduciary relationship with Plaintiff.

15. The Archdiocese had a special relationship with Plaintiff.

16. The Archdiocese owed Plaintiff a duty of reasonable care because it had superior knowledge about the risk that Kern posed to Plaintiff, the risk of abuse in general in its programs and/or the risks that its facilities posed to minor children.

17. The Archdiocese owed Plaintiff a duty of reasonable care because it solicited youth and parents for participation in its youth programs; encouraged youth and parents to have the youth participate in its programs; undertook custody of minor children, including Plaintiff; promoted its facilities and programs as being safe for children; held its agents including Kern out as safe to work with children; encouraged parents and children to spend time with its agents; and/or encouraged its agents, including Kern, to spend time with, interact with, and recruit families and children.

18. The Archdiocese had a duty to Plaintiff to protect him from harm because its actions created a foreseeable risk of harm to Plaintiff.

19. The Archdiocese's breach of its duties include, but are not limited to: failure to have sufficient policies and procedures to prevent child sex abuse, failure to properly implement the policies and procedures to prevent child sex abuse, failure to take reasonable measures to make sure that the policies and procedures to prevent child sex abuse were working, failure to adequately inform families and children of the risks of child sex abuse, failure to investigate risks of child molestation, failure to properly train the workers at institutions and programs within each Defendant's geographical confines, failure to have any outside agency test its safety procedures, failure to protect the children in their programs from child sex abuse, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, and leaders and people as

safe, failure to train its employees properly to identify signs of child molestation by fellow employees, failure by relying upon mental health professionals, and/or failure by relying on people who claimed that they could treat child molesters.

20. The Archdiocese failed to use ordinary care in determining whether its facilities were safe and/or to determine whether it had sufficient information to represent its facilities as safe. The Archdiocese's failures include, but are not limited to: failure to have sufficient policies and procedures to prevent abuse at its facilities, failure to investigate risks at its facilities, failure to properly train the workers at its facilities, failure to have any outside agency test its safety procedures, failure to investigate the amount and type of information necessary to represent its facilities as safe, failure to train its employees properly to identify signs of child molestation by fellow employees, failure by relying upon mental health professionals, failure by relying upon people who claimed that they could treat child molesters.

21. Defendant Archdiocese also breached its duties to Plaintiff by failing to warn him and his family of the risk that Kern posed and the risks of child sexual abuse by clerics. It also failed to warn him about any of the knowledge that Defendant had about child sex abuse.

22. Defendant Archdiocese also breached its duties to Plaintiff by failing to report Kern's abuse of children to the police and law enforcement.

23. Defendant Archdiocese knew or should have known that some of the leaders and people working at Catholic institutions within the Archdiocese were not safe.

24. The Archdiocese knew or should have known that it did not have sufficient information about whether or not its leaders and people working at Catholic institutions within the Archdiocese were safe.

25. The Archdiocese knew or should have known that there was a risk of child sex abuse for children participating in Catholic programs and activities within the Archdiocese.

26. The Archdiocese knew or should have known that it did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in Catholic programs and activities within the Archdiocese.

27. The Archdiocese knew or should have known that it had numerous agents who had sexually molested children. It knew or should have known that child molesters have a high rate of recidivism. It knew or should have known that there was a specific danger of child sex abuse for children participating in their youth programs.

28. The Archdiocese held its leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and families to its programs, marketing to youth and families, recruiting youth and families, and holding out the people that worked in the programs as safe.

29. The Archdiocese was negligent and/or made representations to Plaintiff and his family during each and every year of his minority.

30. The Archdiocese failed to inform law enforcement authorities that Kern had sexually abused minor children. As a direct result, Kern avoided criminal investigation and prosecution and continued to abuse minors.

31. In 2004, Defendant Archdiocese publically admitted that there were 33 priests who worked in the Archdiocese who had been credibly accused of sexually molesting minors. The Archdiocese has not released those names to the public. As a result children are at risk of being sexually molested.

32. As a direct result of Defendants' conduct described herein, Plaintiff has suffered, and will continue to suffer, great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation, physical, personal and psychological injuries. Plaintiff was prevented, and will continue to be prevented, from performing his normal daily activities and obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and, on information and belief, has and/or will incur loss of income and/or loss of earning capacity.

**COUNT I: DEFENDANT FR. JEROME KERN -
SEXUAL BATTERY**

33. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count and further alleges:

34. In approximately 1972 to 1976, Defendant Kern inflicted unpermitted, harmful, and offensive sexual contact several times upon the person of Plaintiff.

35. As a direct result of Defendant Kern's wrongful conduct, Plaintiff has suffered the injuries alleged herein.

**COUNT II: DEFENDANT ARCHDIOCESE –
NUISANCE (COMMON LAW AND MINN. STAT. § 561.01)**

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

37. Defendant Archdiocese continues to conspire and engage and/or has conspired and engaged in efforts to 1) conceal from the general public the sexual assaults committed by, the identities of, and the pedophilic/ephebophilic tendencies of Kern and Defendant's other agents on its list of credibly accused priests; 2) attack the credibility of the victims of

Defendant's agents; and/or 3) protect Defendant's agents from criminal prosecution for their sexual assaults against children.

