

EXHIBITS

1. AFFIDAVIT OF STANLEY CHESLEY
2. AFFIDAVIT OF ROBERT STEINBERG
3. AFFIDAVIT OF MICHAEL O'HARA
4. AFFIDAVIT OF ANN OLDFATHER
5. DVD CONTAINING THE OFFICAL VIDEO TAPE RECORD OF THE JANUARY 9, 2006 FINAL APPROVAL HEARING
6. KENNETH FEINBERG BIOGRAPHY
7. DECLARATORY JUDGMENT COMPLAINT FILED BY DIOCESE OF COVINGTON AGAINST ITS INSURERS.
8. COMPLAINT IN INTERVENTION FILED BY CLASS COUNSEL IN THE DECLARATORY JUDGMENT ACTION ABOVE.

**COMMONWEALTH OF KENTUCKY
BOONE CIRCUIT COURT
CASE NO: 03-CI-181
JUDGE: JOHN POTTER**

JOHN DOE, et al.,

PLAINTIFFS

vs.

ROMAN CATHOLIC DIOCESE OF COVINGTON, et al.,

DEFENDANTS

**AFFIDAVIT OF STANLEY M. CHESELY IN SUPPORT CLASS COUNSEL'S
MOTION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF
EXPENSES, AND ENHANCEMENT OF CLASS REPRESENTATIVES**

I, Stanley M. Chesley, declare as follows:

1. I am an attorney in good standing, duly licensed and admitted to the Bar of the State of Ohio. I am currently President of the law firm of Waite, Schneider, Bayless & Chesley Co., L.P.A. The testimony set forth in this declaration is based on first-hand knowledge, about which I would and could testify competently in open court if called upon to do so.

2. I attended the University of Cincinnati, and obtained my B.A. in 1958, and my LL.B. in 1960 from the University of Cincinnati Law School. I was admitted to the Bar in 1960 when I joined the firm of Waite, Schneider, Bayless & Chesley Co., L.P.A. I am admitted to several federal and state bars throughout the United States including the following federal Courts of Appeal: The Supreme Court of the United States; United States Court of Appeals for the Second, Fourth and Sixth Circuits. I also am admitted to the following state bars: Member of the State of Ohio and Commonwealth of Kentucky State Courts. In addition, I am admitted to the following Federal District Courts: Ohio, Kentucky, West Virginia, Texas, New York (by invitation), Nevada, and Pennsylvania.



3. I am fortunate to be a nationally recognized trial lawyer. I understand the issues associated with complex personal injury class actions. I have served as Lead Counsel for Plaintiffs in several national personal injury class action cases. In this capacity, I coordinated discovery and conducted all pretrial matters. I have assumed lead roles in trial, settlement and post trial matters including appeals.

4. Frequently United States District Courts have appointed me to leadership roles in many of the country's largest personal injury class actions.. The appointments include:

In Re Serzone Products Liability Litigation, United States District Court for the Southern District of West Virginia, Lead Counsel;

In Re Baycol Products Liability Litigation, United States District Court, District of Minnesota, Member of the Plaintiffs' Executive Committee and Steering Committee;

In Re Sulzer Hip Prosthesis and Knee Prosthesis Liability Litigation, United States District Court, Northern District of Ohio, National Co-Chair;

In Re: Diet Drugs (Phentermine, Fenfluramine and Dexfenfluramine) Products' Liability Litigation, U.S.D.C. Eastern District of Pennsylvania, Plaintiffs' Lead Counsel and Co-Chair of Plaintiffs' Management;

In Re: Silicone Gel Breast Implant Litigation, U.S.D.C. Northern District of Alabama, MDL #926, National Co-Chairman of Plaintiffs' Steering Committee.

In Re: "Bendectin" Products Liability Litigation, U.S.D.C. Southern District of Ohio, MDL #486, Member of Plaintiffs' Management Committee and Liaison Counsel;

In Re: Bjork-Shiley "C/C" Heart Valve Litigation, (worldwide defective heart valve litigation, approximately 42,000 claimants), U.S.D.C. Southern District of Ohio, Lead Counsel and Class Counsel;

In Re: Copley Pharmaceuticals, Inc., MDL #1013 (U.S.D.C. Wyoming, Hon. Clarence Brimmer), Chairman of Plaintiffs' Lead Counsel Committee and Class Counsel; and,

In Re: Telectronics Pacing Systems, Inc. (defective pacemaker, involving approximately 40,000 claimants), U.S.D.C. Southern District of Ohio, MDL #1057, Chairman of Plaintiffs' Steering Committee.

Federal courts also have recognized my leadership skills in a variety of other complex actions including product liability,¹ antitrust,² securities fraud,³ and mass disaster.⁴

5. Courts that have reviewed my leadership role in national class action litigation generally recognize my skills and my leadership. United States District Judge Clarence Brimmer, for example, appointed me as Lead Counsel in the consolidated Albuterol Litigation.⁵ The litigation involved claims that the medication was defective. The case progressed to a national class action trial. At the close of trial, the matter settled. At the conclusion of the case, Judge Brimmer offered the following discussion of my performance as Lead Counsel.

As an overview, Mr. Chesley served as Lead Counsel, an enormous undertaking. ... As will be explained, the Court cannot understate the services of Lead Counsel and his firm in arriving at the favorable result in this case.

Lead Counsel's firm assumed a leadership role that the Court should reward. Lead Counsel played an integral part in organizing the major discovery effort, conducting discovery, and briefing discovery issues. This firm assumed responsibility for the litigation, decided delegation of

¹ See e.g., *In Re Castano Tobacco Litigation*, (Lead counsel for settlement negotiations and member of the Executive Committee)

² See e.g., *In Re Microsoft Corp. Litigation*, United States District Court, District of Maryland (Co-Chair).

³ See e.g., *In Re Federal Home Loan Mortgage Corporation*, United States District Court, Northern District of Ohio, and United States District Court Southern District of New York, Plaintiffs' Lead Counsel; *In Re: Fannie Mae Securities, Shareholder Derivative, and ERISA Litigation*, United States District Court, Southern District of Ohio, and United States District Court for of District of Columbia, Plaintiffs' Lead Counsel for securities fraud claims; and, *In Re Dayton, Power & Light Litigation*, United States District Court, Southern District of Ohio at Dayton, Plaintiff's Lead Counsel, settled for \$145 Million.

⁴ See e.g., *In Re: USAir Flight #405 Aircrash Disaster at New York's LaGuardia Airport*, U.S.D.C. Northern District of Ohio, MDL #936, Chairman of Plaintiffs' Steering Committee; *In Re: Northwest Air crash Litigation, Flight #255*, Detroit, Michigan, U.S.D.C. Eastern District of Michigan, MDL #742, Member of Plaintiffs' Lead Counsel Committee, *In Re: MGM Grand Hotel Fire Litigation*, U.S.D.C. District of Nevada, MDL #453; Member of the Executive Committee of the Plaintiffs' Lead Counsel Committee; and, *In Re: Beverly Hills Supper Club Fire Litigation* (165 deaths and numerous injuries), U.S.D.C. Eastern District of Kentucky, Plaintiffs' Class Lead Counsel.

⁵ *In re Copley Pharmaceutical, Inc., Albuterol Products Liability*, 50 F.Supp.2d 1141 (D. Wyoming 1999) (MDL-1013). See *In re Telectronics Pacing Systems, Inc.*, 137 F.Supp.2d 1029, 1043-45 (S.D. Ohio 2001) (discussing the quality of work performed by Lead Counsel in litigation concerning defective pacemaker leads).

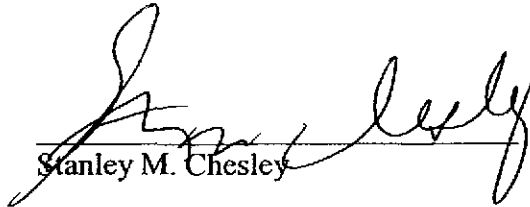
responsibilities and otherwise assumed a management role in assuring that class counsel properly handled all work. This firm also handled the briefing and arguing for class certification, motions to stay pending the grand jury investigation, and various discovery hurdles. During the 42-day trial, Lead Counsel's firm... presented the testimony and conducted all the cross examination of all witnesses ... Lead Counsel's firm handled all motions in limine and assumed overall responsibility for the trial. Mr. Chesley negotiated the settlement...

6. Based on my experience and the circumstances of this litigation, I believe that the fee request of 30% of the common fund that Class Counsel is reasonable. Class Counsel undertook this case knowing that the outcome of the litigation might be unfavorable. Class Counsel, nonetheless, devoted their scarce resources to the litigation. Class Counsel, for example, advanced in excess of \$1 million. Class Counsel was willing to assume this risk because we understood that the law encourages courts to consider the opportunities that Class Counsel gave up to pursue the litigation. Here, the case offered Class Counsel with the potential of earning a fee that reflected the less risky opportunities that decided to reject in order to accept this case. Without the reasonable expectation of an enhancement that reflected the risk, Class Counsel likely would have declined the opportunity to pursue this case.

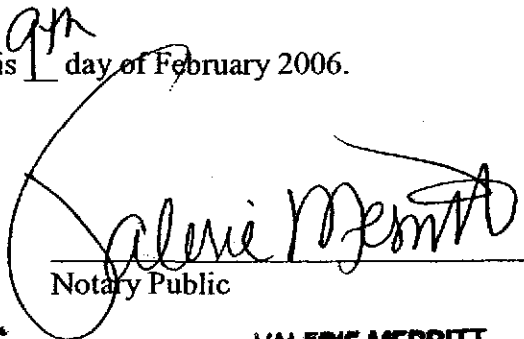
7. To date Class Counsel has advanced \$1,068,350.42 to cover the expenses of the litigation. Waite, Schneider, Bayless & Chesley Co., L.P.A. has advanced \$1,062,410.60, the law firm of O'Hara, Ruberg, Taylor, Sloan & Sergent has advanced \$1,519.57, and the law firm of Oldfather and Morris have advanced \$4,420.25. I have attached as Exhibit "A" to this affidavit a true and accurate breakdown of the expenses each law firm has advanced for the benefit of the class.

8. I fully anticipate that class counsel will continue to devote substantial time and resources on this matter for several additional years. Class Counsel's involvement in the case will not end until the claims process is complete and the two special funds are exhausted. Throughout the claims process, Class Counsel will have the responsibility to assist members of the class make claims and to assist the Court and Special Master. The personal nature of the claims requires Class Counsel to provide substantial individual attention to each member of the class. Virtually every class member has requested assistance from class counsel in completing and processing their claims. This future commitment of time and resources is another factor that supports Class Counsel's request for a 30% fee.

FURTHER AFFIANT SAYATH NAUGHT

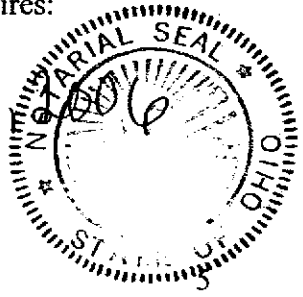

Stanley M. Chesley

Sworn to and subscribed to before me this ^{9th} 1 day of February 2006.


