

ENDORSED

MAY 17 1995

FIRST JUDICIAL DISTRICT COURT
SANTA FE, RIO ARriba &
LOS ALAMOS COUNTIES
P.O. Box 2208, Santa Fe, NM 87504-2208

IN THE FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF SANTA FE

NO. SF95-1077(C)

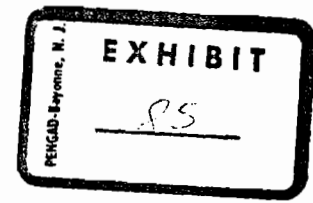
MICHAEL ORTIZ Y PINO,

Plaintiff,

against

CHRISTIAN BROTHERS MAJOR SUPERIORS, a
New Mexico corporation, ESTATE OF
BROTHER ABDON, BROTHER ALEX, NOSF, INC.
a Louisiana Corporation, JOSEPH DURR,
an individual, BOY SCOUTS OF AMERICA, INC.,
a New Mexico corporation and BOY SCOUTS
OF AMERICA, a congressionally chartered
corporation,

Defendants.



COMPLAINT FOR SEXUAL ABUSE AND RELATED CLAIMS

COMES NOW the Plaintiff, by and through his undersigned
counsel, and for his Complaint For Sexual Abuse and Related Claims
against the Defendants, states as follows:

1. Plaintiff, Michael Ortiz y Pino, was raised in Santa Fe,
Santa Fe County, State of New Mexico, and currently resides in
Santa Fe, County of Santa Fe, State of New Mexico. Plaintiff was
a minor child at the time the events material hereto occurred.

2. Defendant Christian Brothers Major Superiors is a New
Mexico corporation, (hereinafter "Christian Brothers"), and was at
all times material hereto authorized to do business and is doing
business in Santa Fe County, New Mexico. The Christian Brothers
now owns and operates, and at all material times herein has owned
and operated and has control over St. Michael's High School. The
Christian Brothers assigns its Brothers to St. Michael's and to its
Junior Novitiate and Novitiate (training facility to train young

men to be Christian Brothers) as teachers and counselors and supervises all its Brothers and their activities.

3. Defendant, NOSF Inc. ("NOSF") is a Louisiana corporation, previously named Brothers of the Christian School of Lafayette, Louisiana, Inc., is and was at all times material hereto authorized to do business and doing business in Lafayette, Louisiana. NOSF assigns its Brothers to and is in charge of various schools in its provence which includes St. Michael's High School and previously the Junior Novitiate in Santa Fe located at the College of Santa Fe. NOSF supervises and directs the actions of the Christian Brothers that oversee St. Michael's High School and the Junior Novitiate.

4. Defendant Brother Alex (hereinafter "Brother Alex"), is believed to still be a Christian Brother and is believed to be a resident of New Mexico. At all times material hereto, Brother Alex was a Christian Brother and the Director of Juniorate at the College of Santa Fe which trained young boys to become Christian Brothers. As a Brother, Brother Alex had taken a variety of vows, among which included vows of chastity and celibacy. Upon information and belief, notwithstanding these vows, while a Brother with the Christian Brothers and the Director of the Junior Novitiate, Brother Alex repeatedly abused young boys at the Junior Novitiate at the College of Santa Fe in Santa Fe, New Mexico.

5. Brother Abdon (hereinafter "Brother Abdon) is deceased. At all times material hereto, Brother Abdon was a resident of Santa Fe County, New Mexico, and a Brother and teacher at St. Michaels. His estate is listed as a Defendant.

6. Defendant, Joseph Durr, (hereinafter "Durr") is and was at all times material hereto a resident of Santa Fe, New Mexico, and a Junior Assistant Scout Master with the Boys Scouts of America.

7. Defendant Boys Scouts of America, Inc., (hereinafter referred to as "NM Boy Scouts") is a New Mexico corporation in good standing and was and is at all times material hereto authorized to do business and is doing business in the State of New Mexico.

