

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

John Doe 114,

Plaintiff,

Court File No.:

v.

COMPLAINT

Archdiocese of St. Paul and Minneapolis and
The Diocese of New Ulm,

Defendants.

Plaintiff, for his cause of action against Defendants, alleges as follows:

PARTIES

1. Plaintiff John Doe 114 is an adult male resident of the State of Minnesota whose identity has been disclosed to Defendants by separate cover letter. Plaintiff was a minor at the time of the sexual abuse alleged herein.

2. At all times material, Defendant, the Archdiocese of St. Paul and Minneapolis (Archdiocese) was and continues to be a Minnesota non-profit religious corporation, authorized to conduct business and conducting business in the State of Minnesota, with its principal place of business located at 226 Summit Avenue, St. Paul, Minnesota, 55102. 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, and he has authority over all Roman Catholic clerics within the Archdiocese. The Archdiocese functions as a business by engaging in numerous revenue-producing activities, soliciting new members (including non-Catholic youth) and soliciting money from its members in exchange for its services. The Archdiocese has numerous 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. The Archdiocese encourages its agents, including its priests, to interact with youth, including youth who are not Catholic.

3. At all times material, Defendant, the Diocese of New Ulm (Diocese) was and continues to be a Minnesota non-profit religious corporation, authorized to conduct business and conducting business in the State of Minnesota with its principal place of business located at 1400 6th Street North, New Ulm, Minnesota, 56073-2099. The Bishop is the top official of the Diocese and is given authority over all matters within the Diocese as a result of his position, and he has authority over all Roman Catholic clerics within the Diocese. The Diocese functions as a business by engaging in numerous revenue-producing activities, soliciting new members (including non-Catholic youth) and soliciting money from its members in exchange for their services. The Diocese has numerous programs which seek out the participation of children in the Diocese's activities. The Diocese, through its officials, has control over those activities involving children. The Diocese has the power to appoint, supervise, monitor, and fire each person working with children within the Diocese. The Archdiocese encourages its agents, including its priests, to interact with youth, including youth who are not Catholic.

FACTS

4. At all times material, Father William J. Marks (hereinafter "Fr. Marks"), now deceased, was an ordained Roman Catholic priest employed by Defendants from about 1948 to 1979.

5. Defendants allowed Fr. Marks to have unsupervised and unlimited access to young children, including teenagers, in and around St. Dionysus in Tyler, Minnesota, St. John's Catholic Church in Hector, Minnesota, and St. Clotilde in Green Valley, Minnesota, all located at the time within the Archdiocese of St. Paul and Minneapolis until 1958 at which time The Diocese of New Ulm was created. At all times material, Fr. William Marks was employed by Defendants. At all times material, Fr. Marks remained under the direct supervision, employ, and control of the Defendants. Based on information and belief, Defendants provided Fr. Marks housing at a premises in Hector,

Minnesota (hereinafter "rectory"). Defendants authorized and/or required Marks to maintain said rectory, and doing so was within the course and scope of his employment and duties for Defendants.

6. Upon information and belief, before Plaintiff John Doe 114 was sexually abused by Fr. Marks, Defendants had actual or constructive knowledge of material facts regarding Fr. Marks' sexual misconduct, impulses, and behavior. Upon information and belief, both before and during his sexual abuse of Plaintiff John Doe 114, Fr. Marks abused other children while serving at St. Dionysus and St. John's. Defendants knew or should have known about this abuse and that Fr. Marks posed a risk of serious harm to children.

7. Despite clear indications of danger, Defendants took no steps to discover the specific nature of Fr. Marks' problems or to determine whether he was fit to work with children or to protect children from him. Rather, Defendants allowed and encouraged Fr. Marks to interact with children, including non-Catholic children, thereby increasing the likelihood that Plaintiff John Doe 114 would be harmed.

8. Plaintiff was born in October, 1948. He moved to and lived in Hector, Minnesota, with his parents and six siblings when he was ten years old. His family was poor. Plaintiff's parents both worked to make ends meet. Plaintiff's father worked at a gas station doing vehicle repair work in the garage and delivered fuel; his mother worked as a waitress at a local cafe. Plaintiff worked as a paperboy and mowed lawns to help support himself.

9. Defendants held Fr. Marks out as a qualified Roman Catholic priest. Plaintiff was raised to respect and trust clergy, including Catholic priests, and he respected and trusted Fr. Marks. Plaintiff looked up to Fr. Marks as a man of God.

10. Defendants, and each of them, encouraged their priests to interact with non-Catholic children and their families in an effort to further the recruitment of non-Catholics to membership within the Diocese and Archdiocese. By holding Fr. Marks out as safe to be with children and by encouraging Fr. Marks to interact with non-Catholic children, Defendants undertook the custody,

supervision of, and/or care of the minor Plaintiff by and through its agent, Fr. Marks. Defendants each entered into a special relationship with the minor Plaintiff. As a result of Plaintiff being a minor, and by Defendants undertaking the care and guidance of the then vulnerable Plaintiff, Defendants, through their agent Fr. Marks and otherwise, held a position of empowerment over Plaintiff.