Notary Public

My Commission Expires:

July 11



VALERIE MERRITT
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 07-11-06

**JOHN DOE, et al. v. ROMAN CATHOLIC
DIOCESE OF COVINGTON, et al.
BOONE COUNTY CIRCUIT COURT
CASE NO. 03-CI-181**

EXPENSES

FIRM	DESCRIPTION	AMOUNT
Waite, Schneider, Bayless & Chesley Co., L.P.A.	Court Cost	168.76
	Expert/Consultants	418,145.44
	Media Advertising	503,109.76
	Phone Messaging Service	3,129.19
	Medical	5,510.10
	Federal Express	1,647.05
	Meeting Expenses	8,084.95
	Travel & Lodging	5,025.40
	Investigative	41,697.96
	Outside Copy/Labor Costs	17,878.40
	Conference Calls/Cellular Phone Charges	2,175.48
	Mileage/Parking	941.11
	Postage (monthly)	692.56
	Court Reporters	4,680.95
	Witness/Service Fees	1,329.27
	Miscellaneous	12,850.57
	Facsimile (monthly)	2,643.50
	In House Copying (monthly)	32,699.55
	WAITE, SCHNEIDER, BAYLESS & CHESLEY TOTAL:	\$1,062,410.60

FIRM	DESCRIPTION	AMOUNT
O'Hara, Ruberg, Taylor, Sloan & Sergent	Mileage/Parking	211.12
	Court Reporters/Depositions	375.00
	Computer Research	460.95
	Medical Records	120.00
	Filing Fees	352.50
	O'HARA, RUBERG, TAYLOR, SLOAN & SERGENT TOTAL:	\$1,519.57
Oldfather & Morris	Inside Copying	323.20
	Outside Copying	5.29
	Computer Research	1,156.21
	Long Distance Charges	54.86
	Facsimile Charges	320.50
	Photographs/Videos	40.00
	Mileage/Parking	17.00
	Supplies	29.20
	Travel & Lodging Expenses	2,076.39
	Federal Express	114.10
	Postage	3.50
	Witness/Subpoena Fees	280.00
	OLDFATHER & MORRIS TOTAL:	\$4,420.25
	TOTAL EXPENSES:	\$1,068,350.42

**COMMONWEALTH OF KENTUCKY
BOONE CIRCUIT COURT
CASE NO: 03-CI-181
JUDGE: JOHN POTTER**

JOHN DOE, et al.,

PLAINTIFFS

vs.

ROMAN CATHOLIC DIOCESE OF COVINGTON, et al.,

DEFENDANTS

AFFIDAVIT OF ROBERT A. STEINBERG

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

Robert A. Steinberg, being first duly cautioned and sworn, hereby states as follows:

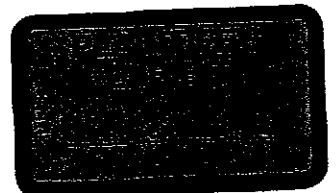
1. My current law practice involves complex litigation, negotiation, and dispute resolution, including: multi-district litigation, class action litigation, major tort litigation, antitrust litigation, employment discrimination litigation, ERISA litigation, and shareholders litigation, providing private mediation services, and negotiation for displaced executives.

2. My past law practice includes:

Private practice as a member of Waite, Schneider, Bayless & Chesley Co., L.P.A. (1996-present)

United States Magistrate Judge, U.S. District Court, S.D. Ohio (1978 - 1996), where my duties included:

- Presiding over trial of civil jury and non-jury federal cases;
- Trial Judge by consent of the parties for approximately 15 federal cases per year on average; and
- Mediation of more than 50 federal civil cases per year on average.



Senior Assistant United States Attorney, U.S. District Court, S.D. Ohio (1968 - 1978), where my duties included:

- Trial counsel in over 200 federal criminal and civil cases and appeals;
- Supervised Dayton and Cincinnati, Ohio U.S. Attorneys offices;
- Served on assignment by the U.S. Justice Department in various districts;
- Specialized in organized crime and tax evasion cases;
- Represented federal agencies in the defense of a wide variety of civil litigation, including mass tort cases;
- Participated in drafting major revision of the U.S. Criminal Code on special assignment in Washington, D.C.

Law Clerk, U.S. District Judge David S. Porter, S.D. Ohio (1967 - 1968)

3. During the last ten years of private practice, I have engaged in the following national and major regional litigation and matters:

Co-Lead Counsel, *Doe v. Diocese of Covington, Kentucky*, Boone Circuit Court, Commonwealth of Kentucky (class action suit relating to sexual abuse of minors by priests of the Diocese).

Lead Counsel, *Haas v. Behr Dayton Thermal Products, Inc.*, U.S.D.C., S.D. Ohio (class action case relating to failure to pay overtime to supervisory officials)

Co-Lead counsel, *Proctor & Gamble v. Hoffman LaRoche, et al.*; U.S.D.C. District of Columbia, U.S.D.C. S.D. Ohio; states of Ohio, Kentucky, Indiana, California, Arizona, Wisconsin (multi-district litigation antitrust action against international vitamins manufacturers and distributors known as the Vitamins Antitrust Litigation). This case is the largest antitrust litigation ever brought in the United States.

Lead Counsel, *HusVar v. Mosler, Inc.*, U.S.D.C., S.D. Ohio, Sixth Circuit Court of Appeals, Delaware Bankruptcy Court (shareholders class action litigation involving 3,200 class members)

Lead Counsel, *Hoffman v. Honda of America Manufacturing, Inc.*, U.S.D.C. S.D. Ohio. (gender discrimination class action on behalf of 5,000 female employees),

Committee Chair and Class Counsel, *In Re Commercial Explosives Antitrust Litigation*, U.S.D.C., D. Utah, U.S.D.C., E.D. Ky. (multi-district litigation antitrust class action against international commercial explosives manufacturers)

Lead Counsel, *Schafstall v. Shoney's, Inc.* and *Beltrame v. Shoney's, Inc.*, U.S. Court, Middle District Tennessee (ERISA, breach of contract and shareholder's litigation by former Shoney's officials)

Lead counsel, *Hildebrandt v. Hyatt Hotel Corporation*, U.S.D.C., S.D. Ohio and *Aylward, et al. v. Hyatt Corp.*, U.S.D.C., N.D. Ill. (employment litigation relating to national reduction in force)

Trial counsel, *Wallace v. B.J. Alan Co., et al.*, U.S.D.C. S.D. Ohio, Ohio Court of Claims, Ohio Tenth District Court of Appeals, Ohio Supreme Court (major tort litigation involving fire disaster resulting in numerous deaths)

Trial Counsel, *Romstadt v. Apple Computer* (class action litigation regarding unfair consumer practices) U.S.D.C., N.D. Ohio.

Over 70 private mediations relating to various issues in cases pending in various courts and in disputes.

4. I have the following bar memberships:

- United States Supreme Court
- State of Ohio
- United States Court of Appeals for the Sixth Circuit
- United States District Court for the Southern District of Ohio
- United States District Court for the Northern District of Ohio

I have also practiced law on admission pro hac vice in the states of Kentucky, Tennessee, California, Pennsylvania, Utah, Maryland, Louisiana, and in the District of Columbia.

5. I have been a member of the following professional associations and organizations:

- Adjunct Professor, University of Cincinnati Law School teaching trial practice;
- Adjunct Professor, University of Dayton Law School teaching Trial Practice, Evidence, Professional Responsibility, Criminal Constitutional Law and Criminal Law;
- National Vice President, Federal Bar Association;
- President, Cincinnati Chapter, Federal Bar Association;
- President, Dayton Chapter, Federal Bar Association;
- Member, Magistrate Judge Advisory Group to Administrative Office of U.S. Courts (one of six judges chosen nationally);
- Member, National Council of Magistrate Judges;

- Instructor, Federal Judicial Center;
- Life Member, United States Court of Appeals for the Sixth Circuit Judicial Conference;
- Member, United States Court of Appeals for the Sixth Circuit Steering Committee for Gender/Race Fairness Task Force;
- Master of the Bench, Potter Stewart Inn of Court;
- Member, Southern District of Ohio Rules Committee;
- Member, Southern District of Ohio Civil Justice Reform Act Advisory Committee;
- Advisor, United States Attorney General's Advocacy Institute;
- Member, American Bar Association, Ohio Bar Association, and Cincinnati Bar Association

6. During my career, I have conducted one hundred and seventy-seven legal seminars on subjects including Trial Practice, Federal Courts, Civil Rights, Employment Discrimination, Class Actions, Multidistrict litigation, Evidence, and Mediation.

7. My educational background includes the following degrees: The Ohio State University, Bachelor of Arts, 1964; The Ohio State University School of Law, Juris Doctor 1966.

8. The following statements regarding the history of this case are based on first-hand knowledge (unless otherwise indicated) gained from my participation in this case as a Class Counsel:

The relationship between Class Counsel and the class members in this case has lasted more than three years and likely will continue for years into the future until all claims are resolved and the two special funds are exhausted. That relationship began in the late fall of 2002, when investigation into the facts relating to this case began. Initially, on December 20, 2002, an individual complaint was filed with this Court, which was later consolidated with this case.¹ Through this initial filing, the Court ordered the Diocese to produce its secret archives subject to a protective order.

By obtaining this information, Class Counsel instituted an extensive independent investigation that resulted in counsel obtaining evidence supporting the claims made in this litigation. Class Counsel quickly retained psychiatric experts with special experience in child sexual abuse to educate them and help them in communicating with potential class members, because many of them are in fragile emotional states.

Based on their extensive class action and complex litigation experience,

¹ *Fischer v. Roman Catholic Diocese of Covington*, Case No. 02-CI-01797, Boone County, Kentucky Circuit Court.

Class Counsel determined that a class action lawsuit was the proper vehicle to preserve and pursue the class members' claims. A class action would allow the Court to focus on the decades-long pattern of conduct by the Diocese that permitted and encouraged such sexual abuse of minor boys and girls while at the same time it would allow the class members' identities to remain confidential. Therefore, the instant case was filed on February 3, 2003. The Defendants were represented by Deters, Benzinger & LaVelle, P.S.C., one of the largest and most respected firms in Kentucky. In the summer of 2003, the Defendants retained an additional law firm to aid in its defense, Mayer, Brown, Rowe & Maw, LLP of Chicago, Illinois, one of the largest and most respected firms in the country.

The prosecution of this case required a tremendous investment of time and expenses, as outlined at the Final Approval Hearing held on January 9, 2006. Counsel from the three firms literally spent thousands of hours investigating, reviewing documents, taking depositions, issuing subpoenas, litigating, preparing for trial, and negotiating the settlement of this case.

Despite the great difficulty encountered by abuse victims in coming forward, many hundreds of potential class members contacted Class Counsel. Class Counsel conducted personal interviews of more than 500 potential class members. Many of these individuals were interviewed two or more times. Interviews were followed by intensive investigation of class Members' circumstances, including verification of events, collecting documentation, issuing subpoenas where necessary, arranging for professional investigations where necessary, and obtaining expert evidence. Additionally, Class Counsel sponsored and conducted numerous confidential group meetings of class members during the last three years. Currently, Class Counsel and their staffs receive and respond to numerous contacts per day from victims; these contacts are expected to continue throughout the claims process.