8. Defendant Boy Scouts of America (hereinafter "BSA") is a congressionally chartered corporation (36 USCA Section 21 et. seq.) authorized to do business in the State of New Mexico.

9. Scouting is a program of education and instruction for young men. The management of the scouting movement is organized in the form of a pyramid with the national counsel of BSA at the top and then down through counselors districts and finally to the various local scout troops. The NM Boy Scouts exists to serve in the implementation of any programs, policies and standards mandated by BSA. Upon information and belief, the NM Boy Scouts and BSA each have an independent right to deny the registration of any individual requesting membership in scouting if they have reason to believe the nominated individual is morally unfit to serve in the scouting program. Upon information and belief, they each also can suspend or terminate any individuals registration with scouting activities upon. Upon information and belief, the NM Boy Scouts are required to report to the BSA complaints about scout leaders and junior assistant Scout leaders. Upon information and belief

the NM Boy Scouts knew or should have known Durr was abusing young scouts in his care and should have reported this to BSA.

10. The NM Boy Scouts and BSA have a system of making the most Senior Scout a Junior Assistant Scout Master. The Junior Assistant Scout Master is responsible for supervising younger scouts. To become a Junior Assistant Scout Master, upon information and belief, the NM Boy Scouts and BSA review a scout's qualifications and if approved give the scout a patch which entitles the scout to assume the responsibilities of a Junior Assistant Scout Master.

11. The NM Boy Scouts acts as the agent of BSA and was subject to their control. The BSA requires that each chartered counsel investigate the moral fitness of people who want to serve as Scout Master to determine if they meet the standard of leadership which the BSA requires. Upon information and belief, New Mexico Boy Scouts agreed to serve the BSA in the furtherance of scouting. The recommendation and approval of Durr as a Junior Assistant Scout Master was in furtherance of the BSA's programs and standards.

12. In their official capacities as Brothers and teachers at St. Michaels and the Junior Novitiate, Brother Abdon and Brother Alex came into contact with Plaintiff and Plaintiff's family.

13. Plaintiff was raised by his parents in a devoutly Roman Catholic family whose members were baptized, confirmed and regularly celebrated weekly Mass, receiving the holy sacraments through the Roman Catholic Church. Plaintiff had been taught by

the Church to dispense with logic, and to believe and rely upon the teachings of the Church in an act of faith. As such, Plaintiff developed great admiration and respect for and obedience to Roman Catholic priests and Brothers. Plaintiff attended St. Michaels when Brother Abdon was a Brother and teacher at St. Michaels.

14. When Plaintiff was thirteen (13) he began studying to become a Christian Brother at the Junior Novitiate at the College of Santa Fe.

15. Plaintiff's parents believed that St. Michaels and the Junior Novitiate, run by Christian Catholic Brothers and NOSF, would be a positive influence on their son's development and felt that his welfare would be provided for by the Christian Brothers.

16. Plaintiff's parents entrusted their child's physical, emotional and spiritual welfare to the Christian Brothers and NOSF when they enrolled their son in St. Michaels and when he was sent to the Junior Novitiate at the College of Santa Fe, having no idea that Brothers Abdon and Alex had the type of psycho-sexual problems complained of herein.

17. At the material times herein Brother Abdon and Brother Alex were members and Brothers of the Christian Brothers and NOSF, employed by said organizations as a teacher and counselor of the young men attending St. Michaels and the Director of the Junior Novitiate, respectively. Brother Abdon and Brother Alex were under the direct supervision and control of the Christian Brothers and NOSF.

18. Brother Abdon and Brother Alex took advantage of their access to Plaintiff and Plaintiff's respect, reverence and admiration for his elders, teachers at the Junior Novitiate, the Christian Brothers and its clergy, by independently performing non-consensual sex acts on Plaintiff. Upon information and belief, the Christian Brothers and NOSF were aware of, or should have known that Brother Abdon and Brother Alex were abusing Plaintiff and others. Upon information and belief, The Christian Brothers and NOSF were aware, or should have known, that Brother Abdon and Brother Alex were pedophiles and knew, or should have known, what Brother Abdon and Brother Alex were doing to Plaintiff and others, yet did nothing to protect Plaintiff and others from Brother Abdon and Brother Alex's sexual and psychological abuse and allowed them to continue to associate with young men.

