

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT KANSAS CITY

JAMES G. (CASEY) WALSH, III )  
DR. WILLIAM PRATHER )  
ROBERT BATES )  
THOMAS CLOSSICK )  
RONALD GARRENS )  
KATHERINE GOODNOW )  
KEVIN HIGGINS )  
MICHAEL HUNTER )  
KENNETH P. LANDES )  
TONY PADILLA )  
JOHN PHINNEY )  
CHRIS QUARLES )  
TERESA WHITE )  
CRAIG WILKERSON )  
JB DOE )  
SB DOE )  
JOHN DOE WB )  
JOHN DOE BB )  
JOHN DOE DLB )  
JOHN CT DOE )  
JOHN DOE CJ )  
JOHN DOE CD )  
JOHN DOE EK )  
JOHN GE DOE )  
JOHN E DOE )  
JANE DOE IB )  
JOHN B DOE )  
JOHN C DOE )  
JANE D DOE )  
JOHN A DOE )  
JOHN DOE LP )  
JOHN MB DOE )  
JOHN DOE MD )  
JANE DOE MM )  
JOHN DOE PM )  
JOHN DOE PS )  
JOHN DOE SD )  
JOHN SJ2 DOE )  
JOHN DOE RP )  
JOHN DOE RU )  
JOHN DOE WD )  
JOHN DOE 47 )

FILED-CIRCUIT COURT  
JACKSON CO MO-KC  
2011 OCT -6 PM 2:40

Plaintiffs,

vs.

THE DIOCESE OF KANSAS CITY - ST. JOSEPH

SERVE AT:

The Catholic Center  
20 West 9th Street  
Kansas City, MO.

AND

BISHOP ROBERT FINN

SERVE AT:

The Catholic Center  
20 W. 9<sup>th</sup> Street  
Kansas City, MO.

Defendants

Civil Action No.

Case Code:

**Complaint for Declaratory Relief  
to Compel Arbitration over Breach of Contract**

For their complaint the plaintiffs allege:

**PARTIES AND JURISDICTION**

1. Plaintiffs are among the 47 claimants who in August 2008 entered a settlement with the Defendant Diocese of Kansas City – St. Joseph [hereinafter Diocese].
2. The settlement agreement included both monetary and non-monetary relief.
3. The settlement agreement resolved these Plaintiffs’ actions then pending in the Jackson County Court, including actions by the Plaintiffs, against the Diocese, the Bishop and others.

4. The Diocese of Kansas City – St. Joseph has its principal place of business within Jackson County, is licensed to and conducts business within Jackson County, and Jackson County is one of the locations where Defendants have breached the non-monetary portions of the settlement agreement.

5. Defendant Robert Finn is the Bishop of the Defendant Diocese, and in that role is responsible for the operation of the Diocese and its compliance with the settlement agreement. The Court has jurisdiction of the parties and the subject matter of this Complaint. Pursuant to Mo. Rev. Stat. § 435.355, among other provisions.

6. The arbitration process agreed to in the 2008 Memorandum of Understanding was a process held in Jackson County. Venue of this action is proper under Mo. Rev. Stat. 435.435.

#### **NATURE OF WRONGDOING**

7. On August 21, 2008 the Defendants entered a settlement agreement with 47 Plaintiffs including each plaintiff named in this Petition. That agreement included a series of actions to be taken by the Diocese in the nature of injunctive and equitable relief.

8. A true and accurate copy of the Memorandum of Understanding dated August 21, 2008, including the non-monetary portions, is attached to this Complaint as Exhibit 1. Its terms are incorporated into this Complaint as if fully set forth.

9. In addition to the Memorandum of Understanding, two individual agreements, with each claimant, were entered into by the Diocese: “The Settlement Agreement and Arbitration Agreement” and “Mutual Settlement Agreement and General

Release". Each individual agreement is identical except for the names of the plaintiffs and individual priests. The two individual Settlement Agreements of James G. (Casey) Walsh, III are attached hereto as Exhibits 2 and 3. The Non-Monetary Commitments were incorporated whole cloth into both the Global Settlement Agreement and the individual settlement agreements of each claimant. The Non-Monetary Commitments are attached as Exhibit 4. An email indicating that the Diocese would also be seeking the laicization of Fr. Tulipana as part of the non-monetary commitments was also included as a written, signed amendment to the settlement agreement. The terms of these documents are attached hereto and incorporated herein as if fully set forth.

10. On August 18, 2008, Defendant Finn's representative signed the 2008 memorandum of understanding on behalf of the Defendants.

11. On August 21, 2008, Defendant Finn signed the Global Settlement Agreement.

12. These documents constitute all writings memorializing the settlement agreement.

13. The settlement agreement constitutes a contract among the parties.

14. In 2011 information became available which indicated the Defendants had failed to implement and comply with the non-monetary portions of the 2008 settlement agreement, specifically, paragraph 3, 10, 14, 15, 16, and 18.

15. The 2008 Memorandum of Understanding contains provisions which agree to binding arbitration in front of the original arbitrator in this matter, Mr. Hollis Hanover.

16. The 2008 Memorandum of Understanding states, on page 4, that it is “subject to Chapter 435 of the Revised Statutes of Missouri.”

17. Chapter 435 of the Revised States of Missouri is the Uniform Arbitration Act.

18. The 2008 Memorandum of Understanding complies with Mo. Rev. Stat. § 435.460 in that it contains the proper Notice of Arbitration provision required by Missouri law.

19. Arbitration is properly applicable to “any controversy thereafter arising” between the parties to the arbitration agreement, as set forth in Mo. Rev. Stat. § 435.465(1).

20. On June 8, 2011 counsel for the 47 claimants covered by the 2008 Memorandum of Understanding wrote to the Defendants, seeking an accounting of the Defendants’ compliance with the injunctive portions of the 2008 settlement agreement. Specifically, the letter addressed instances where Defendants (1) failed to report to the Department of Family Services or to law enforcement, despite repeated advice that it so report, instances of child pornography discovered on the computer of one of its priests, (2) failed to report a 2010 complaint made about sexual abuse by John Doe BP, (3) Defendants failed to follow their own policies in relation to these instances of abuse, (4) failed to offer proper protections for victims in the Diocese by tolerating for months priests accused of abuse after 2008, (5) failed to properly and completely implement the training required in the 2008 agreement, (6) threatened retaliation against those who made reports of abuse, in violation of the 2008 agreement, (7) and apparently failed the provisions related to priest recommendation after reported abuse. Since that letter was

prepared, additional failures have come to light with the burgeoning scandal over Father Ratigan.