11. Furthermore, Defendants, by holding themselves out as being able to provide a safe, trustworthy, morally good environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented the Plaintiff from effectively protecting himself, and Defendants thus entered into a special relationship with Plaintiff. By holding themselves out as a safe, moral, and trusted institution to Plaintiff's parents, Defendants induced Plaintiff's parents to entrust their child to Defendants and thereby deprived Plaintiff of the protection of his family.

12. Defendants owed Plaintiff a duty of reasonable care, because they assumed duties owed to Plaintiff and had superior knowledge about the risk that Fr. Marks posed to Plaintiff, the risk of abuse in general in their programs, and/or the risks that their facilities posed to minor children. Defendants had the duty to protect the health, safety, and moral purity of Plaintiff and other children who interacted with priests within the Archdiocese of St. Paul and Minneapolis and The Diocese of New Ulm.

13. Defendants owed Plaintiff a duty of reasonable care because they assumed that duty and because they solicited youth and parents for participation in their youth programs; encouraged youth and parents to have youth participate in their programs; undertook custody of minor children, including Plaintiff; promoted their facilities and programs as being safe for children; held out their agents, including Fr. Marks, as safe to work with children; encouraged parents and children to spend time with their agents; and/or encouraged their agents, including Fr. Marks, to spend time with, interact with and recruit children.

14. Defendants had a duty to Plaintiff to protect him from harm because Defendants' actions created a foreseeable risk of harm to Plaintiff.

15. Defendants' breach of their duties include but are not limited to: exposing Plaintiff to a known pedophile; exposing Plaintiff to a priest Defendants should have known was a pedophile; recruiting, hiring, and maintaining Fr. Marks in a position of authority over children; exposing Fr. Marks to children; leaving Fr. Marks alone with children unsupervised; inducing Plaintiff and his parents to entrust Plaintiff to Fr. Marks; failing to follow policies and procedures designed to prevent child sex abuse and/or failing to implement sufficient policies and procedures to prevent child sex abuse; failing to take reasonable measures to make sure that policies and procedures to prevent child sex abuse were working; failing to adequately inform families and children of the known risks of child sex abuse within the Archdiocese and Diocese; holding out their employees and agents, including Fr. Marks, as safe and wholesome for children to be with; failing to investigate risks of child molestation; failing to properly train the workers at institutions and programs within Defendants' geographical confines; failing to have any outside agency test their safety procedures; failing to protect the children in their programs from child sex abuse; failing to adhere to the applicable standard of care for child safety; failing to investigate the amount and type of information necessary to represent the institutions, programs, and leaders and people as safe; failing to respond to and/or investigate information of improper conduct of employee or agent with children, including Fr. Marks; and failing to properly train their employees to identify signs of child molestation by fellow employees.

16. Defendants breached their duty to use ordinary care in determining whether their facilities, including the rectory, were safe and/or to determine whether they had sufficient information to represent their facilities as safe. Defendants' breaches of duty include but are not limited to: recruiting, hiring, and maintaining Fr. Marks at their facilities, including the rectory; maintaining a dangerous condition on the premises of their facilities (i.e., a priest Defendants knew or should have known posed a risk of pedophilic harm to children); holding out their facilities as a safe and moral place for children, which they were not; failing to have sufficient policies and procedures to prevent abuse at their facilities; failing to investigate risks at their facilities; failing to properly train the workers

at their facilities; failing to have any outside agency test their safety procedures; failing to investigate the amount and type of information necessary to represent their facilities as safe; and failing to train their employees properly to identify signs of child molestation by fellow employees.

17. Defendants also breached their duties to Plaintiff by holding out clerics, including Fr. Marks, as safe, moral, and trustworthy people and by failing to warn Plaintiff and his family of the risk that Fr. Marks posed and the known risks of child sexual abuse by clerics in general. Defendants also failed to warn Plaintiff about any of the knowledge that the Defendants had about child sex abuse perpetrated by clerics or Fr. Marks.

18. Defendants also breached their duties to Plaintiff by failing to report Fr. Marks' abuse of children to the police and law enforcement. Defendants further breached their duties by hiding a pedophile and engaging in a cover-up of abuse perpetrated by Fr. Marks.

19. Defendants knew or should have known that some of the leaders and people working at Catholic institutions within the Archdiocese and Diocese were not safe for children.

20. Defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at Catholic institutions within the Archdiocese and Diocese were safe around children.

21. Defendants knew or should have known that there was a risk of child sex abuse for children interacting with priests within the Archdiocese and Diocese.

22. Defendants knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for children participating interacting with Catholic priests within the Archdiocese and Diocese.

23. Defendants knew or should have known that they had other agents who had sexually molested children. Defendants knew or should have known that child molesters have a high rate of recidivism. Defendants knew or should have known that there was a specific danger of child sex abuse for children interacting with Catholic priests within the Archdiocese and Diocese

24. Defendants held their 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 their programs, marketing to youth and families, recruiting youth and families, and holding out the people that worked in the programs as safe for children/youth.