19. On, about and/or following Brother Abdon and Brother Alex's sexual abuse of Plaintiff, Christian Brothers and NOSF knew, or should have known, that Brother Abdon and Brother Alex had sexually and psychologically abused Plaintiff, yet Christian Brothers and NOSF failed to take any steps to mitigate Plaintiff's damages through the provision of therapeutic or psychological assistance and treatment or otherwise and instead supervised and/or participated in a cover-up of Brother Abdon and Brother Alex's deviant and unlawful activities and/or failed to ascertain that Plaintiff was a victim of Brother Abdon and Brother Alex's sexual and psychological abuse so that emotional and psychological treatment could be provided to Plaintiff and his family.

20. In or about 1955-1957, when Plaintiff was between the ages of eight (8) and ten (10) years old, Plaintiff joined the Boys Scouts in Santa Fe, New Mexico. While Plaintiff was a member of the Boy Scouts, Joe Durr was Plaintiff's Junior Assistant Scout Master. In his official capacity as a Junior Assistant Scout Master, Joe Durr came into contact with Plaintiff.

21. Plaintiff had deep respect and admiration for and was taught to obey his elders. Plaintiff developed deep respect and admiration for his Scout Masters. Plaintiff's parents believed that the NM Boy Scouts and the BSA would be a positive influence on their son's development and felt that his welfare would be provided for by NM Boy Scouts and BSA.

22. Plaintiff's parents entrusted their child's physical and emotional welfare to NM Boy Scouts and BSA.

23. Durr took advantage of his access to Plaintiff and Plaintiff's respect and admiration for his Junior Assistant Scout Leader by performing non-consensual sex acts on Plaintiff. Upon information and belief, the NM Boy Scouts and BSA were aware of, or should have known, that Durr was abusing Plaintiff. Upon information and belief the NM Boy Scouts and BSA were aware, or should have know, what Durr was doing to Plaintiff, yet did nothing to protect Plaintiff from Durr's sexual and psychological abuse and allowed him to continue to associate with young men.

24. On, about and/or following Durr's sexual abuse of Plaintiff, NM Boy Scouts and BSA knew, or should have know, that Durr had sexually and psychologically abused Plaintiff, yet NM Boy

Scouts and BSA failed to take steps to mitigate Plaintiff's damages and instead participated in a cover-up of Durr's deviant activities and/or failed to ascertain that Plaintiff was a victim of Durr's sexual and psychological abuse so that psychological treatment could be provided to Plaintiff and his family.

25. As a direct result of the aforesaid conduct by Defendants, Plaintiff has suffered, and will continue to suffer, severe emotional distress, embarrassment, humiliation and loss of self-esteem. Plaintiff was prevented, and will continue to be prevented, from performing his normal daily activities and obtaining the full enjoyment of life, has sustained loss of earnings and earning capacity, has incurred and/or will incur expenses for medical and psychological treatment, therapy and counseling, and has incurred and will continue to incur other related damages.

CAUSES OF ACTION

COUNT I

*(Battery/Estate of Brother Abdon, Brother Alex,
The Christian Brothers and NOSF)*

26. Plaintiff re-alleges paragraphs 1 through 15 hereinabove in full.

27. In performing their duties as Brothers and teachers, Brother Abdon and Brother Alex were under a duty to touch and relate to Plaintiff only in those ways that reasonable Christian Brothers and teachers would believe, under all the circumstances, had been consented to, and was legal and spiritually appropriate.

The conduct of Brother Abdon and Brother Alex, as set forth hereinabove, constituted breaches of the aforesaid duty and batteries by Brother Abdon and Brother Alex upon Plaintiff, which batteries included sexual and psychological assault and abuse and other unlawful contact with Plaintiff, which proximately caused Plaintiff to suffer the above-referenced damages.