21. Defendants responded on June 20, 2008, contending that “the Diocese has complied with and continues to comply with each of” the terms of the 2008 agreement.

22. On June 22, 2008 the Plaintiffs requested arbitration of the dispute over Defendants’ compliance with the 2008 settlement agreement, pursuant to provisions in the 2008 settlement which authorize arbitration for “all related matters” Exhibit 2, MOU at 2. and a “binding arbitration provision which may be enforced by the parties” Exhibit 2, MOU at 2.

23. On July 7, 2011, Defendants responded to the request for arbitration by denying that the agreement provides for arbitration in front of the original arbitrator despite the plain language of the MOU and related settlement documents drafted entirely by defendants.

24. In August, 2011, Defendants released to the public an internal report, colloquially called “The Graves Report,” which concludes, among other things, that “Diocesan leaders failed to follow their own policies and procedures for responding to reports relating to Frs. Ratigan and Tierney,” an admission by Defendants related directly to contentions made by Plaintiffs.

25. Examples of the conclusions in the Graves Report that establish breaches of the settlement agreement include without limitation, that the Diocese:

- a. showed operational confusion about “whether trafficking in pornographic images” required any action of the Diocese (Graves report at 19), despite

having committed to training and operations which include guidelines for child safety and security through technology (items 10, 14, 15, 16, and 18 in the 2008 agreement),

- b. Failed to report misconduct “until almost a year later” ( Graves report at 40), despite having committed to mandatory reporting (items 14 and 18 in the 2008 agreement),
- c. Failed for almost two years to remove a priest from ministry (Graves report at 42), despite having committed to reporting and action concerning reports (items 3, 10, 14, 15, and 18 in the 2008 agreement),
- d. Made no use of its abuse Response Team since 2004 (Diocese report at 45), despite its 2008 commitments to implementing mandatory reporting and victim advocacy programs (items 10, 14, 15, and 18 in the 2008 agreement),
- e. Failed to document in writing its activities of reporting and investigating abuse reports (Diocese report at 53), despite having policies which require it, and despite having agreed in 2008 to implement and follow those policies that include standards which incorporate best practices for protecting children (items 10, 14, 15, 16, and 18 of the 2008 agreement),
- f. Kept no records of abuse reports to law enforcement (Diocese report at 53), despite having agreed in 2008 to standards which incorporate best practices for protecting children (items 10, 14, 15, 16, and 18 of the 2008 agreement) expressly agreeing to follow the policies they have implemented to protect children,

- g. Failed to “follow a clear protocol for timely reporting suspected sexual abuse of minors ( Graves report at 55), despite having committed to policies and procedural steps to report abuse (items 10, 14, 15, 16, and 18 of the 2008 agreement),
- h. Failed to maintain proper training updates for personnel Graves report at 59), despite having committed in 2008 to continuing training (item 15 of the 2008 agreement),
- i. Failed to require proper training for personnel ( Graves report at 60 and 61), despite having committed to doing so in the 2008 agreement (item 15 of the 2008 agreement),
- j. Failed to report to authorities the observations made about improper actions of Father Ratigan ( Graves report at 61), despite having committed to mandatory reporting (item 14 in the 2008 agreement),
- k. Failed for nearly two years to report for even internal review a 2009 abuse report ( Graves report at 64), despite having committed itself to mandatory reporting in the 2008 agreement (item, 14),
- l. Failed to pursue complaints about Father Ratigan when reported by the school principal in 2009 and 2010 ( Graves report at 77, 78, 81 and 82), despite having committed to mandatory reporting and a system of protecting children (items 10, 14, 15, 16, and 18 in the 2008 agreement),
- m. Failed for six months to make disclosure about nude photographs of children found on Fr. Ratigan’s computer ( Graves report at 84-86 and 106-107), despite having committed in 2008 to mandatory reporting and



training which included technology violations (items 10, 14 and 15 of the 2008 agreement).

- n. Took affirmative steps to obfuscate the hundreds of improper images forming the content of the Ratigan computer (Diocese report at 86-92), despite having committed in 2008 to mandatory reporting and training which included technology violations (items 10, 14 and 15 of the 2008 agreement),
- o. Took no steps to notify parents and families at St. Patrick's parish or other parishes where Fr. Ratigan had been assigned ( Graves report at 100), despite having committed to mandatory policies and procedures to protect children (items 10, 14 and 15 of the 2008 agreement),
- p. Arranged no supervision to protect children after Fr. Ratigan was known to have a sexual interest in children (Graves report at 103), despite having committed to mandatory policies and procedures to protect children (items 10, 14 and 15 of the 2008 agreement), and
- q. Enabled Fr. Ratigan to have contact with children through the Franciscan Center, and facilitated Ratigan's production of child pornography even after Ratigan's sexual interest in children was known (Graves report at 105), despite having committed to mandatory policies and procedures to protect children (items 10, 14 and 15 of the 2008 agreement).

#### **Order to Compel Arbitration**

26. Allegations above are incorporated into this cause of action as if fully stated.

27. Plaintiffs entered an agreement in 2008 which provided for non-monetary relief as set forth above.

28. The 2008 Agreement complies with Missouri law and provides for arbitration of "any dispute" related to the Agreement by the original arbitrator, Hollis Hanover.

29. Disputes have arisen related to the Agreement, as set forth, in part, above.

30. Defendants deny the agreement provides for arbitration of the dispute.

31. Unless ordered by the Court, defendants will continue to refuse to engage in arbitration over the breaches claimed by the Plaintiffs.

32. Only in a mandatory forum for relief will the Defendants compelled to change its practices to prevent defendants from harboring and promoting the interests of those of its employees who use their positions to exploit a sexual interest in children.

33. Without an order from the court to compel arbitration there is no means for Plaintiffs to compel compliance with the 2008 agreement.