During the litigation phase of this case WSBC attorneys Stanley Chesley, Robert Steinberg, Fay Stiliz, James Cummins, Louise Roselle, Paul DeMarco, Terrence Goodman, and Renee Infante, along with Class Counsel Michael O'Hara, performed a variety of legal work, including legal research, discovery, interviews of potential class members, financial investigations, and drafting legal briefs. All told, WSBC organized the services of 26 attorneys and legal experts to perform work on this case. Numerous law clerks and attorneys in each of the Class Counsel law firms were assigned legal research projects relating to this case.

To properly prepare this case for an anticipated trial, Class Counsel cataloged and copied over 50,000 documents (including 16,886 documents of the Diocese of Covington and the Diocese of Lexington), Class Counsel created several complex searchable computer databases using specialized computer software programs. The Official Catholic Directory, published by P.J. Kenedy &

Sons, 890 Mountain Ave., Suite 4, New Providence, N.J. 07974, was examined for the histories of all priests, churches, and schools within the Diocese of Covington for each year from 1950 forward. In addition, the assignment histories of each priest known to be accused of sexual abuse was obtained from the Official Catholic Directory. These data were optically coded by computer experts into a searchable database, which can be accessed by appropriate computer queries. All information received from each victim was also coded into a searchable computer database so that it can be cross-referenced with the priest information. The extensive computer data files can be searched to find common patterns and similar conduct by priests toward victims who have no connection with each other. Documents and other evidence submitted by victims are used to corroborate information provided by other victims. WSBC staff was specially trained by expert consultants to enter and retrieve information from the computer databases.

Chronologies of each accused priest were individually prepared by WSBC staff. A detailed sexual abuse history of each identified abuser is being prepared for the claims process. Thousands of documents obtained from victims, including school records, yearbooks, photographs, letters, cards, and other documents were catalogued and filed for ready retrieval. Medical authorization forms were sent to each victim who has received mental health care. These forms were processed by WSBC paralegals.

Many hours were spent in consultation with experts on Canon Law and internal Catholic Church procedures.

Many hours were spent on analyzing all of the many annual insurance policies issued by the Defendants' insurers over decades and consultant with insurance coverage experts on legal issues relating to insurance coverage.

Class Counsel retained, on behalf of the class, a legal expert with a Master's Degree in taxation, to provide a formal written opinion to each Class Member regarding the taxability of a settlement award in this case.

Class Counsel retained highly qualified statistical analysis experts to estimate the number of victims who were potential class members in this case. In the year 2004, they estimated that several thousand class members might exist in the Covington Diocese.

Class Counsel retained highly qualified real estate appraisal experts to examine and appraise each property belonging to the Defendants as well as real estate title attorneys to conduct examinations to be certain all properties were disclosed.

Class counsel thoroughly examined the financial records of the Covington Diocese and of the Catholic Mutual Insurance Company.

Class Counsel's extensive discovery also included:

- investigation and document review that preceded the drafting the of the Complaint and the Amended Complaints;
- Contacts with, including private interviews and formal subpoenas, all local and state police agencies and the Kentucky Cabinet for Families & Children to locate abuse complaints against priest and other affiliates of the Covington Diocese;
- drafting and issuing 8 sets of extensive formal Document Requests and 5 sets of extensive Interrogatories to the Defendants;
- legal research, briefing and drafting motions to compel the Diocese to produce information;
- reviewing and cataloguing Defendants' answers to the Document Requests and Interrogatories;
- obtaining and reviewing the deposition testimony of Covington Diocese representatives in earlier sexual abuse cases in Kentucky and other states, including New Mexico;
- reviewing the entire record of the 1993 Sexter trial against the Diocese, including the testimony of all Diocesan officials
- legal research, briefing and drafting motions to issue Commissions for out-of-state depositions;
- retaining experienced investigators to dig out information, including former FBI agents, former Kentucky State police detectives, and local police officers;
- issuing numerous subpoenas to individuals, organizations, and governmental agencies to assist in gathering the facts necessary to prosecute this case;
- conducting and videotaping numerous confidential depositions of priests accused of child sexual abuse;
- Conducting over 700 interviews of witnesses, victims, and public officials;
- Obtaining supporting documentation for Class Member's claims, where available, including school, church, orphanage, and medical records.

- Preparing for two-phase class trials, including the drafting and filing of three detailed trial briefs;
- arguing a wide variety of legal issues;
- interview of experts, and study of expert reports;
- extensive communications with class members in person, via mail, via email, via telephone, and via Internet site;
- creation and maintenance of an Internet website for the litigation phase of the case and for the settlement phase of the case;
- creation and maintenance of a toll-free telephone service that continues to this date;
- drafting, organizing, and publishing national, regional, and local notice of the class action certification;
- drafting, organizing and publishing national, regional, and local notice of the class action settlement;
- distributing, collecting and processing two phases of Opt Out Forms;
- distributing, collecting and processing all Census Forms; and
- distributing and assisting class members in the completion of all Claim Forms.

In addition, much of the work occurred in a contentious environment. As the Court noted in its Order approving the Settlement, the parties engaged in hard-fought settlement negotiations. These negotiations began in June 2004 and lasted more than one year. However, prior to entering into settlement negotiations, the parties engaged in difficult and contentious motion and discovery practice. On several occasions, the Court ruled that trial would proceed and instructed the parties to file trial briefs. Class Counsel filed detailed trial briefs on February 25, 2004, March 31, 2004, and February 16, 2005. During most of 2003, 2004, and part of 2005, Class Counsel engaged in active trial preparation as well as in mediation negotiations.

Mediation proceedings in this case began in June 2004. The parties selected Kenneth Feinberg, managing partner and founder of The Feinberg Group, Washington, D.C. as mediator. Mr. Feinberg, an attorney, is one of the nation's leading experts in mediation and alternative dispute resolution. Among his many excellent qualifications is his appointment by the Attorney General of

the United States to serve as the Special Master of the Federal September 11th Victim Compensation Fund of 2001.

Numerous meetings of the principals as well as representatives of Catholic Mutual Relief Society of America (Catholic Mutual)² took place during the mediation period. The meetings were often contentious and negotiations were hard-fought. During this process, Class Counsel performed due diligence examinations of the financials of the Covington Diocese and of Catholic Mutual. All pertinent Catholic Mutual insurance policies were turned over to Class Counsel and examined by insurance experts retained by Class Counsel. Class Counsel also retained highly qualified professional appraisers and title attorneys to locate, catalogue, and value real estate owned by the Diocese.

This difficult, lengthy, and careful process resulted in a settlement on May 17, 2005. Following meetings with the Court, the settlement was supplemented by the parties on July 18, 2005. The heart of the settlement is a carefully designed matrix containing four categories of injuries and a range of payment for each category. As this Court observed, the use of categories based on the abuse suffered "is the only feasible method" to compensate class members. These categories and payment amounts were arrived at by examining verdicts and settlements made in similar individual cases in Kentucky and throughout the country. In connection with the highest two categories, there are is an additional fund available for those who have extraordinary injuries. The parties, with the Court's approval and guidance, also created two special funds: one to pay the costs of mental health treatment and medication of any victim of sexual abuse by a person employed by or under the supervision of the Diocese, whether or not that person is eligible to participate in the settlement; the second to allow persons born after October 21, 1985, who were abused as minors, to file a claim by their 23rd birthday, in order to account for their inability to come forward at this time.

The settlement, however, did not mark the end of difficult settlement negotiations. Because the contribution of the Diocese insurers was insufficient, it became necessary for the Diocese to file a declaratory judgment lawsuit against them. This lawsuit was filed on May 26, 2005 in this Court and subsequently removed to the United States District Court for the Eastern District of Kentucky. Class Counsel promptly filed a Motion To Intervene and a Complaint In Intervention to protect the rights of the class. Thereafter, a second series of contentious, hard-fought settlement negotiations began with the two insurers, Catholic Mutual and American Insurance. These negotiations lasted through the end of 2005 and continued up through the day of the Final Approval Hearing on January 9, 2006. Accord was finally reached when the parties and Catholic Mutual signed a Memorandum Of Understanding at 9:45 a.m. on January 9, 2006. This document and the summary agreement with American Insurance were presented to the Court at the January 9, 2006 hearing.

² The Covington Diocese also carried insurance for a 12-month period in 1966-67 from the American Insurance Company.

As noted by the Court in its Final Approval Order of January 31, 2006, the settlements with the insurers provide assets of approximately \$85 million to be placed in an escrow fund for the benefit of the class members to fund the parties' settlement agreement and settlement matrix.

Very extensive due process notices were designed, drafted, and published by class counsel pursuant to court order. The first notice was of the class certification and of the right of class members to opt out by the deadline of January 31, 2004. This notice was published numerous times nationally, regionally, and locally between October 31, 2003 and December 19, 2003. It was published in the major newspapers in Lexington, Ky., Louisville, Ky., Covington, Ky., and Cincinnati, Oh., as well as in the national newspaper USA Today. It was also published in 20 daily and 90 weekly Kentucky newspapers in all 118 counties in Kentucky. An opt out form was available in the newspaper notices as well as on the class litigation website. Class counsel financed the cost of this publication notice, which was \$234,574.

Following the Court's preliminary approval of the settlement, Class counsel followed and exceeded the Court's specific notice requirements. The notice publications included:

- 141 separate publications of the newspaper notice nationally, regionally, and locally beginning July 22, 2005 and ending August 25, 2005;
- 213 publications of the television notice beginning August 15, 2005 and ending August 28, 2005 on major television stations in Bowling Green, Ky., Lexington, Ky., Louisville, Ky., and Cincinnati, Ohio;
- 523 publications of the radio notice beginning October 10, 2005 and ending October 30, 2005 on radio stations in Bowling Green, Ky., Lexington, Ky., Louisville, Ky., and Cincinnati, Ohio;
- Additional newspaper publications in the Sunday edition of eight regional newspapers on October 30, 2005.

Class counsel financed the cost of this settlement notice publication notice, which was \$244,018.

In addition to the personal communication with class members set forth above, Class Counsel made a great effort to provide further lines of communication with potential class members and to keep them informed. Beginning in January 2004 and continuing through January 28, 2005, Class Counsel have hosted numerous confidential group meetings for class members at various locations. Class Counsel have also conducted confidential meetings

with class members at the Boone Circuit Court after hearings. To the credit of the class members, none of them have breached the confidentiality of these meetings.

Class Counsel also maintained a litigation website dedicated only to this case for the benefit of class members, which contained detailed information about the case, copies of pleadings, answers to questions, and updates on the latest events in the case; 31,288 individual visitor sessions were made to this website between December 19, 2003 and July 21, 2005, an average of 53 visitor sessions per day.

Class Counsel continue to maintain a settlement website that publishes questions and answers covering all subjects in the Long Form Notice, as well as Latest Updates on the case. It enables a visitor to download a copy of the Court's Preliminary Approval Order, the Memorandum of Understanding, the Long Form Notice, and the Confidential Census Form. From July 22, 2005 to February 5, 2005, there have been 9,476 individual visitor sessions on the website, an average of 47 visitor sessions per day.

Beginning in July 2005, Class Counsel maintained and monitored a confidential toll-free telephone service dedicated only to this case. Class Counsel personally responded to all callers who identified themselves. Class Counsel sent them copies of the Long Form Notice advising them of their rights and a Census Form. In addition, there were numerous calls made directly to the WSBC switchboard.