28. The conduct of Brother Abdon and Brother Alex, as set forth hereinabove, occurred while they were employed by The Christian Brothers and NOSF, acting within the course and scope of their employment. The Christian Brothers and NOSF are, therefore, responsible for the injuries to Plaintiff proximately resulting from the aforesaid conduct by Brother Abdon and Brother Alex.

WHEREFORE, on Count I, Plaintiff prays for damages from the Estate of Brother Abdon, Brother Alex, The Christian Brothers and NOSF in an appropriate amount together with prejudgment interest, post-judgment interest, costs and such further relief as the Court deems proper.

COUNT II
(Battery/Durr, NM Boy Scouts and BSA)

29. Plaintiff re-alleges paragraphs 1 through 28 hereinabove in full.

30. In performing his duty as a Junior Assistant, Scout Leader, Durr, was under a duty to touch and relate to Plaintiff only in those ways that reasonable Junior Assistant Scout Leader would believe, under all the circumstances, had been consented to, and was legally appropriate. The conduct of Durr, as set forth hereinabove, constituted breaches of the aforesaid duty and

batteries by Durr upon Plaintiff, which batteries included sexual and psychological assault and abuse and other unlawful contact with Plaintiff, which proximately caused Plaintiff to suffer the above-referenced damages.

31. The conduct of Durr, as set forth hereinabove, occurred while he was employed by the New Mexico Boy Scouts and BSA, acting within the course and scope of his employment. The NM Boy Scouts and BSA are, therefore, responsible for the injuries to Plaintiff proximately resulting from the aforesaid conduct by Durr.

WHEREFORE, on Count II, Plaintiff prays for damages from Durr, the NM Boy Scouts and BSA in an appropriate amount together with prejudgment interest, post-judgment interest, costs and such further relief as the Court deems proper.

COUNT III

(Negligent Failure to Warn/The Christian Brothers and NOSF)

32. Plaintiff re-alleges paragraphs 1 through 31 hereinabove in full.

33. At all times material hereto, The Christian Brothers and NOSF, knew of Brother Abdon and Brother Alex's aberrant behaviors, and knew that they had a duty to warn the students of St. Michaels and the Junior Novitiate that they were likely to be subjected to Brother Abdon and Brother Alex and their aberrant sexual propensities. The Christian Brothers and NSOF failed to issue said warnings.

34. The negligent conduct of The Christian Brothers and NOSF, as set forth hereinabove, constituted a breach of the aforesaid

duty, which breach proximately caused Plaintiff to suffer the above-referenced damages.

WHEREFORE, on Count III, Plaintiff prays for damages from The Christian Brothers and NOSF in an appropriate amount together with prejudgment interest, post-judgment interest, costs and such further relief as the court deems proper.

COUNT IV
(*Negligent Failure to Warn/NM Boy Scouts and BSA*)

35. Plaintiff re-alleges paragraphs 1 through 34 hereinabove in full.

36. At all times material hereto, NM Boy Scouts and BSA, knew of Durr's aberrant behaviors, and knew that they had a duty to warn the boy scouts in his troop that they were likely to be subjected to Durr and his aberrant sexual propensities. The NM Boy Scouts and BSA failed to issue said warnings.

37. The negligent conduct of The NM Boy Scouts and BSA, as set forth hereinabove, constituted a breach of the aforesaid duty, which breach proximately caused Plaintiff to suffer the above-referenced damages.

WHEREFORE, on Count IV, Plaintiff prays for damages from the NM Boy Scouts and BSA in an appropriate amount together with prejudgment interest, post-judgment interest, costs and such further relief as the court deems proper.

COUNT V
(*Negligent and Intentional Infliction of Emotional
Distress/the Christian Brothers, NOSF,
Estate of Brother Abdon, and Brother Alex*)

38. Plaintiff re-alleges paragraphs 1 through 37 hereinabove in full.

39. The foregoing conduct by Brother Abdon, Brother Alex, The Christian Brothers and NOSF constitutes a negligent and/or intentional infliction of emotional distress upon Plaintiff, and caused Plaintiff to suffer the foregoing damages.