#### **No Demand for Jury Trial**

34. Plaintiffs do not demand a jury trial for this action.

#### **Claim for Relief**

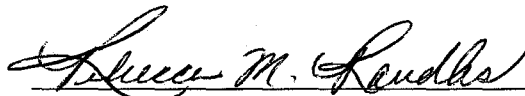
35. Plaintiffs request an order from this court compelling the Defendants:

- a. to proceed with arbitration of the various claimed breaches of the 2008 Agreement with the original arbitrator, Hollis Hanover,

- b. to enable an arbitration forum for obtaining information related to Defendants' compliance with the non-monetary portions of the 2008 Agreement,
- c. to assess Defendants' compliance with the 2008 Agreement, and to compel compliance,
- d. to consider changes to the reporting provisions for purposes of enforcing the non-monetary portions of the 2008 Agreement,
- e. to consider other changes for the purpose of enforcing the implementation of the non-monetary provisions in the 2008 Agreement,
- f. for costs and attorneys fees of this action, and
- g. for such other and further relief as the Court deems just and proper.

Dated: October 6th, 2011

RANDLES, MATA & BROWN, L.L.C.



Rebecca M. Randles, Mo. # 40149  
406 West 34<sup>th</sup> Street, Suite 623  
Kansas City, MO 64111  
(816) 931-9901; (816) 931-0134 fax

Jeffrey R. Anderson  
Patrick W. Noaker, Mo. # 39836  
JEFF ANDERSON & ASSOCIATES, PA  
366 Jackson Street, Suite 100  
St. Paul, MN 55101  
(651) 227-9990

Pro Hac Vice motions pending  
Attorneys for Plaintiff

# Exhibit

# 1

**MEMORANDUM OF UNDERSTANDING  
BETWEEN SEXUAL ABUSE CLAIMANTS AND  
THE CATHOLIC DIOCESE OF KANSAS CITY-ST. JOSEPH**

The Catholic Diocese of Kansas City-St. Joseph (the "Diocese") has agreed to settle, in order to compensate and foster reconciliation, with Forty-seven (47) persons who participate in a settlement and arbitration process and who have made claims for damages as a result of sexual abuse committed by priests or other representatives of the Diocese. This Memorandum of Understanding ("MOU") sets out the terms of such agreement and establishes a procedure to arbitrate all such claims against the Diocese in order to effect a settlement with this group.

**The Settlement Amount and its Purposes**

The Diocese has established a Settlement Amount in order to compensate and foster reconciliation with persons who have made claims for damages as a result of sexual abuse committed by priests or other representatives of the Diocese (hereinafter "the Settlement Amount").

By establishing the Settlement Amount and securing the commitment of forty-seven (47) victims of sexual abuse to participate in and be bound by this settlement and arbitration process (hereinafter "the Claimants"), the Claimants are assured of receiving compensation promptly. Continuing litigation will be avoided, and administrative, legal and other expenses will be minimized in order to maximize recovery by the Claimants.

**1. Financial Issues**

The Diocese has agreed to pay Ten Million Dollars (\$10,000,000.00) as the Settlement Amount to settle all claims of, or relating to, sexual abuse, which have been asserted against the Diocese and/or its Affiliates (as that term is defined in the Settlement Agreement and Arbitration Agreement between the parties) and which were made by the Claimants, or which could have been made by the Claimants, or by any person asserting a claim or seeking relief on their behalf.

The parties have agreed that the Settlement Amount will be exhausted completely by payments to the Claimants, provided that all Claimants fully comply with and participate in this process.

**2. Non-Financial Commitments by the Diocese**

In addition to establishing the Settlement Amount, the Diocese has agreed to certain other commitments described in Exhibit A hereto.

### **3. Claimants and Their Counsel**

The Claimants are represented by the following law firms: Randles, Mata & Brown, LLC; Jeffrey Anderson and Associates, P.A.; and SJ Spero and Associates, P.C. (hereinafter "Claimants' Counsel").

The names of all Claimants are set forth on the list attached hereto as Exhibit B. At the request of the Claimants, the Diocese shall keep confidential Exhibit B and all names listed thereon.

Claimants' Counsel affirm that the procedures established within this MOU, the Settlement Agreement and Arbitration Agreement (Exhibit C), and the Mutual Settlement Agreement and General Release (Exhibit D), have been fully explained to and accepted by all Claimants listed on Exhibit B.

Claimants' Counsel affirm that all Claimants listed on Exhibit B have agreed to participate in and be bound by the Arbitration process established herein.

### **4. Participation in the Group Arbitration and Settlement**

Participation in this process by the Claimants is voluntary. However, in order to accomplish the objectives of this group settlement and arbitration process, all forty-seven (47) Claimants must agree to participate in and be bound by this process.

In the event that any Claimant breaches the agreement to participate in and be bound by this process, the Diocese shall have the option to rescind this MOU and all related agreements in their entirety, to withhold any payment to any Claimant and to not participate in this Arbitration.

### **5. Arbitration and Settlement Documents**

Each Claimant shall execute a copy of the Settlement Agreement and Arbitration Agreement by which he or she consents to binding arbitration.

Unless otherwise agreed by the parties, the Settlement Agreement and Arbitration Agreement executed by each Claimant shall be delivered, in person, by mail, facsimile or e-mail, to the Arbitrator and to counsel for the Diocese prior to commencement of any of the Arbitration Hearings.

The Settlement Agreement and Arbitration Agreement shall incorporate and reaffirm the substantive terms of this MOU and the Mutual Settlement Agreement and General Release between the parties.

The Mutual Settlement Agreement and General Release must be executed in final form by each Claimant upon tender of the Arbitration Hearing Award.

## **6. The Arbitration Process**

This MOU and all related agreements shall be construed in accordance with the laws of the State of Missouri.

### **A. The Selected Arbitrator and Information for the Process**

Counsel for Claimants and the Diocese have selected Hollis Hanover, Esq. to serve as Arbitrator for this process.

Any dispute concerning this MOU, related agreements and/or the Arbitration process shall be resolved by the Arbitrator. The decision of the Arbitrator regarding any such dispute shall be final and binding.

Each Claimant has submitted, under oath and penalty of perjury, a Questionnaire Response containing a summary of information concerning his or her claim of sexual abuse or loss of consortium.

Any Claimant may, but shall not be required to, submit additional information to the Arbitrator, including expert reports or affidavits.

### **B. The Arbitration Hearings**

Each claim shall be considered at an individual, private Arbitration Hearing.