38. The negligence and/or deception and concealment by Defendant was and is injurious to the health and/or indecent or offensive to the senses and/or an obstruction to the free use of property by the general public, including but not limited to, residents in the Archdiocese of St. Paul and Minneapolis and all other members of the general public who live in communities where Defendant's credibly accused molesters live. It was and is indecent and offensive to the senses, so as to interfere with the general public's comfortable enjoyment of life in that the general public cannot trust Defendant to warn parents of the presence of the current and/or former credibly accused molesters, nor to identify their current and/or former credibly accused molesters, nor to disclose said credibly accused molesters' assignment histories, nor to disclose their patterns of conduct in grooming and sexually assaulting children, all of which create an impairment of the safety of children in the neighborhoods in Minnesota and throughout the Midwest United States where Defendant conducted, and continues to conduct, its business.

39. The negligence and/or deception and concealment by Defendant was specially injurious to Plaintiff's health as he was sexually assaulted by Defendant's agent, Kern.

40. The negligence and/or deception and concealment by Defendant also was specially injurious to Plaintiff's health in that when Plaintiff finally discovered the negligence and/or deception and concealment of Defendant, Plaintiff experienced mental and emotional distress that Plaintiff had been the victim of the Defendant's negligence and/or deception and concealment; that Plaintiff had not been able to help other minors being molested because of the negligence and/or deception and concealment; and that Plaintiff had not been able because of the

negligence and/or deception and concealment to receive timely medical treatment needed to deal with the problems Plaintiff had suffered and continues to suffer as a result of the molestation.

41. Plaintiff also suffered special, particular and peculiar harm after he learned of the Archdiocese's concealment of its list of priests credibly accused of sexually molesting minors, which continues as long as the list remains concealed. As a result of the concealment, Plaintiff has suffered and continues to suffer lessened enjoyment of his life, impaired health, emotional distress, and/or physical symptoms of emotional distress. He has also experienced depression, anxiety, and anger.

42. The continuing public nuisance created by Defendant was, and continues to be, the proximate cause of the injuries and damages to the general public and of Plaintiff's special injuries and damages as alleged.

43. In doing the aforementioned acts, Defendant acted negligently and/or intentionally, maliciously and with conscious disregard for Plaintiff's rights.

44. As a result of the above-described conduct, Plaintiff has suffered the injuries and damages described herein.

**COUNT III: DEFENDANT ARCHDIOCESE -
NEGLIGENCE**

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

46. Defendant Archdiocese owed Plaintiff a duty of reasonable care.

47. Defendant Archdiocese breached the duty of reasonable care it owed Plaintiff.

48. Defendant's breach of its duty was the proximate cause of Plaintiff's injuries.

49. As a direct result of Defendant's negligent conduct, Plaintiff has suffered the injuries and damages described herein.

**COUNT IV: DEFENDANT ARCHDIOCESE –
NEGLIGENT SUPERVISION**

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

51. At all times material, Defendant Kern was employed by Defendant Archdiocese and was under Defendant Archdiocese's direct supervision, employ and control when he committed the wrongful acts alleged herein. Defendant Kern engaged in the wrongful conduct while acting in the course and scope of his employment with Defendant Archdiocese and/or accomplished the sexual abuse by virtue of his job-created authority. Defendant Archdiocese failed to exercise ordinary care in supervising Defendant Kern in his parish assignment within the Archdiocese and failed to prevent the foreseeable misconduct of Defendant Kern from causing harm to others, including the Plaintiff herein.

52. As a direct result of Defendant's negligent conduct, Plaintiff has suffered the injuries and damages described herein.

**COUNT V: DEFENDANT ARCHDIOCESE –
NEGLIGENT RETENTION**

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

54. Defendant, by and through its agents, servants and employees, became aware, or should have become aware, of problems indicating that Kern was an unfit agent with dangerous and exploitive propensities, yet Defendant failed to take any further action to remedy the problem and failed to investigate or remove Kern from working with children.

55. As a direct result of Defendant's negligent conduct, Plaintiff has suffered the injuries and damages described herein.

PRAYER FOR RELIEF

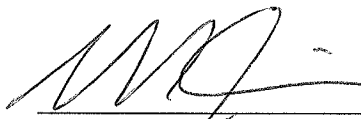
56. Plaintiff demands judgment against Defendants in an amount in excess of \$50,000.00, plus costs, disbursements, reasonable attorney's fees, interest, and such other and further relief as the court deems just and equitable.

57. Plaintiff requests an order requiring that the Archdiocese publically release the names of all credibly accused child molesting priests, each such priests history of abuse, each such priests pattern of grooming and sexual behavior, and his last known address.

DEMAND IS HEREBY MADE FOR A TRIAL BY JURY.

Dated: 11/6/13

JEFF ANDERSON & ASSOCIATES, P.A.



By: Jeffrey R. Anderson, #2057
 Michael G. Finnegan, #033649X
 Attorneys for Plaintiff
 366 Jackson Street, Suite 100
 St. Paul, MN 55101
 (651) 227-9990

ACKNOWLEDGMENT

The undersigned hereby acknowledges that sanctions, including costs, disbursements, and reasonable attorney fees may be awarded pursuant to Minn. Stat. § 549.211 to the party against whom the allegations in this pleading are asserted.

