



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

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|--|---|----------------------------|
| JOHN ROE #5, | : | |
| | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | C.A.No. 09-06- |
| | : | |
| OBLATES OF ST. FRANCIS de SALES; | : | |
| OBLATES OF ST. FRANCIS de SALES, | : | |
| INCORPORATED, a Delaware corporation; | : | Jury Trial Demanded |
| SALESIANUM SCHOOL, INC., a Delaware | : | |
| corporation; CATHOLIC DIOCESE OF | : | |
| WILMINGTON, INC., a Delaware corporation; | : | |
| and Rev. JAMES J. GREENFIELD, O.S.F.S., | : | |
| | : | |
| Defendants. | : | |

COMPLAINT

1. This is a case arising from the July 10, 2007 enactment of the Delaware Child Victims Act of 2007 (the "Act") and Delaware common law regarding childhood sexual abuse. It seeks monetary damages for personal injuries arising from childhood sexual abuse by a pedophile Roman Catholic priest, Harold Hermley, O.S.F.S., ("Hermley") and pedophile Roman Catholic Priest, John Heckel, O.S.F.S., ("Heckel") priests authorized to perform sacerdotal functions by the defendant Roman Catholic Diocese of Wilmington, the defendant Salesianum School where they were teachers and the defendant World Wide religious order of priests to which he belonged. Plaintiff John Roe #5 ("Plaintiff") was the victim of at least three acts of sexual abuse between 1969 and 1970 by Heckel, a priest employed by the defendants. Heckel was employed recklessly despite the fact that the defendants had prior knowledge that he was a child molester and that they owed a duty of care to protect plaintiff from him. Plaintiff was also the victim of at least one act of sexual abuse between 1970 and 1972 by Hermley, a priest employed

by the defendants. Hermley was employed recklessly despite the fact that the defendants had prior constructive or actual knowledge that he was a child molester and that they owed a duty of care to protect plaintiff from him.

I. THE PARTIES

2. Plaintiff John Roe # 5 is a resident of Delaware and is presently 53 years old. Plaintiff has sued anonymously for the following reasons: (a) revealing his identity and having the details of his sexual abuse made public will compound his present injuries and will cause him additional depression, stress, anxiety and other serious medical and psychological problems since he currently suffers from depression, anxiety and Posttraumatic Stress Disorder and has suffered cardiac arrest due to stress the abuse caused; (b) the subject of this lawsuit, the sexual abuse of plaintiff as a child, is humiliating, embarrassing and discomforting; (c) plaintiff does not wish to bring the attention of the media and/or general community to himself or his family; (d) plaintiff does not want his friends, co-workers or complete strangers to be aware that he was sexually abused as a child; (e) plaintiff does not want to face questions from friends, family, co-workers and members of the community regarding the incidents or details of the sexual abuse that is the subject of this lawsuit; and (f) having his name revealed will cause plaintiff to be self-consciously distressed.

3. Defendant Oblates of St. Francis de Sales (“Oblates”) is a voluntary World Wide religious association of 446 male Roman Catholic priests, among others. It operates through twelve provinces and reports to the Pope of the Roman Catholic Church in Rome, Italy. Its provinces are located in the United States, Germany, France, Italy, Austria, The Netherlands, Switzerland, India, Namibia, Republic of South Africa, and Brazil. It operates schools, universities, hospitals, churches, parishes and other religious activities World Wide and in

American cities such as Washington, D.C., the Bronx, Brooklyn, Philadelphia, Niagara Falls, Wilmington, Buffalo, Ann Arbor, Toledo, Durham, Salt Lake City, Ft. Meyers, Cambridge, Greensboro and Stockton, CA. Its Superior General resides at Deshairs House, Oblate Residence, 1621 Otis Street, N.E., Washington, DC 20018. It is sued in its associational or corporate capacity and as agent of defendant the Catholic Diocese of Wilmington, Inc. (Its website is found at www.desalesoblates.org). It is the surrogate, alter-ego, associational, spiritual or ecclesiastical counterpart or is otherwise engaged in a symbiotic relationship with the Delaware corporation known as Oblates of St. Francis De Sales, Incorporated.