40. The conduct of Brother Abdon and Brother Alex, while they were employed by The Christian Brothers and NOSF occurred while they were employed by The Christian Brothers and NOSF acting within the course and scope of their employment. The Christian Brothers and NOSF are, therefore, responsible for the injuries to Plaintiff proximately resulting from the aforesaid conduct by Brother Abdon and Brother Alex.

41. Moreover, the actions and inactions of The Christian Brothers and NOSF, as set forth hereinabove, constitute a separate and independent basis for concluding that The Christian Brothers and NOSF negligently and/or intentionally inflicted emotional distress upon Plaintiff and caused Plaintiff to suffer the foregoing damages.

WHEREFORE, on Count V, Plaintiff prays for damages from the Estate of Brother Abdon, Brother Alex, The Christian Brothers and NOSF in an appropriate amount, together with prejudgment interest,

post-judgment interest, costs, and such further relief as the Court deems proper.

COUNT VI
*(Negligent and Intentional Infliction of Emotional
Distress/Durr, NM Boy Scouts and BSA)*

42. Plaintiff re-alleges paragraphs 1 through 41 hereinabove in full.

43. The foregoing conduct by Durr, The NM Boy Scouts and BSA constitutes a negligent and/or intentional infliction of emotional distress upon Plaintiff, and caused Plaintiff to suffer the foregoing damages.

44. The conduct of Durr, while he was employed by The NM Boy Scouts and BSA occurred while he was employed by The NM Boy Scouts and BSA acting within the course and scope of his employment. The NM Boy Scouts and BSA are, therefore, responsible for the injuries to Plaintiff proximately resulting from the aforesaid conduct by Durr.

45. Moreover, the actions and inactions of The NM Boy Scouts and BSA, as set forth hereinabove, constitute a separate and independent basis for concluding that The NM Boy Scouts and BSA negligently and/or intentionally inflicted emotional distress upon Plaintiff and caused Plaintiff to suffer the foregoing damages.

WHEREFORE, on Count VI, Plaintiff prays for damages from Durr, the NM Boy Scouts and BSA in an appropriate amount, together with prejudgment interest, post-judgment interest, costs, and such further relief as the Court deems proper.

COUNT VI
(*Negligent Hiring, Placement and Supervision/
The Christian Brothers and NOSF*)

46. Plaintiff re-alleges paragraphs 1 through 45 hereinabove in full.

47. At all times material hereto, and when they first sexually abused and sexually exploited Plaintiff, Brother Abdon and Brother Alex were under the supervision, employ and control of The Christian Brothers and NOSF.

48. The Christian Brothers and NOSF, their agents and employees, knew, or should have known, of Brother Abdon and Brother Alex's sexual proclivities, propensities, and unlawful actions. Despite such actual knowledge, The Christian Brothers and NOSF employed Brother Abdon and Brother Alex in positions wherein their unlawful conduct was repeated upon Plaintiff. The Christian Brothers and NOSF further failed to provide reasonable supervision of Brother Abdon and Brother Alex.

49. As a direct result of the negligent hiring, placement and failure to supervise Brother Abdon and Brother Alex by The Christian Brothers and NOSF, Plaintiff has suffered the aforesaid injuries.

WHEREFORE, on Count VI, Plaintiff prays for damages from The Christian Brothers and NOSF in an appropriate amount, together with prejudgment interest, post-judgment interest, costs and such further relief as the Court deems proper.

COUNT VIII
(Negligent Hiring, Placement and Supervision/
The NM Boy Scouts and BSA)

50. Plaintiff re-alleges paragraphs 1 through 49 hereinabove in full.

51. At all times material hereto, and when he first sexually abused and sexually exploited Plaintiff, Durr was under the supervision, employ and control of the NM Boy Scouts and BSA.