Due notice shall be provided to each Claimant and counsel for all of the parties concerning each scheduled Arbitration Hearing.

The Arbitration Hearings shall be scheduled on dates mutually agreeable to the parties.

Each Claimant shall appear personally at his or her duly noticed Arbitration Hearing. In the event a Claimant is unable to appear at the scheduled Arbitration Hearing, attendance by video conference or other mutually satisfactory method may be substituted.

The Claimant and his or her counsel may provide testimony and/or information to the Arbitrator, but are not required to do so.

At the request of any Claimant, a representative of the Diocese, who is not an attorney, shall attend the Claimant's Arbitration Hearing.

The Diocese and/or its counsel may attend each Arbitration Hearing.

**C. Compensation to be Determined by the Arbitration Hearing Process**

Each Claimant shall receive some level of financial compensation based on the relative nature and merits of his/her claim.

The amount awarded to each Claimant shall be determined in the sole discretion of the Arbitrator.

A court of competent jurisdiction may enforce the Arbitration Hearing Award as provided by Chapter 435 of the Revised Statutes of Missouri, upon petition of the Arbitrator, Claimant and/or the Diocese, in which case the Arbitrator shall provide testimony to enforce such award.

**7. Payment of the Arbitration Hearing Awards**

The Arbitrator shall make all final determinations of Arbitration Hearing Awards within ten (10) days after completion of the final individual Arbitration Hearing.

The Arbitrator shall contemporaneously report all Arbitration Awards to counsel for Claimants and the Diocese.

The Arbitration Awards shall be final and non-appealable.

The Arbitrator shall prepare a Schedule A (Final) which shall list the amount of the award to be paid to each Claimant, and shall forward that Schedule to counsel for the Diocese, which shall be responsible for preparation of the final arbitration award payment check to each Claimant and Claimants' Counsel.

The final arbitration award check for each Claimant shall be distributed from the Settlement Amount and made payable to each Claimant, his/her counsel, or other designee, and shall be delivered within 30 days after the Arbitrator's delivery of Schedule A (Final) to counsel for the Diocese, provided, however, that the final arbitration award check shall be released to each Claimant only upon execution by each and every Claimant, and Claimant's legal counsel, of the Mutual Settlement Agreement and General Release.

Upon release of the final arbitration award check to each Claimant, any civil action(s) which such Claimant has commenced shall be dismissed with prejudice as to the Diocese and its Affiliates, including but not limited to all individual defendants, with each party to bear its own costs, within thirty (30) days.

**8. Expenses of Arbitration**

Except for the fees and expenses of the Arbitrator, which shall be paid by the Diocese, each party shall bear its own costs and expenses of the Arbitration.

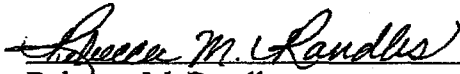



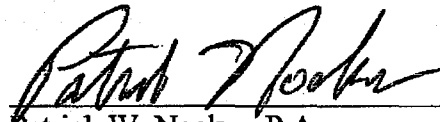
The Arbitrator shall submit statements for his fees and expenses to counsel for the Diocese, and all such statements shall be paid within thirty (30) days.

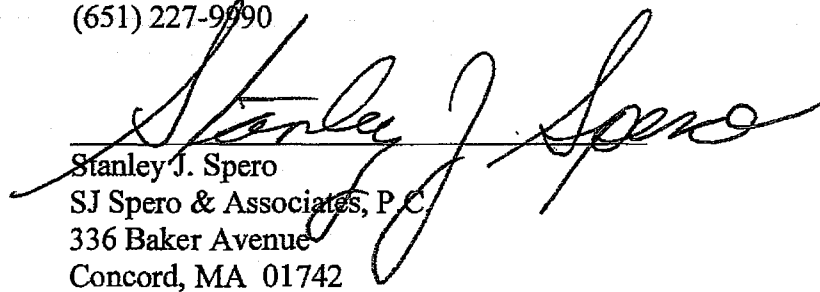
Dated this 18<sup>th</sup> day of August, 2008.

The above and forgoing Memorandum of Understanding has been agreed to by the following counsel of record:

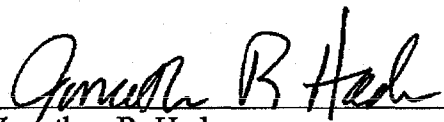
THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

  
Rebecca M. Randles  
Sarah Brown   
Randles, Mata & Brown, LLC  
406 W. 34th St., Suite 623  
Kansas City, Missouri 64111-2743  
Tel: (816) 931-9901; Fax: (816) 931-0134

  
Patrick W. Noaker, P.A.  
Jeffrey Anderson & Associates, P.A.  
E-1000 First National Bank Bldg.  
332 Minnesota Street  
St. Paul, Minnesota 55101  
(651) 227-9990

  
Stanley J. Spero  
SJ Spero & Associates, P.C.  
336 Baker Avenue  
Concord, MA 01742

ATTORNEYS FOR PLAINTIFF

 8/21/08  
Jonathan R. Haden  
Douglas R. Dalglish  
Mara H. Cohara  
Lathrop & Gage L.C.  
2345 Grand Boulevard, Suite 2800  
Kansas City, Missouri 64108-2612  
Tel: (816) 292-2000; Fax: (816) 292-2001

ATTORNEYS FOR THE CATHOLIC DIOCESE OF KANSAS CITY-ST. JOSEPH

# Exhibit

# 2

## MUTUAL SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Mutual Settlement Agreement and General Release ("Agreement") is made between and among James G. Walsh, III ("Claimant"); Thomas O'Brien ("Priest/Former Priest"); Thomas Reardon ("Priest/Former Priest"); the Catholic Diocese of Kansas City- St. Joseph ("the Diocese"); and all of the Diocese's current or former Bishops, parishes, missions, nuns, clergy, employees, agents, attorneys, affiliates, insurers and other representatives, and their respective officers, agents, servants, employees, directors, religious personnel, lay personnel, teachers, counselors, members, insurers, partners, limited partners, independent contractors, successors, subsidiaries, attorneys, parent entities or companies, all affiliated entities, or any person or entity which exercised supervision, dominion or control over the Diocese's priests or other employees, individually and in their official capacities, and the representatives and assigns of each (hereinafter collectively "Affiliates") for the reasons and purposes set forth below.