4. Defendant Oblates of St. Francis de Sales, Incorporated (also “Oblates”) is a Delaware corporation, (file # 0008813), and also is the Wilmington-Philadelphia Province of the Oblates of St. Francis de Sales and consists of at least 186 priests locally. It serves as its own registered agent at 2200 Kentmere Parkway, Wilmington, DE 19806. Its Provincial or Chief Executive Officer for this region of the world is defendant Rev. James J. Greenfield, O.S.F.S. at that same address. It is sued in its associational and/or corporate capacity and as agent of defendant the Catholic Diocese of Wilmington, Inc. (Its website is found at www.oblates.org.) Hereinafter, all references to "Oblates" refers to both the defendant Delaware corporation and the defendant World Wide religious association.

5. Defendant Salesianum School, Inc. (“Salesianum”) is a Delaware corporation, (file # 0416908), which is wholly owned and operated by or is a subsidiary of the Oblates. It is authorized to do business and is doing business in the State of Delaware as a private religious high school for boys located at 18th and Broom Streets, Wilmington, Delaware. It is sued in its corporate capacity and as agent of the Oblates and the Catholic Diocese of Wilmington, Inc. The president of the corporation is the Rev. James Dalton, O.S.F.S. residing at 1801 North Broom

Street, Wilmington, DE 19802. It serves as its own registered agent at that address.

6. Defendant Catholic Diocese of Wilmington, Inc. (“Diocese”) is a Delaware corporation, (file # 0787107). It serves as its own registered agent at 1925 Delaware Avenue, Wilmington, Delaware 19806. It is authorized to do business and is doing business in the States of Delaware and Maryland as a Roman Catholic religious enterprise.

7. Defendant Rev. James J. Greenfield, O.S.F.S. (“Greenfield”) is currently employed as the Provincial of the Wilmington-Philadelphia Province of the Oblates. He is sued in his official capacity as agent or alter ego of the Oblates.

8. Very Rev. John Heckel, O.S.F.S. (“Heckel”) is a deceased Roman Catholic priest and he was a member of the Oblates. From at least 1967 through 1970, he served a priest within the Diocese, a priest and employee of the Oblates and also a teacher and the Religious Superior of the Salesianum Community.

9. Rev. Harold Hermley, O.S.F.S. (“Hermley”) is a deceased Roman Catholic priest and he was a member of the Oblates. From at least 1967 to 1972, he served as a priest within the Diocese, a priest and employee of the Oblates and also as a teacher at Salesianum high school.

10. Throughout the facts alleged herein, defendants Oblates, Salesianum, and Diocese had actual or constructive knowledge of the criminal conduct of Hermley. His misconduct also was authorized, sanctioned, ratified, acquiesced in or approved by those defendants. All his acts were taken within the scope of his authority and for the benefit of those defendants.

II. FACTS GIVING RISE TO THE ACTION

A. Institutional Knowledge of Clergy Sexual Abuse

11. As was admitted under oath on July 24, 2007 by Monsignor Thomas Cini, the Vicar General for Administration of the Diocese, the Diocese, the Roman Catholic Church, and by

implication Oblates and Salesianum, have been aware of the serious problem of clergy sexual abuse of children since at least the early 1800s.

12. At his October 15, 2008 deposition, Msgr. Cini also admitted that the Diocese has been aware of the risks of priests sexually abusing children since at least the 1940's.

B. Institutional Secrecy Regarding Clergy Sexual Abuse

13. Oblates, Salesianum, Diocese and the Roman Catholic Church for at least the last 60 years have handled reports of clergy sexual abuse with extreme secrecy.

14. Oblates, Salesianum, Diocese and Roman Catholic Church authorities often use tactics with victims and their families to coerce or intimidate them from disclosing the abuse or filing a lawsuit.