Class Counsel also mailed Long Form Notices to every person who left contact information with the toll-free service and to every person who filed a Census Form. In addition, Class Counsel provided the Diocesan Chancellor with Long Form Notices and envelopes to mail to those calling the Diocese. The Long Form Notices, approved by the Court, provided all necessary information on this case. They also referred the recipient to the settlement website maintained by Class Counsel for the benefit of class members.

Although the Court approved the settlement, Class Counsel's involvement in the litigation is far from over. The settlement requires Class Counsel to remain actively involved in the claims process. Indeed, Class Counsel currently are devoting hundreds of hours to assisting the class members in preparing, documenting, and submitting their claims.

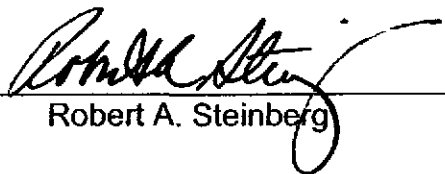
Aside from the thousands of hours that Class Counsel have devoted to the case, they advanced over one million dollars to the litigation. See Ex. 1, Affidavit of Stanley Chesley. The out-of-pocket costs include: costs related to experts, discovery, depositions, and class notice. *Id.* Class Counsel assumed the cost of issuing a due process notice to the class twice, which alone totaled \$478,592.00.

Class Counsel achieved its result pursuant to the deadlines set by the Court and within the time limitations imposed by the Court.

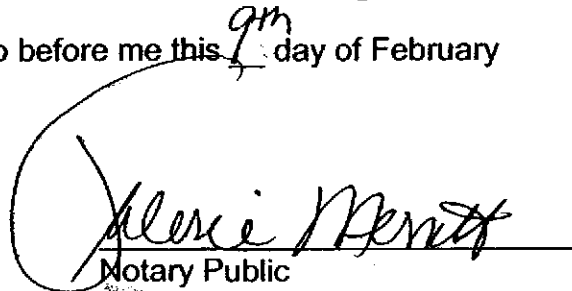
Class Counsel will not complete their representation until the entire claims process and any potential appeals are complete. In connection with the claims process, Class counsel has met and continues to meet with and interview in detail virtually every Class Member who has submitted a claim. The purpose of these meetings is to assist each class member complete the claim forms, to assist those who need to be appointed legal representatives for deceased victims by processing their appointments through the appropriate probate courts, and to give them legal advice about how to handle their monetary recovery. Individual contact with every class member is very unusual in the typical class action case, where class members are both literally and figuratively absent.

Perhaps more importantly, Class Counsel has developed a close professional relationship with each Class Member that has met with Class Counsel. Based on the extensive experience that Class Counsel has in personal injury and complex class action litigation, the professional bond created in this case between class members and Class Counsel is unique and extraordinary satisfying. Most class members have expressed their gratitude to Class Counsel for creating a forum where they could come forward without being identified and discuss one of the most sensitive issues of their lives.

FURTHER AFFIANT SAYETH NAUGHT.


Robert A. Steinberg

Sworn to and subscribed to before me this ^{9th} day of February 2006.


Notary Public

My Commission Expires:



VALERIE MERRITT
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 07-11-06

**COMMONWEALTH OF KENTUCKY
BOONE CIRCUIT COURT
CASE NO: 03-CI-181
JUDGE: JOHN POTTER**

JOHN DOE, et al.,

PLAINTIFFS

vs.

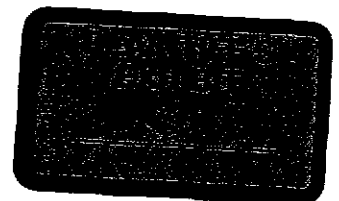
ROMAN CATHOLIC DIOCESE OF COVINGTON, et al.,

DEFENDANTS

**AFFIDAVIT OF MICHAEL O'HARA IN SUPPORT
OF AWARD OF ATTORNEY FEES**

Comes the affiant, Michael J. O'Hara, after being duly cautioned and sworn, states as follows:

1. My name is Michael J. O'Hara. I received my Juris Doctor degree from the University of Kentucky in December of 1974. I was admitted to the practice of law in the Commonwealth of Kentucky in May of 1975 and to the practice of law in the State of Ohio in May of 1981. I also have been admitted to the following Courts: United States Court of Appeals for the Sixth Circuit (1976); United States District Court for the Southern District of Ohio (1981); United States District Court for the Eastern District of Kentucky (1975); and the United States District Court for the Northern District of New York (1991). I have been Litigation Director for the Northern Kentucky Legal Aid Society (approximately 1978-1980) and Litigation Coordinator for the Legal Aid Society of Cincinnati (approximately 1980-1986) before joining my current law firm. I am presently a partner in the law firm of O'Hara, Ruberg, Taylor, Sloan & Sergent and have been a member of that firm since February of 1986.



2. My professional affiliations include membership in the following organizations: the Federal Bar Association, the Cincinnati Bar Association, the Northern Kentucky Bar Association, the Kentucky Bar Association, the American Bar Association, the Association of Trial Lawyers of America, the National Employment Lawyers Association, and the Kentucky Employment Lawyers Association.

3. I estimate that over 60% of my practice with my firm has involved civil rights litigation in Kentucky and Ohio under federal and state statutes, including litigation under 42 U.S.C. §1983, and employment discrimination litigation under Title VII to the Civil Rights Act of 1964 and KRS 344.450. I have also regularly lectured at CLE programs on various topics related to civil rights litigation. Representative civil rights litigation in which I have acted as lead or co-counsel includes: *E.J. v. Hamilton County, Ohio*, 707 F.Supp. 314 (S.D. Ohio 1989) (§1983 action to recover damages for children sexually abuse on county foster care facility) ; *Bishop v. Reagan-Bush '84 Committee*, 635 F.Supp. 1020 (S.D. Ohio 1986), *rev'd* 819 F.2d 289 (Table), 1987 WL 35970 (6th Cir. 1987) (reversing dismissal of First Amendment claim); *Young v. Whitworth*, 522 F.Supp. 759 (S.D. Ohio 1981) (federal habeas corpus proceeding challenging state's refusal to appoint counsel for indigent defendants charged with contempt of court). *Flagner v. Wilkinson*, 241 F.3d 475 (6th Cir. 2000) (First Amendment challenge to prison regulation). The majority of the balance of my practice involves representing plaintiffs and defendants in personal injury actions, including medical malpractice, products liability and other types of personal injury

litigation. More recently my practice has included representation of death row inmates in complex federal habeas corpus proceedings in Ohio.

4. I was lead trial counsel in Kenton Circuit Court and lead counsel on appeal in the case of *Diocese of Covington v. Secter*, Ky. App., 966 S.W.2d 286 (1998), the controlling case in the Commonwealth of Kentucky on the application of statute of limitations tolling principles in clergy sexual abuse cases.

5. Over the course of my career, I have acted as lead or co-counsel in more than a dozen lawsuits that were prosecuted as class action suits, including actions brought under Federal Rules 23(b)(2) and 23 (b)(3). I have been both lead and co-counsel in class action litigation including challenges to conditions in jails in Cincinnati and Northern Kentucky and other civil rights actions which addressed unconstitutional practices of governmental agencies. (See, for example, *Doe v. Staples*, 706 F.2d 985 (6th Cir. 1983) (§1983 due process class challenge to state child removal procedures); *Crawley v. Hamilton County Comm'rs*, 744 F.2d 28 (6th Cir. 1984) (class challenge under 42 U.S.C. §1983 to unconstitutional jail conditions); *Mastin v. Fellerhoff*, 526 F. Supp. 969 (S.D. Ohio, 1981) (class challenge under 42 U.S.C. §1983 to state's refusal to appoint counsel for indigent defendants in contempt proceedings) and *Roe. Staples*, C-1-83-1704 (S.D. Ohio) (pending class action enforcing settlement in case brought under 42 U.S.C. §1983 which challenged county and state's failure to provide adequate services to families of dependant and neglected children).

6. The total expenses incurred by our firm in this litigation are \$1,519.57. Other than myself, six other attorneys with my firm assisted at some

point in the course of this litigation, in addition to several paralegals and law clerks.

7. Our firm has assumed responsibility for setting up probate appointments for class members who have passed away or require the appointment of personal representatives due to incompetency. Our firm will continue to assist in those probate matters through final settlement for the claimants and their families. Additionally, we will be expending substantial time in assisting class members in preparation and processing of claims. We anticipate that at least three lawyers from our firm will be working on these post settlement tasks.

FURTHER THE AFFIANT SAYETH NAUGHT.


MICHAEL J. O'HARA

COUNTY OF KENTON

STATE OF KENTUCKY

Sworn to and subscribed in my presence by Michael J. O'Hara, this 9th day of February, 2006.


NOTARY PUBLIC

My Commission Expires: 1/23/07

**COMMONWEALTH OF KENTUCKY
BOONE CIRCUIT COURT
CASE NO: 03-CI-181
JUDGE: JOHN POTTER**

JOHN DOE, et al.,

PLAINTIFFS

vs.

ROMAN CATHOLIC DIOCESE OF COVINGTON, et al.,

DEFENDANTS

AFFIDAVIT OF ANN B. OLDFATHER

Comes the Affiant, Ann B. Oldfather, after first being duly sworn, and states as follows:

1. I am a member of the Kentucky Bar, and I am admitted to practice before the United States Supreme Court and multiple federal circuit and district courts. I have attached a current copy of my curriculum vitae.

2. I was one of the three Class Counsel for the settlement class of two hundred and forty three (243) claimants in the case styled Michael J. Turner, et al. vs. Roman Catholic Bishop of Louisville, et al., No. 02-CI-02903 Division 15 (Consolidated For Discovery In Division Two (2)) Jefferson Circuit Court, Jefferson County, Kentucky (sometimes referred to as "In re: Roman Catholic Bishop Of Louisville, Inc."). My partner, Douglas H. Morris, was another Class Counsel, and a third attorney in our firm, along with other staff members, also worked on the matter.



3. The total amount paid in settlement of all claims of those two hundred and forty three (243) claimants was Twenty Five Million Seven Hundred Thousand Dollars (\$25,700,000).

4. There were approximately ten claimants who filed objections with the court to the fee award sought by class counsel. The trial court overruled those objections and specifically rejected the request of the objectors that class counsel's fee be calculated based on the "Lindy lodestar" method which focused on hours worked as opposed to the contingency percentage approach.

5. Class counsel presented expert testimony through Edmund "Pete" Karem and Gary Weiss that a contingency fee of Forty Percent (40%) was well within the reasonable fee for this type of case, given the market fees generally charged, the risks involved, the complexity of the case and the skill and standing in the community of class counsel.

6. The trial court awarded class counsel a fee equal to forty percent (40%) of the amounts recovered by the clients whom they represented and those claimants who had no private counsel (holding that a 40% contingency award constituted and "reasonable fee" as to those claimants).

7. Oldfather & Morris has incurred a total of \$4,420.35^{in out of pocket expenses} as of December 31, 2005, in the instant litigation.

Further the Affiant sayeth naught.