### RECITALS

A. Claimant has made claims that he/she was the victim of sexual abuse committed by Priest, the Diocese and/or its Affiliates;

B. Claimant has made claims that he/she sustained personal injuries and other damages resulting therefrom;

C. As a result of the foregoing the parties desire to settle and compromise all claims and controversies which may exist now, or which could now or hereafter be claimed to exist between them, which have been asserted or which could be asserted by civil suit, or by additional or separate claim, whether herein specifically described or not;

D. In order to resolve and compromise all such claims, the parties have executed a Memorandum of Understanding ("MOU"), dated August 18, 2008, and a Settlement Agreement and Arbitration Agreement, dated August 20 2008, which are adopted and incorporated herein by reference, and made an integral part of this Agreement.

### AGREEMENT

#### **Payments and other Consideration**

In consideration for this Agreement, the Claimant, his/her attorneys or other designee shall receive a settlement amount established by the Arbitrator, constituting the Claimant's Arbitration Hearing Award, which will be payable by check by the Diocese, within thirty (30) days after (a) the Arbitrator's delivery of Schedule A (Final), identifying the amount of the Arbitration Hearing Award to counsel for the Diocese, or (b) the Diocese's receipt from all Forty-Seven (47) Claimants a fully executed and notarized original of this Agreement, whichever occurs later. Under no circumstances will the Diocese be obligated to make any settlement payment to any individual Claimant until it receives from each and every one of the Forty-Seven (47) Claimants a duly executed and notarized original of this Agreement.

The individual Arbitration Hearing Awards constitute payment of damages on account of personal injuries or sickness, within the meaning of the Internal Revenue Code. The Diocese and its Affiliates make no warranties or representations concerning the taxability of any such payments.

The Diocese also agrees to certain other commitments described in Exhibit A to the MOU between the parties.

### **Mutual Release of Claims**

In consideration for this Agreement, Claimant hereby fully, finally and forever generally releases and discharges the Diocese, its Affiliates, and Priest from any and all claims, demands or causes of action of any kind or character, in law or in equity, which he/she has or may claim to have against any of them concerning or related to any and all lawsuits, claims, causes of action or damages of whatever nature or kind, whether related to claims of molestation or sexual abuse or any other matter, whether currently known or unknown, which may now exist, or which may manifest in the future, based on acts that have occurred prior to the date of this Agreement. Claimant acknowledges satisfaction in full for all such claims, damages or causes of action.

In consideration for this Agreement, and except as provided below, the Diocese, its Affiliates, and Priest hereby fully, finally and forever generally release and discharge Claimant and each other and their affiliates from any and all claims, demands or causes of action of any kind or character, in law or in equity, which they have or may claim to have against him/her concerning or related to any asserted lawsuit and for any and all other claims, causes of action or damages of whatever nature or kind, whether currently known or unknown, which may now exist, or which may manifest in the future, based on acts that have occurred or alleged to have occurred prior to the date of this Agreement.

Notwithstanding the foregoing, the Diocese expressly reserves all claims, demands, causes of action, in law or in equity, which it has, or may have, against its insurers, concerning or related to, these claims. The Diocese does not release nor discharge such claims against its insurers by entering into this Agreement.

### **Additional Terms**

The parties agree that each shall bear their own costs, attorneys' fees, arbitration expenses or other expenses, except that the Diocese shall pay for the services of the arbitrator.

Upon execution of this Agreement and receipt of the payment described above, Claimant's Counsel agrees to file a Stipulation of Dismissal With Prejudice as to all defendants with respect to any civil action or other claim which has been commenced by Claimant against the Diocese or its Affiliates in connection with his/her claim of sexual abuse or other similar misconduct.

This Agreement is not to be construed as an admission of liability on the part of any party or their affiliates.

This Agreement contains the entire agreement between the parties, and the terms of this agreement are contractual and not mere recitals. Any modifications, alterations, or amendments to this Agreement shall be made in writing and signed by all parties.

Claimant acknowledges the terms of this Agreement have been completely read and are fully understood and voluntarily accepted upon the advice of his/her legal counsel for the purpose of making a compromise and settlement of any and all claims on his/her behalf against the Diocese and its Affiliates.

Claimant agrees to be fully responsible for payment of any liens or charges against this settlement and payment sum, including but not limited to any claims by Medicare, Medicaid and/or any other health care provider, any workers' compensation claims or payments, directly or by subrogation, and any claims by any attorneys, lawyers or counselors.

Claimant agrees to defend, indemnify and hold harmless the Diocese and its Affiliates from any and all liens, or claims resulting from liens, which are asserted by any person or entity against Claimant, the Diocese or its Affiliates related to this settlement and/or any settlement payment related to Claimant's claims or damages concerning allegations of sexual abuse or other similar misconduct.

Claimant agrees that any and all outstanding attorneys' liens will be satisfied from the consideration paid to him/her, and further agrees to defend, indemnify and hold harmless the Diocese and its Affiliates from any claims for attorneys' fees or liens.

Claimant states and warrants that he/she is the sole owner of the claims involved, and such claims have not been assigned, encumbered or transferred in any way.

If any of the provisions of this Agreement are held to be unenforceable or invalid, the validity and enforceability of the remaining provisions shall not be affected.

The terms of this Agreement shall be construed and interpreted in accord with the laws of the State of Missouri.

Any dispute concerning this Agreement shall be presented solely to the Arbitrator identified in the MOU between the parties, who shall have sole discretion to resolve all such disputes. The decision of the Arbitrator regarding any such dispute shall be final and binding.

Should any dispute arise concerning this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs against the opposing or offending party. Any claim for such fees or expenses shall be submitted to the Arbitrator, who shall have sole discretion to award or deny any such claim for fees or expenses.

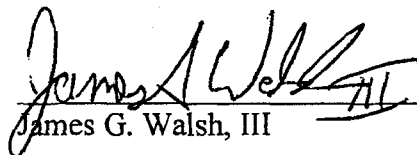
This Agreement may be executed by telefax or other appropriate electronic medium in multiple or separate counterparts.

Claimant represents and warrants that he/she is not under any current legal disability which would preclude him/her from having the necessary capacity to sign this Agreement, and all related documents, to effect settlement with the Diocese and its Affiliates.