15. Oblates, Salesianum, Diocese and Roman Catholic Church authorities often transfer perpetrators from one assignment to another, without telling the incoming assignment of the priest's past history of child abuse.

16. Secrecy also was enabled by the fact that child abuse victims are often afraid that by saying anything negative about a priest they are sinning and will be punished by God.

17. When they are molested, victims are told the abusive sexual act is God's will for them and God has chosen their priest to initiate them into secrets of sexual love. Hermley and Heckel regularly incorporated religion into their sexual abuse and used their positions as priests as a means to force themselves on numerous minor children, including plaintiff.

18. The long history of child sexual abuse by priests since at least the early 1800's and recent efforts at secrecy about such abuse prove that at all times, Oblates, Salesianum and Diocese were on notice of the threat of injury to children from its clergy such as Hermley and Heckel.

C. Actual and Constructive Knowledge of Hermley's Sexual Crimes

19. Oblates, Salesianum and Diocese also had a duty, arising from the licensing of Hermley to operate as a priest, to ensure that he did not sexually molest young male minors when he operated as a priest, confidant, counselor or teacher in homes, hospitals, parishes, schools and churches.

20. In breach of that duty, Hermley repeatedly sexually molested numerous young male minors, including plaintiff, when he operated in Delaware as agent for the Oblates, Salesianum and the Diocese.

21. From at least 1967 and throughout his tenure in Delaware, Oblates, Salesianum and the Diocese had actual and constructive knowledge that Hermley was sexually molesting numerous young male minors, such as plaintiff.

22. Hermley was a teacher at Bishop Ireton High School in Alexandria, Virginia from its opening in 1964 through 1967, when he was removed from his responsibilities there under questionable circumstances.

23. Despite prior knowledge that Hermley had sexually abused minors, he was transferred from Bishop Ireton and assigned to Salesianum as a teacher, where his job duties required him to have constant contact with children. No effort was made by the Oblates to warn children or their parents regarding Hermley and the danger he presented.

24. The actions by the Oblates were not in accord with the professional standards of educational institutions at that time.

25. In order for an Oblate priest to be able to function as a priest within the Diocese, the priest must obtain a *pagella* or license from the Diocese.

26. Instead of conducting its due diligence regarding Hermley and his background, the

Diocese granted Hermley this *pagella*, allowing him to operate as a priest within the Diocese and putting him in a position of trust with the Diocesan parishioners.

27. Hermley frequently filled in at parishes within the Dioceses, performing Mass and other pastoral duties, due to the priest shortage within the Diocese.

28. The Diocese's failure to perform even a minor investigation into Hermley's background constitutes a reckless disregard for the safety of its parishioners, including plaintiff and his parents.

D. Actual and Constructive Knowledge of Heckel's Sexual Crimes

29. Oblates, Salesianum and Diocese also had a duty, arising from the licensing of Heckel to operate as a priest, to ensure that he did not sexually molest young male minors when he operated as a priest, confidant, counselor or teacher in homes, hospitals, parishes, schools and churches.

30. In breach of that duty, Heckel repeatedly sexually molested numerous young male minors, including plaintiff, when he operated in Delaware as agent for the Oblates, Salesianum and the Diocese.

31. From at least 1967 and throughout his tenure in Delaware, Oblates, Salesianum and the Diocese had actual and constructive knowledge that Heckel was sexually molesting numerous young male minors, such as plaintiff.

32. It was well known all over Salesianum School and by the Oblates that Heckel sexually abused students. When one student was running for Student Body President, part of his platform was that he would require Heckel to wear gloves; the students and religious faculty knew that this student was referring to Heckel's known behavior of touching the buttocks of his students during class.

33. Despite such knowledge, the Oblates, Salesianum and the Diocese allowed Heckel to operate as a teacher and in a position of great authority: Religious Superior of the Salesianum Community.

34. Despite prior knowledge that Heckel had sexually abused minors, his job duties required him to have constant contact with children. No effort was made by the Oblates to warn children or their parents regarding Heckel and the danger he presented.