Feb 9, 2006

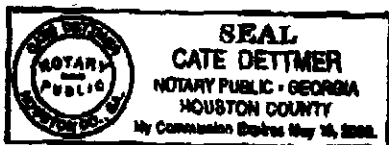
Date

Ann B. Oldfather

Ann B. Oldfather

STATE OF *Georgia*)
COUNTY OF *Bibb*)

Subscribed and sworn to before me, the undersigned Notary Public, by Ann B. Oldfather this 9th day of February, 2006.



Cate Dettmer

NOTARY PUBLIC, State-at-Large

My commission expires:

5/10/09

ANN B. OLDFATHER**CURRICULUM VITAE**

Office:

Oldfather & Morris
 1330 South Third Street
 Louisville, KY 40208
 (502) 637-7200
 (502) 637-3999 (fax)
 aoldfather@omky.com

Home:

5811 Orion Road
 Louisville, KY 40222
 (502) 326-0844

Employment (post graduate school)

Wyatt, Grafton and Sloss, associate,	1976-1980
Wyatt, Tarrant and Combs, associate,	1980-1982
Wyatt, Tarrant and Combs, partner, 2800 Citizens Plaza, Louisville, KY 40202	1982-1984

Ann B. Oldfather, solo practitioner	October, 1984-1985
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Oldfather & Morris, partner, 1330 South Third St., Louisville, KY 40208	1986-present
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Education

Mount Holyoke College, South Hadley, MA	A.B., 1971
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University of Kansas, Kansas City and Lawrence, KS	1970-1971
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Brandeis School of Law, University of Louisville Louisville, KY	J.D., 1975, <i>magna cum laude</i>
--	------------------------------------

Awards and Recognition

Best Lawyers In America: every year from 1994 to date, double listed in Personal Injury Litigation, and Family Law, published by Woodward/White, Inc.

Martindale Hubbell Rating: A-V since 1980s

Recipient: 2001 Kentucky Academy of Trial Attorneys *Peter Perlman Trial Lawyer of the Year*

Board Certified Civil Trial Advocate, by the National Board of Trial Advocacy

Appointment as Special Justice, Kentucky Supreme Court, 1990. Participated in the decision of, and/or authored opinions in: *Hamilton v. Comm.*, 799 S.W.2d 39 (1990); *Taylor v. Comm.*, 799 S.W.2d 818 (1990); and *Wood v. Wingfield*, 816 S.W.2d 899 (1991).

Fellow, International Academy of Trial Lawyers (elected 2004)

Recipient: 1988, University of Louisville Distinguished Law Alumni Award.

Recipient: 1990, University of Louisville Outstanding Law Alumni Service Award.

Recipient: 1997, Brandeis School of Law Alumni Fellow Award.

Who's Who in the World: 17th Edition 2000 (Millenium Edition) published by Marquis Who's Who.

Reported Cases

West v. Goldstein, Ky., 830 S.W.2d 379 (Ky. 1992)

McKee v. Humana of Kentucky, Inc., Ky. App., 834 S.W.2d (Ky. 1992)

Clark v. Young, Ky. App., 692 S.W.2d 285 (Ky. 1985)

Giuliani v. Guiler, Ky., 951 S.W.2d 318 (Ky. 1998)

Cullinan v. Abramson, 128 F.3d. 301 (Sixth Cir. 1997)

Hasken, et al. v. City of Louisville, 173 F.Supp. 2d 654 (W.D. Ky. 2001)

Farkas v. Bridgestone/Firestone, Inc., 113 F. Supp. 2d 1107(Ky. 2000).

Kentucky Kingdom Amusement Co. v. Belo Kentucky, Inc., 179 S.W.3d 785, 33 Media L. Rep. 2350 (Ky. 2005)

Admitted to Practice

U.S. Supreme Court

Supreme Court of Kentucky

U.S. District Courts for the Eastern and Western Districts of Kentucky

U.S. Court of Appeals, Sixth Circuit

Professional Memberships

Kentucky Bar Association

Louisville Bar Association

American Bar Association

Association of Trial Lawyers of America

Kentucky Academy of Trial Attorneys; Member and former Board Member

American Board of Trial Advocates; Member and Kentucky Chapter President, 1998, 1999

Master of The Bar, Louis D. Brandeis American Inn of Court, 1996-present

Jefferson County Women Lawyers Association; Member and former President and Vice-President

Brandeis Society, University of Louisville School of Law

University of Louisville Law Alumni Council, Member and former President

Civic Associations

University of Louisville, Board of Overseers

Citizens for Better Judges

Hospice of Louisville; Board Member, 1983-1987

The Jefferson Club; former member Board of Governors

E. P. Tom Sawyer Foundation, Board Member, 1986-1992

SPEAKING ENGAGEMENTS

- October 20, 2005 "Masters in Trial," Panelist, American Board of Trial Advocates, New York City, NY
- May, 20, 2005 "Trial Tactics From Trial Masters: Technology: Creative Approach to Cases," Lexington, KY
- September 25, 2003 "Masters in Trial," Panelist, American Board of Trial Advocates, Anchorage, AK
- September 12, 2003 "Masters in Trial," Panelist, American Board of Trial Advocates, Columbus, OH
- June 13, 2003 "It's a Wrap: The Ethics of Law and Media," Panelist, 2003 Kentucky Bar Association Annual Convention
- March 19, 2003 "Not Just Another Tech Seminar," Seminar Co-Chair and Presenter, presented by the Kentucky Academy of Trial Attorneys
- September 13, 2001 "Taking the Lead: Strategies for Trial Lawyers," 2001 Kentucky Academy of Trial Attorneys Annual Convention, Lexington, Kentucky.
- June 14, 2001 Presenter in Masters in Trial Program presented by the Kentucky Chapter of the American Board of Trial Advocates, Kentucky Bar Convention, 2001
- March 23, 2001 & April 20, 2001 "Discovery of In House Material," Kentucky Academy of Trial Attorneys Maximizing Recovery For Your Clients Seminar, Covington, Kentucky and Louisville, Kentucky
- June 9, 2000 "Damages for Loss of Love, Society and Affection in Death Cases," Tennessee Trial Lawyers Association 2000 Annual Convention, Memphis, Tennessee

April 25, 2000 "Cross Examination Of A Medical Witness," "Cross Examination of Technical Experts," Lorman Education Services Conducting An Effective Cross Examination in Kentucky Seminar, Louisville

May 21, 1999 "Handling A Child's Loss of Consortium Claim," Kentucky Academy of Trial Attorneys Power Litigation Seminar, Louisville

September 17, 1998 "A Child's Loss of Parental Affection and Guidance: Some Thoughts on Kentucky's Newest Tort" Panelist, 1998 Kentucky Academy of Trial Attorneys Convention, Louisville

June 20, 1996 "Law & Life, A Perfect Balance: Voir Dire: Art, Science or Luck?" Panelist, 1996 Kentucky Bar Association Convention, Lexington

June 29, 1995 Seventh Annual Fayette Bench/Bar C.L.E. Program, Instructor, Fayette County Bar Association

June 9, 1995 "Kentucky's Unpublished Opinions, Rules & Practice: Does It Merit Change," Panelist, 1995 Kentucky Bar Association Convention, Louisville

December 7, 1994 "Using the Kentucky Constitution as the Basis for Appeal," Lecturer, Louisville CLE Institute

April 29, 1994 "Fair Trial And The Public's Right To Know", Roundtable Discussion, University of Louisville, The Center for Humanities and Civic Leadership

January 11, 1994 District Court Judges Judicial College, Instructor re Contempt, KY Administrative Office of The Courts

October 27, 1993 1993 Circuit Court Judges Judicial College, Instructor re Contempt, KY Administrative Office of The Courts

October 22, 1993 "Masters in Trial," Panelist, American Board of Trial Advocates, Cleveland OH

December 3, 1992 "How to Find the Courthouse," Panelist/Instructor, LBA/Young Lawyer Section, Louisville CLE Institute

April 12, 1991 "Effective Closing Arguments," Panelist, Louisville CLE Institute

February 9, 1990 "Voir Dire - The Art of Jury Selection," Panelist, Louisville CLE Institute

April 21, 1988 Trial Advocacy Workshop, Instructor, University of Louisville Seminar, Louisville, Kentucky

June 12, 1987 "Trends Toward Joint Custody - Experience of Bench & Bar," Panelist, Kentucky Bar Association

- April 19-20, 1985 Resolution of the Negotiating Impasse, University of Kentucky Seminar, College of Law, Lexington, Kentucky
- November 9, 1984 "An Overview of the Domestic Relations Tax Reform Act," University of Louisville Seminar, Louisville, Kentucky
- September 28, 1983 Kentucky Reports, 1983 Panelist, "Divorce Between Professionals," Kentucky Educational Television
- September 23, 1983 Discovery Tactics and Techniques, Federal Bar Association, Louisville, Kentucky
- September 20, 1983 Annual Update Series, Domestic Relations, Presenter, Louisville Bar Association, Louisville, Kentucky
- September 15, 1983 "Dissolution: Practical Problems in Preparing and Presenting the Complex Action," Chairperson and panelist, University of Louisville Seminar, Louisville, Kentucky
- October 16, 1982 Trial Avoidance Techniques: Better Representation in Domestic Litigation, Tenth Annual Seminar, Kentucky Academy of Trial Attorneys, Lexington, Kentucky
- July 20, 1982 "Tax Aspects of Dissolution: Practical Problems and Typical Property Settlement Provisions," Annual Convention, The Association of Trial Lawyers of America, Toronto, Canada
- May 7, 1982 "Tax Aspects of Divorce," Fayette County Bar Association, Lexington, Kentucky
- April 16, 1982 "Drafting Agreements: Tax Clauses and Antenuptial Contracts," University of Kentucky Domestic Relations Seminar, Lexington, Kentucky
- February 18, 1982 Overview of Divorce Law, Republic Women's Club, Louisville, Kentucky
- January 15, 1982 Moderator, Judicial Panel, Joint Custody Seminar; Women Lawyers Association, Louisville, Kentucky
- September 22, 1981 LBA Annual Update Series, Domestic Relations
- November 13, 1981 "Division of Marital v. Non-Marital Property," Custody and the Division of Assets at the University of Louisville
- April 16, 1981 Norton Children's Hospital presentation on adoption
- March 20, 1981 "Tracing of Non-Marital Property, Appreciation in Value After Marriage, Inherited Property," Domestic Relations at the University of Louisville

- January 30, 1981 Legal Ethics and Law Office Management at the University of Louisville
- December 9, 1980 Presentation to psychiatry residents on the family and the law sponsored by Norton Children's Hospital
- October 9, 1980 "Property Division and Settlement Agreements," Seminar on Family Law at Midway College
- August 22-23, 1980 "Practical Problems and Typical Property Settlement Provisions," Seminar on Domestic Relations at University of Kentucky
- July 10-12, 1980 "Drafting Antenuptial Agreements," Family Law at the University of Louisville
- June 13, 1980 A Practical Problems and Typical Property Settlement Provisions: Tax Aspects of Marital Dissolutions at the University of Louisville
- April 1, 1980 Domestic relations presentation at the University of Louisville

PUBLICATIONS

The Court's Authority to Assign Assets, Trial Magazine, a publication of the Association of Trial Lawyers of America, March, 1984.

"Basic Property Disposition Rules," Chapter, *Valuation and Distribution of Marital Property*, published by Matthew Bender and Co., Inc., April, 1984.