52. The NM Boy Scouts and BSA, their agents and employees, knew, or should have known, of Durr's sexual proclivities, propensities, and unlawful actions. Despite such actual knowledge, the NM Boy Scouts and BSA employed Durr in a position wherein his unlawful conduct was repeated upon Plaintiff. The NM Boy Scouts and BSA further failed to provide reasonable supervision of Durr.

53. As a direct result of the negligent hiring, placement and failure to supervise Durr by the NM Boy Scouts and BSA, Plaintiff has suffered the aforesaid injuries.

WHEREFORE, on Count VIII, Plaintiff prays for damages from the NM Boy Scouts and BSA in an appropriate amount, together with prejudgment interest, post-judgment interest, costs and such further relief as the Court deems proper.

COUNT IX
(Fraud/The Christian Brothers and NOSF)

54. Plaintiff realleges paragraphs 1 through 53 hereinabove in full.

55. By holding Brother Abdon and Brother Alex out to the public as trustworthy Brothers, teachers, counselors and Director of the Junior Novitiate, despite knowledge to the contrary, The Christian Brothers and NOSF fraudulently intended to and did induce Plaintiff to remain in and financially support St. Michaels and the Junior Novitiate.

56. Plaintiff relied on said conduct by The Christian Brothers and NOSF, treating Brother Abdon and Brother Alex with respect and obedience, thereby becoming subjected to Brother Abdon and Brother Alex's unlawful behavior and the aforesaid damages.

57. Moreover, The Christian Brothers and NOSF, defrauded Plaintiff of his right to pursue redress for damages by covering up Brother Abdon and Brother Alex's deviant propensities, by failing to disclose the wrongfulness of these propensities to Plaintiff or to his parents, by failing to secure psychological treatment for Plaintiff.

58. The aforesaid fraudulent conduct by The Christian Brothers and NOSF has caused Plaintiff to suffer the aforesaid damages.

WHEREFORE, on Count IX, Plaintiff prays for damages from The Christian Brothers and NOSF in an appropriate amount, together with prejudgment interest, post-judgment interest, costs and such further relief as the Court deems proper.

COUNT IX
(*Fraud/The NM Boy Scouts and BSA*)

59. Plaintiff realleges paragraphs 1 through 58 hereinabove in full.

60. By holding Durr out to the public as a trustworthy Junior Assistant Scout Master, despite knowledge to the contrary, The NM Boy Scouts and BSA fraudulently intended to and did induce Plaintiff to remain in and financially support the BSA.

61. Plaintiff relied on said conduct by the NM Boy Scouts and BSA, treating Durr with respect and obedience, thereby becoming subjected to Durr's unlawful behavior and the aforesaid damages.

62. Moreover, the NM Boy Scouts and BSA, defrauded Plaintiff of his right to pursue redress for damages by covering up Durr's deviant propensities, by failing to disclose the wrongfulness of these propensities to Plaintiff or to his parents, by failing to secure psychological treatment for Plaintiff.

63. The aforesaid fraudulent conduct by the NM Boy Scouts and BSA has caused Plaintiff to suffer the aforesaid damages.

WHEREFORE, on Count IX, Plaintiff prays for damages from the NM Boy Scouts and BSA in an appropriate amount, together with prejudgment interest, post-judgment interest, costs and such further relief as the Court deems proper.

COUNT XI
(*Negligent Entrustment/The Christian Brothers and NOSF*)

64. Plaintiff re-alleges paragraphs 1 through 63 hereinabove in full.

65. The Christian Brothers and NOSF are religious organizations which were responsible for, among other things, the physical and spiritual well-being of the children who were students at St. Michaels and the Junior Novitiate. The Christian Brothers and NOSF were entrusted with the care, psychological welfare, and physical safety of these children, one of whom was Plaintiff.

66. The Christian Brothers and NOSF violated this duty of care to Plaintiff by negligently entrusting Plaintiff with Brother Abdon and Brother Alex, known pedophiles, who sexually and emotionally abused Plaintiff while Plaintiff was entrusted to their care.

