

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Personal Injury

Doe 20,

Court File No.: 62-CV-13-7283

Plaintiff,

v.

AMENDED SUMMONSFr. Michael Jerome Keating,
Archdiocese of St. Paul and Minneapolis, and
Fr. Kevin McDonough,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: 7/11/14

JEFF ANDERSON & ASSOCIATES, P.A.



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Plaintiff,

v.

AMENDED COMPLAINT

Fr. Michael Jerome Keating,
Archdiocese of St. Paul and Minneapolis, and
Fr. Kevin McDonough,

Defendants.

Plaintiff, for her cause of action against Defendants, alleges that:

PARTIES

1. Plaintiff Doe 20 (hereinafter "Plaintiff") is an adult female resident of Minnesota. The identity of Plaintiff has been disclosed under separate cover to Defendant. Plaintiff was a minor at the time of all sexual abuse and all sexual exploitation alleged herein.

2. At all times material, Defendant Fr. Michael Jerome Keating (hereinafter "Keating") was an adult male resident of the State of Minnesota.

3. 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.

4. Fr. Kevin McDonough is a priest of the Archdiocese who has served as Vicar General of the Archdiocese. He is a citizen and resident of Minnesota.

FACTS

5. In approximately 1997 to 2000, Keating engaged in multiple instances of unpermitted, harmful, and offensive sexual contact with Plaintiff, while she was a minor.

6. Upon information and belief, Keating was a seminarian in St. Paul, Minnesota, under the authority and control of the Archdiocese. During the instances of Keating's sexual contact with the Plaintiff, Keating was known to have engaged in prior sexual misconduct with females, and despite that known history was permitted to continue in formation towards becoming a priest, and did become a priest of the Archdiocese under the authority of the Archbishop of the Archdiocese and with his approval.

7. The Archdiocese knew, or should have known, that Keating was a danger to youth and young women before Keating molested Plaintiff. That information was available to the Archdiocese and its agents and employees.

8. The Archdiocese negligently or recklessly believed that Keating was fit to work with children and/or that any previous problems he had were fixed and cured and/or that Keating would not sexually molest children and/or that Keating would never hurt children by crossing appropriate boundaries with children.

9. The Archdiocese held Keating out as an appropriate and trustworthy person to be around and work with children.

10. By holding Keating out as trustworthy, fit, and safe to work with children, the Archdiocese conferred on Keating a special position of authority over the Catholic community, the Plaintiff, and her family.

11. Further, Defendant Archdiocese, by holding itself out as being able to provide a safe environment for children, solicited and/or accepted this position of authority. This position of authority prevented the then minor Plaintiff, or her parents on her behalf, from effectively protecting the Plaintiff from Keating.

12. Defendant Archdiocese had a special relationship with Plaintiff and a fiduciary relationship with the Plaintiff and her family.

13. Defendant Archdiocese owed Plaintiff a duty of reasonable care because it had superior knowledge about the risk that Keating posed to Plaintiff and others similarly situated, and a general awareness of a risk of potential harm by authority figures in its programs and by its agents and employees, including seminarians, deacons and priests.

14. Defendant Archdiocese had a duty to Plaintiff to protect her from harm because the Archdiocese created a foreseeable risk of harm to Plaintiff.

15. Defendant Archdiocese's breach of its duties include but are not limited to:
- a. failure to have sufficient policies and procedures to prevent the known risk of child sex abuse,
 - b. failure to properly implement the policies and procedures to prevent child sex abuse,
 - c. failure to take reasonable measures to make sure that the policies and procedures to prevent child sex abuse were working,
 - d. failure to adequately inform and warn families and children of the risks of child sex abuse,

- e. failure to investigate risks of child molestation,
- f. failure to properly train the workers at institutions and programs within the geographical confines of the Archdiocese,
- g. failure to have any outside agency test its safety procedures,
- h. failure to protect the children in their programs from child sex abuse,
- i. failure to adhere to the applicable standard of care for child safety,
- j. failure to investigate the amount and type of information necessary to represent the institutions, programs, and leaders and people as safe,
- k. failure to train its employees properly to identify signs of child molestation by fellow employees, and
- l. failed to warn Plaintiff or her parents about a known risk and problem Defendant Keating posed to children.

16. Defendant 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. Defendant's failures include but are not limited to:

- a. failure to have sufficient policies and procedures to prevent abuse at its facilities,
- b. failure to investigate risks at its facilities,
- c. failure to properly train the workers at its facilities,
- d. failure to have any outside agency test its safety procedures and deal with such issues internally and secretly,
- e. failure to investigate the amount and type of information necessary to represent its facilities as safe,

- f. failure to train its employees properly to identify signs of child molestation by fellow employees, and
- g. failed to warn Plaintiff or her parents about a known risk and problem Defendant Keating posed to children.