25. Defendants made negligent representations to Plaintiff and his family. Plaintiff and/or his family relied upon these representations, which resulted in Plaintiff being put in a vulnerable situation with Fr. Marks who harmed him.

26. Plaintiff, at Fr. Mark's request, began mowing the lawn at St. John's Church in 1959. Plaintiff also delivered papers to Fr. Marks at the rectory. Fr. Marks lured Plaintiff with money and friendship, gaining Plaintiff's trust.

27. Fr. Marks befriended Plaintiff. Fr. Marks coaxed Plaintiff into discussions centered on sex and sexual behavior.

28. Over approximately 2 years, Fr. Marks engaged in unpermitted, harmful, and offensive sexual contact with the Plaintiff in and around the rectory. Fr. Marks sexually assaulted Plaintiff John Doe 114 when Plaintiff was a minor without Plaintiff's consent by, inter alia, sucking Plaintiff's penis, forcing Plaintiff to suck Fr. Mark's penis, forcing Plaintiff to masturbate Fr. Marks.

29. Fr. Marks informed himself of Plaintiff's vulnerability and leveraged this vulnerability to lure Plaintiff into sex acts. Through Fr. Marks' "education", Plaintiff believed that sex was permissible and prior to becoming a teenager, developed an identity crisis when he found he was attracted to females.

30. Upon information and belief, before Plaintiff was sexually abused by Fr. Marks, Defendants had actual or constructive knowledge of material facts regarding Fr. Marks' sexual misconduct, impulses, and behavior, but failed to act on that knowledge and exposed Plaintiff as a child to Fr. Marks thereby increasing the likelihood that Plaintiff would be harmed.

31. Upon information and belief, Defendants eventually transferred Fr. Marks from St. John's to St. Clotilde due to complaints about sexual abuse perpetrated by Fr. Marks on other children.

32. As a direct result of Defendants' breached duty, the sexual abuse, sexual exploitation, and Defendants' conduct, 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 and psychological injuries, 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.

COUNT I: NEGLIGENCE – ARCHDIOCESE OF ST. PAUL AND MINNEAPOLIS

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

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

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

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

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

COUNT II: NEGLIGENCE – THE DIOCESE OF NEW ULM

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

39. Defendant Diocese owed Plaintiff a duty of reasonable care.

40. Defendant Diocese breached the duty of reasonable care it owed Plaintiff.

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

42. As a direct result of Defendant Diocese's negligent conduct, Plaintiff has suffered the

injuries and damages described herein.

**COUNT III: NEGLIGENT SUPERVISION –
ARCHDIOCESE OF ST. PAUL AND MINNEAPOLIS**

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

44. At all times material hereto, Fr. Marks was employed by Defendant Archdiocese and was under Defendant Archdiocese's direct supervision, employ, and control when he committed the wrongful acts alleged herein. Fr. Marks engaged in the wrongful conduct while acting in the course and scope of his employment with Defendant and/or accomplished the sexual abuse by virtue of his job-created authority.

45. Defendant Archdiocese failed to exercise ordinary care in supervising Fr. Marks in his parish assignments, and Defendant further failed to prevent the foreseeable misconduct of Fr. Marks from causing harm to others, including the Plaintiff herein.

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

COUNT IV: NEGLIGENT SUPERVISION – THE DIOCESE OF NEW ULM

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

48. At all times material hereto, Fr. Marks was employed by Defendant Diocese and was under Defendant Diocese's direct supervision, employ, and control when he committed the wrongful acts alleged herein. Fr. Marks engaged in the wrongful conduct while acting in the course and scope of his employment with Defendant Diocese and/or accomplished the sexual abuse by virtue of his job-created authority.

49. Defendant Diocese failed to exercise ordinary care in supervising Fr. Marks in his parish assignments, and Defendant further failed to prevent the foreseeable misconduct of Fr. Marks from causing harm to others, including the Plaintiff herein.

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

**COUNT V: NEGLIGENT RETENTION –
ARCHDIOCESE OF ST. PAUL AND MINNEAPOLIS**

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

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

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

COUNT V: NEGLIGENT RETENTION – THE DIOCESE OF NEW ULM

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

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

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

JURY TRIAL REQUEST


57. Plaintiff John Doe 114 requests a jury trial on all counts of this Complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff John Doe 114 demands judgment against Defendants individually, jointly, and severally in an amount in excess of \$50,000.00 plus costs, disbursements, reasonable attorney's fees, interest, and whatever other relief the Court deems just and equitable.

DATED: September 19, 2014

NOAKER LAW FIRM LLC

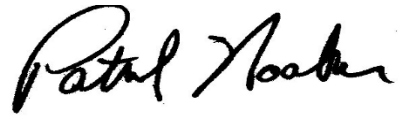


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ACKNOWLEDGMENT

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



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