This Agreement has been jointly drafted and in the event of dispute concerning its interpretation, its terms shall not be construed against either party.

THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

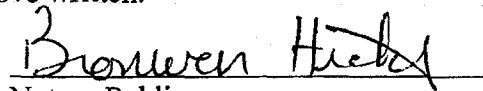
EXECUTED this 20<sup>th</sup> day of August, 2008.

  
James G. Walsh, III

STATE OF MISSOURI )  
COUNTY OF JACKSON )

Before me, a notary public in and for said county and state, this day personally appeared James G. Walsh, III, personally known to me to be the person who executed the foregoing release in writing and being first duly sworn acknowledged the execution of the same as a voluntary act for the uses and purposes therein set forth with full knowledge of its content and effect.

WITNESS my hand and deal on the date above written.

  
Notary Public

**BRONWEN HICKS**  
Commission #07542064  
Notary Public - Notary Seal  
STATE OF MISSOURI, Jackson County  
My Commission Expires: June 17, 2011



EXECUTED this 21st day of August, 2008.

Catholic Diocese of Kansas City- St. Joseph

By: + Robert W. Finn  
Bishop Robert Finn

STATE OF MISSOURI            )  
  )  
COUNTY OF JACKSON        )

Before me, a notary public in and for said county and state, this day personally appeared Bishop Robert W. Finn, personally known to me to be the person who executed the foregoing release in writing and being first duly sworn acknowledged the execution of the same as a voluntary act for the uses and purposes therein set forth with full knowledge of its content and effect.

WITNESS my hand and deal on the date above written.

Bronwen Hicks  
Notary Public

**BRONWEN HICKS**  
**Commission #07542064**  
**Notary Public - Notary Seal**  
**STATE OF MISSOURI Jackson County**  
**My Commission Expires: June 17, 2011**

EXECUTED this 24<sup>th</sup> day of September, 2008.

Thomas J. O'Brien  
Fr. Thomas O'Brien

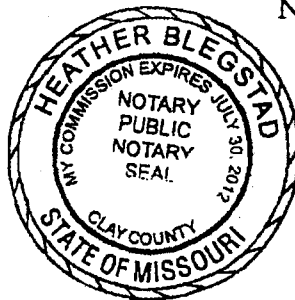
STATE OF MISSOURI )  
COUNTY OF JACKSON )

Before me, a notary public in and for said county and state, this day personally appeared Fr. Thomas O'Brien, personally known to me to be the person who executed the foregoing release in writing and being first duly sworn acknowledged the execution of the same as a voluntary act for the uses and purposes therein set forth with full knowledge of its content and effect.

WITNESS my hand and deal on the date above written.

Heather Blegstad  
Notary Public

My Commission Expires:



EXECUTED this 8<sup>th</sup> day of September, 2008.

Thomas Reardon  
Thomas Reardon

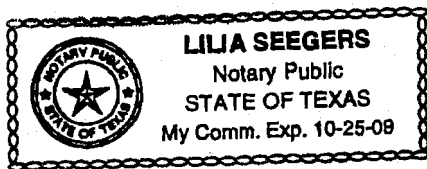
STATE OF Texas )  
COUNTY OF El Paso )

Before me, a notary public in and for said county and state, this day personally appeared Thomas Reardon, personally known to me to be the person who executed the foregoing release in writing and being first duly sworn acknowledged the execution of the same as a voluntary act for the uses and purposes therein set forth with full knowledge of its content and effect.

WITNESS my hand and deal on the date above written.

Lilia Seegers  
Notary Public

My Commission Expires:



**ATTORNEY ACKNOWLEDGMENT AND RELEASE OF ATTORNEYS' LIEN**

The above Settlement Agreement and Release was executed by Claimant, after having been read by him/her and fully explained by his/her attorneys and after acknowledging that he/she understood the terms thereof and agreed to be bound thereby. In addition, Claimant's attorneys forever release and discharge the Diocese and its Affiliates from any and all claims for attorneys' fees, by lien or otherwise, for any and all legal services provided by Claimant's attorneys to the Claimant.



An Attorney for Claimant

# Exhibit

# 3

## **SETTLEMENT AGREEMENT AND ARBITRATION AGREEMENT**

This Settlement Agreement and Arbitration Agreement is made between and among James G. Walsh, III ("Claimant"); Thomas O'Brien ("Priest/Former Priest"); Thomas Reardon ("Priest/Former Priest"); the Catholic Diocese of Kansas City-St. Joseph ("the Diocese"), and all of their current or former Bishops, parishes, missions, nuns, clergy, employees, agents, attorneys, affiliates, insurers and other representatives, and their respective officers, agents, servants, employees, directors, religious personnel, lay personnel, teachers, counselors, members, insurers, partners, limited partners, independent contractors, successors, subsidiaries, attorneys, parent entities or companies, all affiliated entities, or any person or entity which exercised supervision, dominion or control over the Diocese's priests or other employees, individually and in their official capacities, and the representatives and assigns of each (hereinafter collectively "Affiliates"). The parties have agreed to participate in binding arbitration to settle all of Claimant's claims alleging sexual abuse against the Diocese and its Affiliates.

### **The Settlement Amount and its Purposes**

Pursuant to a Memorandum of Understanding ("MOU") dated August 18, 2008 (incorporated herein by reference), the Diocese has agreed to establish a Settlement Amount, in order to compensate and foster reconciliation, with forty-seven (47) persons who have made claims for damages as a result of sexual abuse committed by priests or other representatives of the Diocese ("the Settlement Amount").

By establishing the Settlement Amount and securing the commitment of forty-seven (47) victims of sexual abuse to participate in and be bound by this settlement and arbitration process (hereinafter "the Claimants"), the Claimants are assured of receiving compensation promptly. Continuing litigation will be avoided, and administrative, legal and other expenses will be minimized in order to maximize recovery by the Claimants.

In accord with the MOU, this Agreement, and the Mutual Settlement Agreement and General Release, the Diocese has agreed to pay Claimant a sum of money to be determined by arbitration to settle all claims by Claimant against the Diocese and its Affiliates.

The arbitration award shall compensate each Claimant who has asserted a sexual abuse claim for physical injury, emotional injury, loss of consortium and/or damages arising from the abuse.