"Kentucky Civil Practice At Trial," Chapter, "Juries," *Civil Practice Handbook*, Volume II, University of Kentucky, Office of Continuing Legal Education, 1990.

"Legal Issues For Indigents Charged With Contempt," *The Advocate*, a publication of the Kentucky Department of Public Advocacy, October, 1994.

SUMMARY BIOGRAPHICAL INFORMATION

Partner & associate, Wyatt, Tarrant & Combs, 1976-1984; sole practitioner concentrating in domestic relations and personal injury law, 1984-1986; partner, Oldfather & Morris 1986-to date; concentrating in plaintiff personal injury, product liability and medical malpractice. Admitted to the Bar: 1976, Kentucky. Education: Mount Holyoke College, A.B. (1971) and University of Louisville, J.D., *Magna Cum Laude* (1975). Memberships: Kentucky Bar Association; Louisville Bar Association; Kentucky Academy Trial Attorneys (former member Board of Governors); American Trial Lawyers Association; American Board of Trial Advocates, President Kentucky Chapter, 1998 and 1999; Board Certified Trial Advocate of the National Board of Trial Advocacy; Louis D. Brandeis American Inn of Court; Brandeis Society of University of Louisville School of Law; University of Louisville Law Alumni Council; Lecture course taught at University of Louisville re Trial Practice; Louisville Bar Association Committees on Professional Responsibilities and Family Law; The Jefferson Club (former member Board of Governors); Hospice of Louisville, Inc., Board Member, 1983-1987; Women Lawyers Association of Jefferson County; Citizens for Better Judges; E. P. Tom Sawyer Foundation, Board Member, 1986-1992. Awards: University of Louisville Distinguished Law Alumni, 1988; University of Louisville Outstanding Law Alumni Service, 1990; Brandeis School of Law of the University of Louisville, Alumni Fellow, 1997; Kentucky Academy of Trial Attorneys "*Peter Perlman Trial Lawyer of the Year*," 2001.

PERSONAL SUMMARY

Ann Oldfather is a partner in the firm of Oldfather & Morris, a 4-attorney firm specializing in plaintiffs' litigation. Ann has practiced law for over 25 years, after graduating *magna cum laude* from the Brandeis School of Law at the University of Louisville. Ann has been sole trial counsel in a number of hotly disputed and significant cases, including commercial litigation resulting in a plaintiff's verdict of \$12.5 million, and medical malpractice litigation where a rural Kentucky jury returned a verdict of \$5.5 million. Ann was one of the lead plaintiffs' counsel in the Carrollton, Kentucky bus crash disaster in which 27 children and adults burned to death in a school bus designed and manufactured by Ford Motor Company. Ann served as one of the Class Counsel for the settlement class of 243 victims of sexual abuse in their recovery against the Archdiocese of Louisville in excess of \$25 million. Ann has tried many complex, multi-party cases as lead or sole trial counsel. She was appointed as the head of one of only six trial counsel committees approved by the Federal District Court in the Ford/Firestone multi district litigation. Ann has been listed in the Best Lawyers in America since 1994 under both "Personal Injury Litigation" and "Family Law." She has received the prestigious "A-V" listing from Martindale Hubbell continuously since the mid 1980s, and is featured in their "*Register of Preeminent Attorneys*". She is a Board Certified Civil Trial Advocate by the National Board of Trial Advocacy. Ann has served as a Special Justice on the Kentucky Supreme Court, authoring both majority and dissenting opinions. Ann has lectured as a speaker at numerous programs, including presentations at the annual convention of the Association of Trial Lawyers of America and at Kentucky's Annual Judicial College. Ann has served as an advocacy instructor at the University of Louisville, and she is the author of the "Juries" chapter of the Kentucky Civil Practice Handbook. Ann is a member and past-Board member of the Kentucky Academy of Trial Attorneys, a member of the Association of Trial Lawyers of America, and a member and 1998 and 1999 President of the Kentucky Chapter of the American Board of Trial Advocates. She was the recipient of the 1997 Alumni Fellow Award from the Brandeis School of Law of the University of Louisville. Ann was inducted in the International Academy of Trial Attorneys in April, 2004. One of Ann's proudest achievements was receipt of the 2001 *Peter Perlman Trial Lawyer of the Year* award from the Kentucky Academy of Trial Attorneys.

KENNETH R. FEINBERG BIOGRAPHY

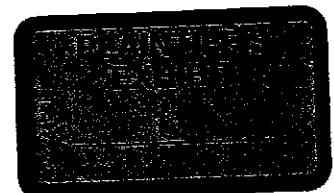
Mr. Feinberg was appointed by the Attorney General of the United States to serve as the Special Master of the Federal September 11th Victim Compensation Fund of 2001. In this capacity, he developed and promulgated the Regulations governing the administration of the Fund and administered all aspects of the program, including evaluating applications, determining appropriate compensation and disseminating awards.

Mr. Feinberg is an attorney and one of the nation's leading experts in mediation and alternative dispute resolution. He is the managing partner and founder of The Feinberg Group, LLP. Mr. Feinberg received his B.A. *cum laude* from the University of Massachusetts in 1967 and his J.D. from New York University School of Law in 1970, where he was Articles Editor of the *Law Review*. He was a Law Clerk for Chief Judge Stanley H. Fuld, New York State Court of Appeals from 1970 to 1972; Assistant United States Attorney, Southern District of New York from 1972 to 1975; Special Counsel, United States Senate Committee on the Judiciary from 1975 to 1980; Administrative Assistant to Senator Edward M. Kennedy from 1977 to 1979; Partner at Kaye, Scholer, Fierman, Hays & Handler from 1980 to 1993; and founded The Feinberg Group, LLP in 1993.

Mr. Feinberg has had a distinguished teaching career as Adjunct Professor of Law at the Georgetown University Law Center, University of Pennsylvania Law School, New York University School of Law, the University of Virginia Law School and Columbia Law School.

Mr. Feinberg has been Court-Appointed Special Settlement Master, mediator and arbitrator in thousands of disputes involving such issues as mass torts, breach of contract, antitrust and civil RICO violations, civil fraud, product liability, insurance coverage, and various commercial and environmental matters. Mr. Feinberg was also one of three arbitrators selected to determine the fair market value of the original Zapruder film of the Kennedy assassination and was one of two arbitrators selected to determine the allocation of legal fees in the Holocaust slave labor litigation.

Mr. Feinberg was a member of the Presidential Advisory Commission on Human Radiation Experiments from 1994 to 1998; the Presidential Commission on Catastrophic Nuclear Accidents from 1989 to 1990 and the Carnegie Commission Task Force on Science and Technology in Judicial and Regulatory Decision Making from 1989 to 1993. He is currently a member of the National Judicial Panel, Center for Public Resources, and chaired the American Bar Association Special Committee on Mass Torts from 1988 to 1989. He is also an arbitrator for the American Arbitration Association. He is listed in "Profiles in Power: The 100 Most Influential Lawyers in America" (*National Law Journal*, April 4, 1994; June 12, 2000) and was named "Lawyer of the Year" by the *National Law Journal* (December, 2004). He is the author of numerous articles and essays on mediation, mass torts and other matters and has recently published his book entitled, What is Life Worth? The Unprecedented Effort to Compensate the Victims of 9/11 (PublicAffairs, 2005).



COPY

COMMONWEALTH OF KENTUCKY
BOONE CIRCUIT COURT
CASE NO. 05 CL-982

FILED
BOONE CIRCUIT/DISTRICT COURT
MAY 26 2005
PAT GUTZEL CLERK
BY *PG* DC

THE ROMAN CATHOLIC DIOCESE OF COVINGTON

and

ROGER J. FOYS, BISHOP OF THE ROMAN
CATHOLIC DIOCESE OF COVINGTON

PLAINTIFFS

v.

THE AMERICAN INSURANCE COMPANY
777 San Marin Drive
Novato, California 94998

SERVE: Kentucky Secretary of State
P.O. Box 718
Frankfort, KY 40602

THE CATHOLIC MUTUAL RELIEF SOCIETY
OF AMERICA,
10843 Old Mill Road, Suite 300
Omaha, NE 68154-2600

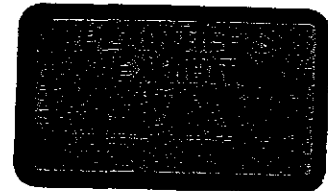
SERVE: C.T. Corp. System
Kentucky Home Life Building, Room 1102
Louisville, KY 40202

and

THE CATHOLIC RELIEF INSURANCE COMPANY
OF AMERICA
10843 Old Mill Road, Suite 300
Omaha, NE 68154-2600

DEFENDANTS

SERVE: C.T. Corp. System
Kentucky Home Life Building, Room 1102
Louisville, KY 40202



**COMPLAINT FOR DECLARATORY JUDGMENT
AND JURY TRIAL DEMAND**

INTRODUCTION

1. This is an insurance coverage action brought by the Roman Catholic Diocese of Covington and Roger J. Foys, Bishop of the Roman Catholic Diocese of Covington (collectively the "Diocese"), pursuant to KRS 418.040, for declaratory relief. Defendant American Insurance Company ("American Insurance") issued a primary insurance policy to the Diocese for at least the period from June 8, 1966 through June 8, 1967, which provides coverage for liabilities to third parties (the "American Policy"). Defendant The Catholic Relief Insurance Company of America ("Catholic Relief") issued primary and excess insurance policies to the Diocese for at least years 1968 through 1977 which provide coverage for liabilities to third parties (the "Catholic Relief Policies"). Defendant The Catholic Mutual Relief Society of America ("Catholic Mutual") issued numerous primary and excess insurance policies to the Diocese for at least the years 1977 through the present which provide coverage for liabilities to third parties (the "Catholic Mutual Policies").

2. The American Policy, the Catholic Mutual Policies, and the Catholic Relief Policies (collectively "the Policies") require defendants to indemnify and defend or pay defense costs for the Diocese for a wide variety of claims and losses. The Diocese seeks a declaration of rights, duties, and liabilities of the parties under the Policies with respect to claims asserted against the Diocese in *Doe v. Roman Catholic Diocese of Covington*, Case No. 03-CI-00181 (Boone Circuit Court), for injuries resulting from the Diocese's alleged negligence, breach of duty, and other actions and omissions in connection with alleged sexual abuse of minors by priests, employees, and other persons associated with the Diocese.

PARTIES

3. Plaintiff Roman Catholic Diocese of Covington is an unincorporated religious association which has its administrative offices in Boone County, Kentucky. Plaintiff Roger J. Foys is Bishop of the Roman Catholic Diocese of Covington. Plaintiffs are defendants in the action titled *Doe v. Roman Catholic Diocese of Covington*, Case No. 03-CI-00181, pending in the Boone Circuit Court (the "Underlying Lawsuit").

4. Defendant American Insurance is a company organized under the laws of California and has its principal place of business in California. American Insurance is engaged in the business of providing insurance throughout the United States, is authorized by the Commonwealth of Kentucky to do business in Kentucky, and does business in Kentucky.

5. Defendant Catholic Mutual is a nonprofit religious corporation organized under the laws of Nebraska and has its principal place of business in Omaha, Nebraska. Catholic Mutual is engaged in the business of providing insurance to constituent elements of the Roman Catholic Church in the United States, is authorized by the Commonwealth of Kentucky to do business in Kentucky, and does business in Kentucky.