35. The actions by the Oblates were not in accord with the professional standards of educational institutions at that time.

36. In order for an Oblate priest to be able to function as a priest within the Diocese, the priest must obtain a *pagella* or license from the Diocese.

37. Instead of conducting its due diligence regarding Heckel and his background, the Diocese granted Heckel this *pagella*, allowing him to operate as a priest within the Diocese and putting him in a position of trust with the Diocesan parishioners.

38. Heckel frequently filled in at parishes within the Dioceses, performing Mass and other pastoral duties, due to the priest shortage within the Diocese. In fact, despite the Oblates' and Diocese's knowledge that Heckel sexually abused numerous children, he served as Choir Chaplain at Diocesan parish St. Joseph's in Wilmington, Delaware in 1984 and was still performing Masses at Diocesan parish St. Patrick Church in Wilmington, Delaware until his death in 2002.

39. The Diocese's failure to perform even a minor investigation into Heckel's background constitutes a reckless disregard for the safety of its parishioners, including plaintiff and his parents.

E. Heckel's Sexual Crimes Against Plaintiff

40. Plaintiff was raised in a devout Roman Catholic family. He and his family regularly attended Mass and other church activities. He received all of the sacraments of the Roman Catholic Church and was an involved at his parish.

41. Plaintiff began attending Salesianum High School when he was a sophomore, in the fall of 1969, when plaintiff was 13 years old.

42. Plaintiff was a student in Heckel's tenth grade biology class.

43. As a priest, Heckel was a person of great influence and persuasion. He was revered as an authority figure and holy man, God's Earthly representative, by plaintiff, who was raised as a devout Catholic.

44. On at least three occasions, Heckel intentionally and without plaintiff's consent made unpermitted physical contact with plaintiff in a harmful and offensive way. This contact would offend an ordinary person's reasonable sense of personal dignity, and it repeatedly offended plaintiff.

45. Heckel intentionally and without plaintiff's consent caused plaintiff to be in fear of immediate harmful or offensive physical contacts by Heckel.

46. On at least three occasions between 1969 and 1970, when plaintiff was 15 years old, Heckel engaged in non-consensual sexual conduct with plaintiff, then a minor.

47. As a master manipulator, Heckel used plaintiff's success in school and desire to become a successful professional to manipulate plaintiff into becoming a victim of his sexual abuse.

48. On two separate occasions, beginning in 1969 when plaintiff was 15 years old, during biology class, Heckel came up behind plaintiff while plaintiff was standing to perform biology experiments and placed his hands on plaintiff's buttocks.

49. Despite the fact that it was common knowledge among the students and religious faculty that Heckel sexually abused children in this way, plaintiff was shocked at such action by a priest and could not move or say anything.

50. On a third occasion, in 1970 when plaintiff was 15 years old, Heckel called plaintiff out of Biology class and took him into a nearby secluded room under the pretense of talking about plaintiff's options for college.

51. Once Heckel manipulated plaintiff into joining him in the secluded room, Heckel began telling plaintiff that he should consider becoming a doctor, as he was so intelligent.

52. Heckel explained that if plaintiff wanted to become a doctor, he would have to become very comfortable with the human body. As Heckel said these things to plaintiff, his back was turned to plaintiff.

53. Heckel then turned around to face plaintiff and Heckel had his penis exposed. Heckel requested that plaintiff "examine" his penis.

54. Plaintiff denied Heckel's request and gingerly stepped around Heckel so as to avoid any further sexual abuse before running out of the room.

55. Because of Heckel's position as a Roman Catholic priest, teacher and Religious Superior of the Salesianum Community, plaintiff was afraid to report what Heckel had done to him as he feared retribution from those in the Salesianum Community.

F. Hermley's Sexual Crimes Against Plaintiff

56. As a priest, Hermley was a person of great influence and persuasion. He was revered as an authority figure and holy man, God's Earthly representative, by plaintiff, who was raised as a devout Catholic.