Claimant understands that Claimants' Counsel have identified forty-seven (47) Claimants who shall be entitled to receive arbitrated settlements from the Settlement Amount.

#### **1. Financial Issues**

The Diocese has agreed to pay Ten Million Dollars (\$10,000,000.00) as the settlement Amount to settle all claims of, or relating to, sexual abuse, which have been asserted against the Diocese and/or its Affiliates, and which were made by the Claimants,

or could have been made by the Claimants, or by any other person asserting a claim or seeking relief on their behalf.

The parties have agreed that the Amount will be exhausted completely by payments to the Claimants, provided that all Claimants fully comply with and participate in this process.

## **2. Non-Financial Commitments by the Diocese**

In addition to establishing the Amount, the Diocese has agreed to certain other commitments described in Exhibit A to the MOU.

## **3. Participation in the Group Arbitration and Settlement Process**

Participation in this settlement and arbitration process by Claimant is voluntary. However, in order to accomplish the objectives of this group settlement and arbitration process, all forty-seven (47) Claimants must agree to participate in and be bound by this process.

In the event that any Claimant breaches the agreement to participate in and be bound by this process, the Diocese shall have the option to rescind the MOU and all related agreements in their entirety, to withhold any payment to any Claimant and to not participate in this Arbitration.

## **4. The Arbitration Process**

Unless otherwise agreed by the parties, each Claimant shall execute, and deliver by hand delivery, mail, facsimile or e-mail, a copy of this Settlement Agreement and Arbitration Agreement prior to commencement of any of the Arbitration Hearings.

This Settlement Agreement and Arbitration Agreement shall be construed in accordance with the laws of the State of Missouri.

### **A. The Selected Arbitrator and Information for the Process**

Counsel for Claimants and the Diocese have selected Hollis Hanover, Esq. to serve as Arbitrator for this process.

Any dispute concerning the MOU, this Agreement and all related matters shall be resolved by the Arbitrator. The decision of the Arbitrator regarding any such dispute shall be final and binding.

Each Claimant has submitted, under oath and penalty of perjury, a Questionnaire Response containing a summary of information concerning his or her claim of sexual abuse or loss of consortium.

Any Claimant may, but shall not be required to, submit additional information to the Arbitrator, including expert reports or affidavits.

## **B. The Arbitration Hearings**

Each claim shall be considered at an individual, private Arbitration Hearing.

Due notice shall be provided to each Claimant and counsel for all the parties concerning each scheduled Arbitration Hearing.

Each Claimant shall appear personally at his or her duly noticed Arbitration Hearing. In the event a Claimant is unable to appear at the scheduled Arbitration Hearing, appearance by video conference or other mutually satisfactory method may be substituted.

The Claimant and his or her counsel may provide testimony and/or information to the Arbitrator, but are not required to do so.

At the request of the Claimant, a representative of the Diocese, who is not an attorney, shall attend the Arbitration Hearing.

The Diocese and/or its counsel may attend each Arbitration Hearing.

## **C. Compensation to be Determined by the Arbitration Hearing Process**

Each Claimant shall receive some level of financial compensation based on the relative nature and merits of his/her claim.

The amount awarded to each Claimant shall be determined in the sole discretion of the Arbitrator.

A court of competent jurisdiction may enforce the Arbitration Hearing Award as provided by Chapter 435 of the Revised Statutes of Missouri, upon petition of the Arbitrator, Claimant and/or the Diocese, in which case the Arbitrator shall provide testimony to enforce the award.

## **5. Payment of Arbitration Hearing Awards**

The Arbitrator shall make all final determinations of Arbitration Hearing Awards within ten (10) days after completion of the final individual Arbitration Hearing.

The Arbitrator shall contemporaneously report all Arbitration Awards to counsel for Claimants and the Diocese.

The Arbitration Awards shall be final and non-appealable.

The Arbitrator shall prepare a Schedule A (Final) which shall list the amount of the award to be paid to each Claimant, and shall forward that Schedule to counsel for the Diocese, which shall be responsible for preparation of the final arbitration award payment check to each Claimant and Claimants' Counsel.



The final arbitration award check shall be distributed from the Amount and made payable to each Claimant, his/her counsel, or other designee, and shall be delivered accordingly within 30 days of the Arbitrator's delivery of Schedule A (Final) to counsel for the Diocese, provided, however, that the final arbitration award check shall be released to each Claimant only upon execution by each and every Claimant, and Claimant's legal counsel, of the Mutual Settlement Agreement and General Release.

Upon release of the final arbitration award check to each Claimant, any civil action(s) that such Claimant has commenced shall be dismissed with prejudice as to the Diocese and its Affiliates, including but not limited to all individual defendants, with each party bearing its own costs, within thirty (30) days.

#### **6. Expenses of Arbitration**

Except for the fees and expenses of the Arbitrator, which shall be paid by the Diocese, each party shall bear its own costs and expenses of the Arbitration.

This Settlement Agreement and Arbitration Agreement shall be subject to Chapter 435 of the Revised Statutes of Missouri.

The Arbitrator shall not be liable to any party for any act or omission in connection with the Arbitration Hearings conducted pursuant hereto.

Claimant states and warrants that he/she is the sole owner of the claims involved, and such claims have not been assigned, encumbered or transferred in any way.

If any of the provisions of this Agreement are held to be unenforceable or invalid, the validity and enforceability of the remaining provisions shall not be affected.

Any dispute concerning this Agreement shall be presented solely to the Arbitrator, who shall have sole discretion to resolve all such disputes. The decision of the Arbitrator regarding any such dispute shall be final and binding.

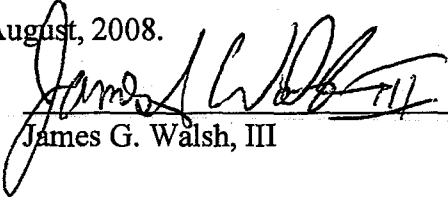
Should any dispute arise concerning this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs against the opposing or offending party. Any claim for such fees or expenses shall be submitted to the Arbitrator, who shall have sole discretion to award or deny any such claim for fees or expenses.

Claimant represents and warrants that he/she is not under any current legal disability which would preclude him/her from having the necessary capacity to sign this Agreement, and all related documents, to effect settlement with the Diocese and its Affiliates.