17. Defendant Archdiocese breached its duties to Plaintiff essentially by failing to warn her and her family of the risk that Keating posed and the risks of child sexual abuse by clerics. It also failed to warn her about any of the knowledge that the Archdiocese had about child sex abuse and Defendant Keating.

18. Defendant Archdiocese knew or should have known that some of the leaders and people working at Catholic institutions within the Archdiocese were not persons it was safe to have in contact with children.

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

20. 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.

21. As to Defendant Keating, the Archdiocese knew or should have known that prior to his sexual interactions with the Plaintiff, Keating had admitted engaging in similar conduct with other minor females.

22. 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.

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

24. Upon information and belief, Keating was ordained a priest of the Archdiocese of St. Paul and Minneapolis on May 25, 2002.

25. Upon information and belief, Keating worked as a priest at St. John the Baptist in New Brighton, Minnesota from 2003 to 2005.

26. Plaintiff reported Keating's sexual abuse of her to Archdiocesan officials including Archbishop Harry Flynn, then Vicar General Rev. Kevin McDonough, then Chancellor of Civil Affairs Andrew Eisenzimmer, Greta Sawyer and the Clergy Review Board in 2006.

27. Defendant Archdiocese failed to take seriously Plaintiff's allegations of sexual abuse by Keating, failed to properly and thoroughly investigate Plaintiff's allegations of sexual abuse by Keating, and engaged in behavior that was extreme, outrageous, and reckless toward Plaintiff. Defendant Archdiocese's actions intended to cause harm to Plaintiff and her family and at the same time protected Keating and the Archdiocese from public scandal and scorn.

28. As part of its investigation into Plaintiff's report of sexual abuse by Keating, the Archdiocese engaged in extreme and outrageous conduct by communicating with a potential Keating victim by email alone with the intent of not adequately corroborating Plaintiff's account. Further, agents of the Archdiocese made conscious efforts to ensure the Review Board would not substantiate Plaintiff's accounts despite there being ample evidence on Keating in the Archdiocese's records from an earlier investigation by Father Cozzens and witnesses with information who were not confronted. These actions by the Archdiocese caused severe emotional distress to Plaintiff when the Archdiocese, knowing it had conducted a sham investigation,

contended the Plaintiff's allegations were not credible. In fact, the Archdiocese had information that the Plaintiff's allegations about Keating were consistent with past conduct by Keating.

29. Following Plaintiff's report of allegations of sexual abuse by Keating, the Archdiocese engaged in extreme and outrageous conduct when it held Keating out as a keynote speaker at an event and caused severe emotional distress to Plaintiff.

30. The Archdiocese's conduct in allowing Keating to sit on the Board of Trustees at the University of Mary after Plaintiff's report of sexual abuse by Keating was reckless and extreme and resulted in severe emotional distress to Plaintiff.

31. The Archdiocese engaged in extreme and outrageous conduct when it failed to impose its own restrictions on Keating by allowing him to mentor, counsel, and/or advise young women, by not enforcing his attendance at a priest support group, and by failing to properly monitor and supervise Keating. The Archdiocese's failure to impose and enforce restrictions on Keating caused severe emotional distress to Plaintiff.

32. Following Plaintiff's report of allegations of sexual abuse by Keating, the Archdiocese recklessly continued him in ministry with full faculties and continued to hold him out as fit and trustworthy. In addition, the Archdiocese permitted Keating to teach a semester-long program in Rome, with minimal supervision and monitoring. Plaintiff experienced extreme and severe emotional distress upon learning that Keating was unsupervised and unmonitored and that her painful account and report to the Archdiocese was deemed "unsubstantiated" and not believed.

33. Upon information and belief, Keating joined the faculty at the University of St. Thomas in St. Paul, Minnesota in 2006 and was regarded as being in good standing in that position.

34. As a direct result of the sexual abuse, Plaintiff has suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, embarrassment, loss of self-esteem, humiliation and psychological injuries, was prevented and will continue to be

prevented from performing her 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: DEFENDANT KEATING -
SEXUAL BATTERY**

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

36. In and around 1997 to 2000, Keating inflicted unpermitted, harmful, and offensive sexual contact upon the person of Plaintiff.

37. Plaintiff did not consent to the harmful bodily contact.

38. As a direct result of Keating's harmful sexual conduct, Plaintiff has suffered and continues to suffer from the injuries alleged herein.

**COUNT II: DEFENDANT ARCHDIOCESE -
NEGLIGENCE**

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

40. Defendant Archdiocese owed Plaintiff a duty of reasonable care and at all times Keating was under the direct supervision and control of the Archdiocese when he committed the wrongful acts alleged in this Complaint, when supervising Keating, and when investigating the Plaintiff's allegations about Keating.