67. Said negligent entrustment has caused Plaintiff to suffer the aforesaid damages.

WHEREFORE, on Count VI, Plaintiff prays for damages from The Christian Brothers and NOSF in an appropriate amount together with prejudgment interest, post-judgment interest, costs and such further relief as the Court deems proper.

COUNT XII
(Negligent Entrustment/The NM Boy Scouts and BSA)

68. Plaintiff re-alleges paragraphs 1 through 68 hereinabove in full.

69. The NM Boy Scouts and BSA are organizations which are responsible for, among other things, the physical well-being of the children who are scouts in New Mexico. The NM Boy Scouts and BSA were entrusted with the care, psychological welfare, and physical safety of these children, one of whom was Plaintiff.

70. The NM Boy Scouts and BSA violated this duty of care to Plaintiff by negligently entrusting Plaintiff with Durr a known pedophile, who sexually and emotionally abused Plaintiff while Plaintiff was entrusted to his care.

71. Said negligent entrustment has caused Plaintiff to suffer the aforesaid damages.

WHEREFORE, on Count VI, Plaintiff prays for damages from the NM Boy Scouts and BSA in an appropriate amount together with prejudgment interest, post-judgment interest, costs and such further relief as the Court deems proper.

COUNT XIII
(Duty To Control/The Christian Brothers and NOSF)

72. Plaintiff re-alleges paragraphs 1 through 71 hereinabove in full.

73. The foregoing conduct by The Christian Brothers and NOSF constitutes a breach of the duty to control an individual with a dangerous propensity, as a result of which Plaintiff has suffered the damages described hereinabove.

WHEREFORE, on Count VII, Plaintiff prays for actual damages from The Christian Brothers and NOSF in an appropriate amount, together with prejudgment and post-judgment interest, costs, together with punitive damages upon a finding that aforesaid conduct was willful, intentional, grossly negligent, and such further relief as the Court deems proper.

COUNT XIV
(Duty To Control/the NM Boy Scouts and BSA)

74. Plaintiff re-alleges paragraphs 1 through 73 hereinabove

in full.

75. The foregoing conduct by the NM Boy Scouts and BSA constitutes a breach of the duty to control an individual with a dangerous propensity, as a result of which Plaintiff has suffered the damages described hereinabove.

WHEREFORE, on Count VII, Plaintiff prays for actual damages from the NM Boy Scouts and BSA in an appropriate amount, together with prejudgment and post-judgment interest, costs, together with punitive damages upon a finding that aforesaid conduct was willful, intentional, grossly negligent, and such further relief as the Court deems proper.

COUNT XV
(Negligence/The Christian Brothers and NOSF)

76. Plaintiff re-alleges paragraphs 1 through 75 hereinabove in full.

77. Upon information and belief, The Christian Brothers and NOSF knew of Brother Abdon and Brother Alex's dangerous and exploitative propensities, their history as pedophiles and molesters of children, and their unfitness and incompetence to serve as teachers, counselors and the Director of the Junior Novitiate. Despite such knowledge, The Christian Brothers and NOSF negligently and recklessly sponsored Brother Abdon and Brother Alex for positions of trust and authority where they were able to commit wrongful and negligent acts against Plaintiff as described herein. The Christian Brothers and NOSF negligently and recklessly failed to remove Brother Abdon and Brother Alex's faculties to operate as Brothers, counselors and the Director of the Junior Novitiate;

negligently and recklessly failed to report Brother Abdon and Brother Alex's sexual molestation of the children to law enforcement authorities; negligently and recklessly failed to institute other pertinent proceedings against Brother Abdon and Brother Alex; negligently and recklessly continued to hold Brother Abdon and Brother Alex out and allow Brother Abdon and Brother Alex to hold themselves out to Plaintiff and others as fit and competent Roman Catholic Brothers, teachers and counselors; recklessly employed Brother Abdon and Brother Alex and then negligently and recklessly assisted Brother Abdon and Brother Alex in suppressing public knowledge of Brother Abdon and Brother Alex's prior history of sexual molestation of students, and negligently and recklessly failed to provide warning to Plaintiff or his family.