6. Defendant Catholic Relief is a wholly owned property and casualty insurance affiliate of Catholic Mutual organized under the laws of Nebraska and has its principal place of business in Omaha, Nebraska. Catholic Relief is engaged in the business of providing insurance to the Roman Catholic Church of North America, and, upon information and belief, does business in Kentucky.

JURISDICTION AND VENUE

7. This Court has jurisdiction over Defendant American Insurance because, within the time periods relevant to the claims asserted herein, American Insurance: (i) has been authorized by the Commonwealth of Kentucky Department of Insurance to insure persons,

property, or risks in Kentucky; (ii) has contracted to insure persons, property, or risks in Kentucky; (iii) has contractually or otherwise agreed to submit to personal jurisdiction in the Commonwealth of Kentucky; and/or (iv) upon information and belief, has had other significant contacts with Kentucky. Defendant American Insurance therefore has or has had sufficient, continuous, and systematic contacts with the Commonwealth of Kentucky that give rise to the present action and/or has consented, either implicitly or explicitly, to the jurisdiction of this Court.

8. This Court has jurisdiction over the Defendant Catholic Mutual because, within the time periods relevant to the claims asserted herein, Catholic Mutual: (i) has been authorized by the Commonwealth of Kentucky to do business in Kentucky; (ii) has transacted business in Kentucky; (iii) has contracted to insure persons, property, or risks in Kentucky; (iv) has contractually or otherwise agreed to submit to personal jurisdiction in the Commonwealth of Kentucky; and/or (v) upon information and belief, has had other significant contacts with Kentucky. Defendant Catholic Mutual therefore has or has had sufficient, continuous, and systematic contacts with the Commonwealth of Kentucky that give rise to the present action and/or has consented, either implicitly or explicitly, to the jurisdiction of this Court.

9. This Court has jurisdiction over Defendant Catholic Relief because, within the time periods relevant to the claims asserted herein Catholic Relief: (i) has contracted to insure persons, property or risks in Kentucky; (ii) has contractually or otherwise agreed to submit to personal jurisdiction in the Commonwealth of Kentucky; and/or (iii) upon information and belief, has had other significant contacts with Kentucky. Defendant Catholic Relief therefore has or has had sufficient, continuous, and systematic contacts with the Commonwealth of Kentucky

that give rise to the present action and/or has consented, either implicitly or explicitly, to the jurisdiction of this Court.

10. The Underlying Lawsuit is currently pending in Boone Circuit Court. A significant portion of the conduct alleged in the Underlying Lawsuit took place in Boone County. The Diocese has its administrative offices in Boone County, Kentucky. Venue therefore properly lies in the Boone Circuit Court.

FACTUAL BACKGROUND

THE UNDERLYING LAWSUIT

11. The Underlying Lawsuit against the Diocese is a class action alleging, *inter alia*, that from 1956 to the present, the Diocese “engaged in a pattern or practice of failing to properly screen, supervise and discipline priests, especially those priests whom it had reason to believe were engaging in acts of sexual abuse, sexual contact, sexual exploitation, and sexual misconduct.” Exhibit A (Fourth Amended Class Action Complaint and Jury Demand), ¶20. Plaintiffs in the Underlying Lawsuit also allege that the Diocese’s official policy has been “to keep all information of sexual abuse, sexual contact, sexual exploitation, and sexual misconduct by Diocesan priests against children, parishioners, and employees . . . concealed from the priests, nuns, teachers and employees with whom the perpetrators worked so that these individuals were unable to take action to protect other victims from further abuse.” *Id.* ¶21.

12. The plaintiffs in the Underlying Lawsuit allege that the Diocese is liable for negligence, gross negligence, and breach of fiduciary duty because it “allow[ed] its Priests to use their positions as trusted teachers and religious advisors to sexually and physically assault and abuse Plaintiffs and each class member,” and “fail[ed] to properly screen, supervise, assign, and discipline its Priests.” *Id.* ¶¶ 50-55.

13. Plaintiffs in the Underlying Lawsuit assert that the Diocese is liable for punitive and other damages. *Id.* at ¶¶ 66-67.

14. On or about October 21, 2003, this Court, over Defendants' objections, granted Underlying Plaintiffs' Motion for Class Certification. See Exhibit B (Order Certifying Class and Approving Class Notice). The certified class is defined as "[a]ll persons who, while still minors at anytime during the period January 1, 1956 through the present, were subjected to acts of sexual abuse and sexual misconduct by priests or members of religious orders who, at the time of such abuse or misconduct, were assigned to or employed by the Diocese of Covington." *Id.* at 1.

COVERAGE UNDER THE AMERICAN INSURANCE COMPANY POLICY

15. American Insurance issued a general liability policy, Policy Number L-493-9132 to the Diocese for the period June 8, 1966 – June 8, 1967. A true and correct copy of Policy No. L-493-9132 is attached hereto as Exhibit C. Premiums for the American Policy have been paid in full and all terms and conditions of the Policy have been met or waived.

16. The American Policy requires the American Insurance to indemnify the Diocese for "all sums which the insured [Diocese] shall become legally obligated to pay as damages because of bodily injury . . . sustained by any person, caused by accident and arising out of the hazards hereinafter defined." Exhibit C at p.1, ¶ 1 A. This provision specifically provides coverage for claims asserted in the Underlying Lawsuit.

17. The American Policy requires American Insurance to pay "all reasonable expenses incurred within one year from the date of accident for necessary medical, surgical and dental services . . . for each person who sustains bodily injury . . . caused by accident and arising out of the ownership, maintenance or use of premises owned, rented or controlled by the named insured [Diocese] and the ways immediately adjoining on land, or operations of the named

insured [Diocese]." *Id.* at p. 1, ¶ I. C. This provision specifically provides coverage for claims asserted in the Underlying Lawsuit.

18. No exclusions or other provisions of the Policy preclude coverage for the Underlying Lawsuit.

19. The American Policy requires American Insurance to defend or pay defense costs incurred by the Diocese with respect to the Underlying Lawsuit. *Id.*, ¶ II.

20. On or about August 15, 2003, the Diocese notified American Insurance of the Underlying Lawsuit and demanded that American Insurance fulfill its coverage obligations under the American Policy.

21. American Insurance has refused to provide a defense, pay defense costs, or indemnify the Diocese for any claims made in the Underlying Lawsuit.

22. American Insurance may also have issued additional policies to the Diocese that the Diocese has not yet located and/or are missing and that provide coverage for claims made in the Underlying Lawsuit.

COVERAGE UNDER THE CATHOLIC RELIEF INSURANCE POLICIES

23. Catholic Relief issued Policy numbers GL5155 and GL5737 to the Diocese. (A copy of the GL5155 and GL5737 declaration page is attached hereto as Exhibit D.) Premiums for the Catholic Relief Policies have been paid in full. The Catholic Relief Policies are for the period from August 7, 1968 through September 1, 1977. The Catholic Relief Policies provide coverage for claims asserted in the Underlying Lawsuit.

24. The Catholic Relief Policies require Catholic Relief to indemnify the Diocese for claims and liabilities that they become legally obligated to pay arising from "Bodily Injury." These provisions specifically provide coverage for claims asserted in the Underlying Lawsuit.

25. The Catholic Relief Policies require Catholic Relief to pay for "Medical Payments." These provisions specifically provide coverage for claims asserted in the Underlying Lawsuit.

26. The Catholic Relief Policies require Catholic Relief to defend or pay defense costs incurred by the Diocese with respect to the Underlying Lawsuit.

27. Upon information and belief, Catholic Relief has issued additional policies to the Diocese that the Diocese has not located and/or are missing.

COVERAGE UNDER THE CATHOLIC MUTUAL INSURANCE POLICIES

28. Catholic Mutual issued numerous policies to the Diocese for at least the years 1977 to 2003 which provide coverage for liabilities to third parties. The Catholic Mutual Policies include, without limitation, the policies listed on Exhibit B. Upon information and belief, Catholic Mutual has issued additional policies to the Diocese that provide coverage for the allegations in the Underlying Lawsuit that the Diocese has not located and/or are missing. The Catholic Mutual Policies require Catholic Mutual to indemnify Plaintiffs for a wide variety of claims and liabilities, including claims and liabilities resulting from the Underlying Lawsuit. Premiums for the Catholic Mutual Policies have been paid in full and all terms and conditions of the Policies have been met or waived. No exclusions or other provisions preclude coverage under the Policies for the Lawsuit.

29. Certain of the Catholic Mutual Policies require Catholic Mutual to indemnify the Diocese for "all sums which the Diocese shall become legally obligated to pay as damages because of bodily injury . . . to which this insurance applies, caused by an occurrence . . ." or contain a similar requirement. These provisions specifically provide coverage for claims asserted in the Underlying Lawsuit.

30. Certain of the Catholic Mutual Policies require Catholic Mutual to indemnify the Diocese for "all sums which the Diocese shall become legally obligated to pay as damages because of injury (herein called 'personal injury') sustained by any person or organization and arising out of . . . detention or imprisonment . . ." or contain a similar requirement. These provisions specifically provide coverage for claims asserted in the Underlying Lawsuit.

31. Certain of the Catholic Mutual Policies require Catholic Mutual to "pay to or for each person who sustains bodily injury caused by accident all reasonable medical expenses incurred within one year from the date of the accident on account of such bodily injury, provided such bodily injury arises out of (a) a condition in the covered premises or (b) operations with respect to which the Diocese are afforded coverage for bodily injury liability under this certificate" or contain a similar requirement. These provisions specifically provide coverage for claims asserted in the Underlying Lawsuit.

32. Certain of the Catholic Mutual Policies require Catholic Mutual to indemnify Plaintiffs for "all sums which the [Diocese] shall become legally obligated to pay as damages because of any acts, errors, or omissions of the [Diocese], arising out of counseling activities of the [Diocese] or counseling activities of others for which the [Diocese] is liable" or contain a similar requirement. These provisions specifically provide coverage for claims asserted in the Underlying Lawsuit.

33. Certain of the Catholic Mutual Policies require Catholic Mutual to indemnify the Diocese for "any damages [it] may become legally obligated to pay as a result of any actual, attempted or alleged conduct or contact of a sexual nature, including negligent or intentional infliction of mental or emotional anguish, harm, injury or distress of any kind caused by anyone

other than the [Diocese or the Ordinary thereof]" or contain a similar requirement. These provisions specifically provide coverage for claims asserted in the Underlying Lawsuit.

34. Certain of the Catholic Mutual Policies require Catholic Mutual to indemnify the Diocese for "Loss . . . arising from any claim or claims . . . against a Protected Party . . . by reason of any Protected Act . . . performed or omitted solely in his or her respective management capacities" or contain a similar requirement. These provisions specifically provide coverage for claims asserted in the Underlying Lawsuit.

35. Some or all of the Catholic Mutual Policies require Catholic Mutual to defend or pay defense costs incurred by Plaintiffs with respect to the Underlying Lawsuit.

36. Some or all of the Catholic Mutual Policies, known and unknown, may contain additional provisions that provide coverage for claims asserted in the Underlying Lawsuit.