41. Defendant Archdiocese breached the duty of reasonable care it owed Plaintiff, and Defendant Keating engaged in the wrongful conduct with the Plaintiff, while Keating acted within the course and scope of his employment as a seminarian within the Archdiocese, and accomplished his sexual abuse by virtue of his seminarian authority. The Archdiocese failed to exercise ordinary care in (a) supervising Keating, (b) in advancing him within the Archdiocese despite knowledge

that Keating had a history of misconduct with young women, and (c) in holding him out as a person fit to be with children, and (d) in investigating Keating's history.

42. The Archdiocese breached its duty in supervising and investigating Defendant Keating, and that breach was the proximate cause of Plaintiff's injuries.

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

COUNT III: DEFENDANTS ARCHDIOCESE and McDONOUGH
DEFAMATION

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

45. In 2012, Fr. Kevin McDonough, acting in his capacity as agent or employee of the Archdiocese, published false statements about the Plaintiff.

46. Those false statements were published in writing.

47. Either McDonough acted within the course and scope of his employment, as agent or employee of the Archdiocese, or he acted individually in making those false statements.

48. As an agent or employee of the Archdiocese, McDonough's false statements are the responsibility of the Archdiocese, and liability is properly found against the Archdiocese for McDonough's statements. Alternatively, if McDonough acted outside the course and scope of his employment, he properly has personal liability for his false statements.

49. It appears that McDonough acted within the course and scope of his employment, as agent or employee of the Archdiocese.

50. McDonough's published statements about the Plaintiff were that she had mental and emotional disability that gave her "delusions," falsely implying that the Plaintiff had falsely reported, to the Archdiocese, to law enforcement, and to others, the harmful and offensive

touchings by Keating that she had experienced. In reporting that the Plaintiff had falsely reported to law enforcement, McDonough accused the Plaintiff of having committed a crime. In falsely reporting that the Plaintiff had “delusions,” McDonough’s comments for the Archdiocese tend to disgrace and degrade the Plaintiff.

51. McDonough made his particular defamatory comments about the Plaintiff to a correspondent outside of Minnesota.

52. McDonough’s comments were calculated to expose the Plaintiff to public contempt or ridicule, and thus induce an ill opinion of her, and impair her in the good opinion and respect of others.

53. McDonough’s statements about the Plaintiff are libelous, and are actionable without any allegation of special damages.

54. McDonough published his comments with knowledge they were false or in reckless disregard of the falsity of his comments. In fact, McDonough and the Archdiocese knew or should have known that Keating had a history of sexually inappropriate contact with young women, and that information about Keating that had been reported to the Archdiocese had been internally manipulated to exonerate Keating despite the Archdiocese knowing that Keating had a history of inappropriate sexual contact with minor females.

55. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer severe emotional distress, including but not limited to depression, anxiety, embarrassment, loss of self-esteem, humiliation, and psychological injuries.

**COUNT IV: DEFENDANT ARCHDIOCESE-
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

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

57. Defendant Archdiocese's conduct toward Plaintiff, as described herein, was extreme and outrageous. The failures of the Archdiocese included:

- a. failing to warn the Plaintiff of Keating's known history,
- b. failing to take seriously her allegations about Keating,
- c. conducting a sham investigation into her allegations about Keating by failing to properly and thoroughly investigate the Plaintiff's allegations of sexual abuse by Keating, and
- d. in publishing false statements about her, in accusing her of a crime, and in accusing her of "delusions,"

was behavior by the Archdiocese that is extreme and outrageous.

58. The Archdiocese took those steps to cause harm to Plaintiff and her family and to protect Keating and the Archdiocese from public scandal and scorn.

59. A reasonable person would not expect or tolerate the Archdiocese's extreme and outrageous conduct toward Plaintiff. Plaintiff had great trust, faith, confidence, and reverence in the Archdiocese, which, by virtue of the Archdiocese's wrongful conduct, turned to fear.

60. Defendant Archdiocese's conduct toward Plaintiff, as described herein, was intentional and reckless.

61. A reasonable person would not expect or tolerate the Archdiocese's intentional and reckless conduct toward Plaintiff.

62. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer severe emotional distress, including but not limited to depression, anxiety, embarrassment, loss of self-esteem, humiliation, and psychological injuries.

PRAYER FOR RELIEF

63. Plaintiff demands judgment against Defendants individually, jointly, and severally in an amount in excess of \$50,000 plus costs, disbursements, reasonable attorney's fees, interest, and such other and further relief as the Court deems just and equitable.

DEMAND IS HEREBY MADE FOR A TRIAL BY JURY.

Dated: 7/11/14

JEFF ANDERSON & ASSOCIATES, P.A.



By: Jeffrey R. Anderson, #2057
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Attorneys for Plaintiff

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.