78. As a direct result of the aforesaid conduct by The Christian Brothers and NOSF, Plaintiff has suffered the injuries stated above.

WHEREFORE, on Count VIII, Plaintiff prays for actual damages from The Christian Brothers and NOSF in an appropriate amount, together with prejudgment and post-judgment interest, costs, together with punitive damages upon a finding that aforesaid conduct was willful, intentional, grossly negligent, and such further relief as the Court deems proper.

COUNT XVI
(Negligence/The NM Boy Scouts and BSA)

79. Plaintiff re-alleges paragraphs 1 through 78 hereinabove in full.

80. Upon information and belief, the NM Boy Scouts and BSA knew of, or should have known of, Durr's dangerous and exploitative propensities, his history as a pedophile and molester of young boys of the Boy Scouts, and his unfitness and incompetence to serve as a Junior Assistant Scout Master. Despite such knowledge, the NM Boy Scouts and BSA negligently and recklessly sponsored Durr for a position of trust and authority where he was able to commit wrongful and negligent acts against Plaintiff as described herein. The NM Boy Scouts and BSA negligently and recklessly failed to suspend and/or terminate his registration with scouting; negligently and recklessly failed to report Durr's sexual molestation of the children to law enforcement authorities; negligently and recklessly failed to institute other pertinent proceedings against Durr; negligently and recklessly continued to hold Durr out and allow Durr to hold himself out to Plaintiff and others as fit and competent Assistant Scout Leader; recklessly employed Durr and then negligently and recklessly assisted Durr in suppressing public knowledge of Durr's history of sexual molestation of boy scouts, and negligently and recklessly failed to provide warning to Plaintiff or his family.

81. As a direct result of the aforesaid conduct by the NM Boy Scouts and BSA, Plaintiff has suffered the injuries stated above.

WHEREFORE, on Count VIII, Plaintiff prays for actual damages from the NM Boy Scouts and BSA in an appropriate amount, together with prejudgment and post-judgment interest, costs, together with punitive damages upon a finding that aforesaid conduct was willful,

intentional, grossly negligent, and such further relief as the Court deems proper.

COUNT XVII

*(Punitive Damages/Estate of Brother Abdon, Brother Alex,
The Christian Brothers and NOSF)*

82. Plaintiff re-alleges paragraphs 1 through 81 hereinabove in full.

83. The above-referenced conduct of the Defendants, and each of them, was willful, intentional, reckless and grossly negligent thereby entitling Plaintiff to recover punitive damages from the Defendants, and each of them, for the purpose of punishing these Defendants and to set an example for society which will deter others from the commission of like offenses.

WHEREFORE, on Count IX, Plaintiff prays for punitive damages from the Estate Brother Abdon, Brother Alex, The Christian Brothers and NOSF in an appropriate amount, together with prejudgment interest, post-judgment interest, costs, and such further relief as the Court deems proper.

COUNT XVII

(Punitive Damages/the NM Boy Scouts and BSA)

84. Plaintiff re-alleges paragraphs 1 through 83 hereinabove in full.

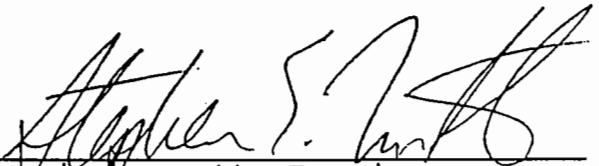
85. The above-referenced conduct of the Defendants, and each of them, was willful, intentional, reckless and grossly negligent thereby entitling Plaintiff to recover punitive damages from the Defendants, and each of them, for the purpose of punishing these

Defendants and to set an example for society which will deter others from the commission of like offenses.

WHEREFORE, on Count IX, Plaintiff prays for punitive damages from the NM Boy Scouts, BSA and Durr in an appropriate amount, together with prejudgment interest, post-judgment interest, costs, and such further relief as the Court deems proper.

Respectfully submitted,

TINKLER & BENNETT



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