37. On or about February 12, 2003, the Diocese notified Catholic Mutual of the Underlying Lawsuit and demanded that Catholic Mutual fulfill its coverage obligations under the Catholic Mutual Policies.

38. Catholic Mutual has paid defense costs associated with these claims and has acknowledged that certain claims are covered under its policies. However, when Catholic Mutual was asked to participate in a settlement of these claims, Catholic Mutual arbitrarily limited its offer to an amount far below that for which it is legally responsible. Catholic Mutual did not base this limitation on the terms of the Catholic Mutual Policies or the nature or value of the claims. Rather, Catholic Mutual asserted that, in light of its responsibility to its other insureds, it was unwilling and/or unable to commit sufficient resources to settle the claims in the Underlying Lawsuit, and limited its offer of coverage accordingly. Catholic Mutual declined to assure the Diocese that it can or will pay all judgments that may be entered against the Diocese

in the Underlying Lawsuit based on claims that arose during the periods covered by the Catholic Mutual Policies. Catholic Mutual has thus effectively repudiated its obligations under the Catholic Mutual Policies to indemnify the Diocese for liabilities resulting from the Underlying Lawsuit.

**COUNT I: DECLARATORY JUDGMENT AGAINST
DEFENDANT AMERICAN INSURANCE**

39. The Diocese repeats and incorporates by reference the allegations set forth in paragraphs 1 through 22 above.

40. American Insurance is obligated, under the American Policy, to defend the Diocese or pay defense costs in the Underlying Lawsuit and to pay, on behalf of the Diocese, all sums that the Diocese becomes obligated to pay and all obligations attached thereto, through judgment, settlement, or otherwise, with respect to the claims asserted against the Diocese in the Underlying Lawsuit.

41. The issuance of declaratory relief by this Court will terminate some or all of the existing controversy between the parties.

**COUNT II: DECLARATORY JUDGMENT AGAINST
DEFENDANT CATHOLIC MUTUAL**

42. The Diocese repeats and incorporates by reference the allegations set forth in paragraphs 1 through 14 and 23 through 38, above.

43. Catholic Mutual is obligated, under the Catholic Mutual Policies, to defend the Diocese or pay defense costs in the Underlying Lawsuit and to pay, on behalf of the Diocese, all sums that the Diocese becomes obligated to pay and all obligations attached thereto, through judgment, settlement, or otherwise, with respect to the claims asserted against the Diocese in the Underlying Lawsuit.

44. The issuance of declaratory relief by this Court will terminate some or all of the existing controversy between the parties.

**COUNT III: DECLARATORY JUDGMENT AGAINST
DEFENDANT CATHOLIC RELIEF**

45. The Diocese repeats and incorporates by reference the allegations set forth in paragraphs 1 through 14 and 23 through 38 above.

46. Catholic Relief is obligated, under the Catholic Relief Policies, to defend the Diocese or pay defense costs in the Underlying Lawsuit and to pay, on behalf of the Diocese, all sums that the Diocese becomes obligated to pay under the Catholic Relief Policies and all obligations attached thereto, through judgment, settlement, or otherwise, with respect to the claims asserted against the Diocese in the Underlying Lawsuit.

47. The issuance of declaratory relief by this Court will terminate some or all of the existing controversy between the parties.

PRAYER FOR RELIEF

WHEREFORE, the Diocese respectfully requests that this Court:

(a) Enter judgment declaring the Diocese's right to indemnification and defense costs under the American Policies for the claims asserted against it in the Underlying Lawsuit, including declarations that Defendant American Insurance, pursuant to the terms of its Policies, is liable to pay defense costs and all sums that the Diocese becomes obligated to pay, through judgment, settlement, or otherwise, as a result of the claims asserted in the Underlying Lawsuit;

(b) Enter judgment declaring the Diocese's right to indemnification and defense costs under the Catholic Mutual Policies for the claims asserted against it in the Underlying Lawsuit, including declarations that Defendant Catholic Mutual, pursuant to the terms of its Policies, is

liable to pay defense costs and all sums that the Diocese becomes obligated to pay, through judgment, settlement, or otherwise, as a result of the claims asserted in the Underlying Lawsuit;

(c) Enter judgment declaring the Diocese's right to indemnification and defense costs under the Catholic Relief Policies for the claims asserted against it in the Underlying Lawsuit, including declarations that Defendant Catholic Relief, pursuant to the terms of its Policies, is liable to pay defense costs and all sums that the Diocese becomes obligated to pay, through judgment, settlement, or otherwise, as a result of the claims asserted in the Underlying Lawsuit;

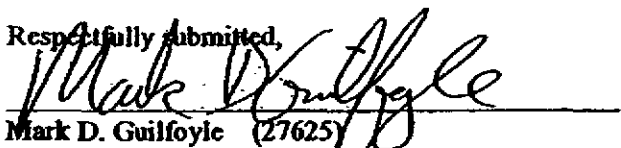
(d) Award the Diocese the legal fees and costs incurred in prosecuting this action for a declaration of its rights under the policies referred to above; and

(e) Award such other relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

The Diocese respectfully requests trial by jury as to all matters.

Respectfully submitted,


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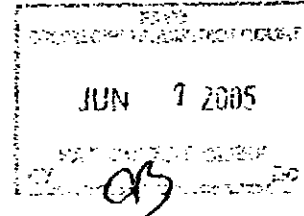
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**COMMONWEALTH OF KENTUCKY
BOONE CIRCUIT COURT
CASE NO. 05-CI-982
JUDGE: ANTHONY W. FROHLICH**



THE ROMAN CATHOLIC DIOCESE OF
COVINGTON,

and

ROGER J. FOYS, BISHOP OF THE ROMAN
CATHOLIC DIOCESE OF COVINGTON,

PLAINTIFFS

and

JOHN DOE, ON BEHALF OF ALL MEMBERS OF THE
CERTIFIED CLASS IN *DOE V. ROMAN CATHOLIC
DIOCESE OF COVINGTON*, CASE NO. 03-CI-00181
(BOONE CIRCUIT COURT)

PLAINTIFFS-INTERVENORS

v.

THE AMERICAN INSURANCE COMPANY,

and

THE CATHOLIC MUTUAL RELIEF SOCIETY
OF AMERICA,

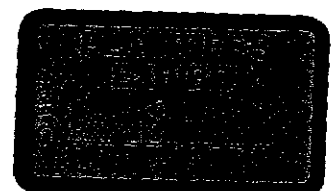
and

THE CATHOLIC RELIEF INSURANCE COMPANY
OF AMERICA,

DEFENDANTS

**COMPLAINT OF PLAINTIFFS-INTERVENORS
AND JURY TRIAL DEMAND**

1. This is an insurance coverage action brought by members of the class certified in the action titled *Doe v. Roman Catholic Diocese of Covington*, Case No. 03-CI-00181, pending in the Boone Circuit Court (the "Class" and the "Underlying Lawsuit," respectively), against Defendant The Catholic Mutual Relief Society of America



("Catholic Mutual") for compensatory and punitive damages pursuant to the Unfair Claims Settlement Practices Act, KRS § 304.12-230(7), and against Defendants Catholic Mutual, The Catholic Relief Insurance Company of America ("Catholic Relief"), and American Insurance Company ("American Insurance") for declaratory relief pursuant to KRS § 418.040.

2. The Class repeats and incorporates by reference the allegations and Counts I through III set forth in paragraphs 1 through 47 of the Complaint filed in this action on May 26, 2005¹, by the Roman Catholic Diocese of Covington and Roger J. Foy, Bishop of the Roman Catholic Diocese of Covington (collectively, the "Diocese").

3. Plaintiffs-Intervenors, *i.e.*, the members of the Class, are persons known and unknown who, "while still minors at anytime during the period January 1, 1956 through the present, were subjected to acts of sexual abuse and sexual misconduct by priests or members of religious orders who, at the time of such abuse or misconduct, were assigned to or employed by the Diocese of Covington." Many of the known members of the Class reside in Boone County, and many reside in other Kentucky counties.

4. Plaintiff-Intervenor John Doe is a married male who is a highly placed law enforcement officer in the Northern Kentucky area and resides in the Northern Kentucky area. Due to the nature of the allegations in the Underlying Lawsuit, he wishes to utilize the pseudonym John Doe in order to keep his identity confidential.

¹ A copy of the May 26, 2005 Complaint is attached as Exhibit A in Plaintiff's Memorandum of Law in Support of the Doe Class' Motion for Leave to Intervene that is being filed simultaneously with this Complaint.

**COUNT IV: VIOLATION OF THE UNFAIR CLAIMS
SETTLEMENT PRACTICES ACT, KRS § 304.12-230(7)**

5. The Class repeats and incorporates by reference the allegations set forth in paragraphs 1 through 4 above.

6. Defendant Catholic Mutual, when asked to comply with its obligations to provide coverage to the Diocese in connection with the settlement of the claims asserted by the Class against the Diocese in the Underlying Lawsuit, substantially limited its offer in a manner violative of KRS § 304.12-230(7). Catholic Mutual did not reserve its rights or assert any coverage defenses.

7. The Class has suffered injury due to Catholic Mutual's violation of KRS § 304.12-230(7) because the Diocese is unable to satisfy its liabilities to the Class without insurance proceeds.

8. The Class is entitled to compensatory and punitive damages as a result of Catholic Mutual's violation of KRS § 304.12-230(7).

PRAYER FOR RELIEF

WHEREFORE, the Class respectfully requests that this Court:

(a) Enter judgment declaring that Catholic Mutual violated KRS § 304.12-230(7);

(b) Enter judgment declaring the Diocese's right to indemnification and defense costs under the Catholic Mutual Policies for the claims asserted against it in the Underlying Lawsuit, including declarations that Defendant Catholic Mutual, pursuant to the terms of its Policies, is liable to pay defense costs and all sums that the Diocese

becomes obligated to pay, through judgment, settlement, or otherwise, as a result of the claims asserted in the Underlying Lawsuit;

(c) Enter judgment declaring the Diocese's right to indemnification and defense costs under the Catholic Relief Policies for the claims asserted against it in the Underlying Lawsuit, including declarations that Defendant Catholic Relief, pursuant to the terms of its Policies, is liable to pay defense costs and all sums that the Diocese becomes obligated to pay, through judgment, settlement, or otherwise, as a result of the claims asserted in the Underlying Lawsuit;

(d) Enter judgment declaring the Diocese's right to indemnification and defense costs under the American Policies for the claims asserted against it in the Underlying Lawsuit, including declarations that Defendant American Insurance, pursuant to the terms of its Policies, is liable to pay defense costs and all sums that the Diocese becomes obligated to pay, through judgment, settlement, or otherwise, as a result of the claims asserted in the Underlying Lawsuit;

(e) Award the Class compensatory damages;

(f) Award the Class punitive damages;

(g) Award the Class interest;

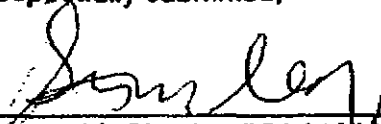
(h) Award the Class the legal fees and costs incurred in prosecuting this action for violation of KRS § 304.12-230(7) and declaratory relief.

(i) Award such other relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

The Class respectfully requests trial by jury as to all matters.

Respectfully submitted,



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Robert A. Steinberg, Esq. (OH - 0032932)
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