This Agreement may be executed by telefax or other appropriate electronic medium in multiple or separate counterparts.

THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH  
MAY BE ENFORCED BY THE PARTIES.

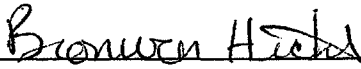
EXECUTED this 20<sup>th</sup> day of August, 2008.

  
\_\_\_\_\_  
James G. Walsh, III

STATE OF MISSOURI )  
                                  )  
COUNTY OF JACKSON )

Before me, a notary public in and for said county and state, this day personally appeared James G. Walsh, III, personally known to me to be the person who executed the foregoing release in writing and being first duly sworn acknowledged the execution of the same as a voluntary act for the uses and purposes therein set forth with full knowledge of its content and effect.

WITNESS my hand and deal on the date above written.

  
\_\_\_\_\_  
Notary Public

**BRONWEN HICKS**  
Commission #07542064  
Notary Public - Notary Seal  
My Comm. Expires: June 17, 2011  
STATE OF MISSOURI - Jackson County

EXECUTED this 21st day of August, 2008.

Catholic Diocese of Kansas City- St. Joseph

By: + Robert W. Finn  
Bishop Robert Finn

STATE OF MISSOURI            )  
  )  
COUNTY OF JACKSON        )

Before me, a notary public in and for said county and state, this day personally appeared Bishop Robert W. Finn, personally known to me to be the person who executed the foregoing release in writing and being first duly sworn acknowledged the execution of the same as a voluntary act for the uses and purposes therein set forth with full knowledge of its content and effect.

WITNESS my hand and deal on the date above written.

**BRONWEN HICKS**  
**Commission #07542064**  
**Notary Public - Notary Seal**  
**STATE OF MISSOURI Jackson County**  
**My Commission Expires: June 17, 2011**

Bronwen Hicks  
Notary Public

# Exhibit

4

## EXHIBIT A

### NON-MONETARY COMMITMENTS BY THE DIOCESE

1. Through a press statement to the secular media and through publication in The Catholic Key, the Diocese will continue to publicly acknowledge the wrongfulness of sexual abuse by the perpetrators, and will acknowledge that its own response to reports of sexual abuse has, in the past, been wrong.
2. The Diocese will continue its long-standing offer to provide counseling to all victims of sexual abuse and their immediate family members, at the expense of the Diocese. The plaintiffs collectively shall appoint an individual of their choice to act as an intermediary between plaintiffs and the Diocese in order to facilitate the provision of independent therapy for any plaintiff for a maximum of twenty four (24) sessions.
3. The Diocese will not provide a reference or recommendation for purposes of prospective employment with respect to any priest, nun, deacon, lay employee or volunteer of the Diocese who has been credibly accused of sexual abuse. If the Diocese receives a request for such a reference or recommendation, the Diocese will respond that it will not provide such a reference or recommendation, except in the case where a lawsuit alleging sexual abuse has been filed, in which case the Diocese will inform the prospective employer of that fact.
4. The Diocese will provide a letter advising state licensed professional counseling boards that Thomas Reardon has been the subject of lawsuits charging him with sexual abuse and other misconduct involving minors, and that the Diocese is therefore unable to provide a favorable reference or recommendation in connection with any application by Reardon for a license to perform counseling services.
5. The Diocese acknowledges that Fr. Thomas O'Brien is performing no public ministry, including the public administration of sacraments.
6. The Diocese will publish a pastoral statement that rites or sacraments performed or administered by priests or deacons are not diminished, flawed or tainted because the priest or deacon has been accused of misconduct.
7. The Bishop of the Diocese will send a letter to any plaintiff or member of plaintiff's family who requests such a letter, apologizing for the harm caused by the abuse and acknowledging that the plaintiff was not at fault for the abuse.
8. The Diocese and its representatives shall not refer to plaintiffs or other tort claimants and their claims as "alleged" victims, "alleged" survivors, or "alleged" claims.
9. The Diocese intends to initiate laicization procedures for former priests Thomas Reardon, Hugh Monahan and Stephen Wise and will consult with canon lawyers regarding these procedures.

10. The Diocese will continue to offer and implement a Victim Advocacy Program consistent with Virtus™ guidelines, in order to maintain safe, strong communities for children and vulnerable adults.
11. The name and contact information of the Diocesan Victim's Advocate will be published on the Diocese's web site and will be included in parish bulletins along with the names of parish staff.
12. The Missouri Abuse Hotline phone number shall be prominently posted in every parish school, office and workplace.
13. The Diocese shall prominently display in each diocesan school a placard stating: "The Abuse of the Spiritual, Emotional and Moral Development of the Young Men and Women of [Name of School] shall not be tolerated." The placard will include the telephone numbers of the Missouri Abuse Hotline, the local police department, and the Diocesan Victim's Advocate.
14. The Diocese will continue to follow mandatory state reporting requirements and Virtus™ guidelines in reporting the suspected sexual abuse of minors to law enforcement and child protection authorities. At the request of the victim or other party reporting childhood sexual abuse to the Diocese, the Diocese will report such abuse to law enforcement and child protection authorities regardless of the age of the victim at the time the report is made.
15. The Diocese will continue to require its priests, administrators, teachers, staff, coaches, volunteers and students to complete the Virtus™ "Protecting God's Children" training, or similar training performed and/or developed by outside consultants, for the prevention of sexual abuse and harassment.
16. On or before December 31, 2008, the Diocese will adopt a whistle-blower policy providing that the Diocese shall take no retaliatory action against any person who reports in good faith the suspected sexual abuse of a minor by a priest, employee or other representative of the Diocese.
17. The Diocese will not enforce the confidentiality provisions of any prior agreement with a sexual abuse claimant who now or in the future desires to make his/her claim public.
18. The Diocese has enacted policies concerning sexual assault, misconduct and harassment including procedural steps that will be followed once reports are made and to whom reports are to be made. The Diocese agrees to provide copies of those policies to counsel for claimants.
19. The victims have requested that the Bishop of the Diocese personally visit any parish where sexual abuse of minors occurred. The victims have further requested that at these meetings the Bishop publicly identify the perpetrators, encourage other victims to report the abuse, provide an opportunity for discussion with the audience, and invite victims or their families to speak. The Bishop has stated that he will consider this or some other process that will achieve the same goal.