57. On at least one occasion, Hermley intentionally and without plaintiff's consent made

unpermitted physical contact with plaintiff in a harmful and offensive way. This contact would offend an ordinary person's reasonable sense of personal dignity, and it repeatedly offended plaintiff.

58. Hermley intentionally and without plaintiff's consent caused plaintiff to be in fear of immediate harmful or offensive physical contacts by Hermley.

59. On at least one occasion between 1970 and 1972, when plaintiff was between 14 and 16 years old, Hermley engaged in non-consensual sexual conduct with plaintiff, then a minor.

60. Plaintiff came to know Hermley because Hermley was plaintiff's math teacher in either eleventh or twelfth grades, when plaintiff was between the ages of 15 and 16.

61. By this time, plaintiff's grades had begun to suffer as a result of the sexual abuse he endured at the hands of Heckel.

62. Plaintiff was spending a great deal of time in the library trying to improve his performance in school.

63. Hermley came into the library where plaintiff was and told plaintiff that he wanted to talk to him.

64. Hermley led plaintiff to an empty classroom. As they entered the classroom, Hermley had plaintiff sit down in a chair and he placed his hands on plaintiff's shoulders. Hermley then sat behind the desk in the empty classroom and plaintiff sat in a chair facing Hermley.

65. Hermley asked plaintiff if he would like an alcoholic drink. Plaintiff was shocked by this offer coming from a priest and declined.

66. Hermley then began telling plaintiff that he wanted to see plaintiff attend college and asked why plaintiff was not performing well in school.

67. Plaintiff responded with short answers as Hermley's behavior of taking him to an empty classroom, engaging in physical contact with plaintiff and offering plaintiff an alcoholic drink made plaintiff very uncomfortable.

68. After asking plaintiff about his declining performance in school, Hermley stood up from behind the desk and had his penis exposed to plaintiff.

69. Having experienced such sexual abuse perpetrated by Heckel before, plaintiff quickly left the room.

70. Hermley was transferred to North Catholic High School in Philadelphia in the fall of 1972.

71. Because of Hermley's position as a Roman Catholic priest and teacher at Salesianum, plaintiff was afraid and did not think that anyone would believe him if he reported what Hermley was doing to him.

G. Agency

72. At all times and in all matters relevant hereto, defendant Oblates of St. Francis de Sales, Incorporated, ("Oblates I") was agent of defendant Oblates of St. Francis de Sales, the voluntary World Wide religious association ("Oblates II"). It was empowered by Oblates II to perform duties and functions undertaken on behalf of Oblates II. It accepted and consented to serve and act on Oblates II's behalf as its agent. Oblates II gave it the power to act on its behalf and to produce changes in legal relations by performing or not performing legal acts. Oblates II conferred upon it the authority (express, implied, apparent or inherent) to affect the legal relations of Oblates II by performing acts in accordance with Oblates II's manifestations of consent. At all times, it acted within the scope of that consent. All acts, if any, initially done outside the scope of that consent were ratified, affirmed, adopted or acquiesced in by Oblates II.

Hereinafter, all references to "Oblates" refers to both the defendant Delaware corporation and the defendant World Wide religious association.

73. At all times relevant hereto Heckel and Hermley were priests licensed by the defendants Oblates and Diocese to operate in the homes, hospitals, parishes, schools and churches of the Diocese and schools of the Oblates. Without Oblates, Roman Catholic Church and Diocesan approval they could perform no sacerdotal functions or function as a priest in any manner whatsoever.

74. At all times and in all matters relevant hereto, Heckel and Hermley were the agents of defendants Oblates, Salesianum and Diocese who were their principals. These defendants manifested an intention that Heckel and Hermley become their agents and act on their behalf. Heckel and Hermley accepted and consented to serve and act on their behalf as their agents. Heckel and Hermley consented to be subject to their control. They gave Heckel and Hermley the power to act on their behalf and to produce changes in legal relations by performing or not performing legal acts. They conferred upon Heckel and Hermley the authority (express, implied, apparent or inherent) to affect their legal relations by performing acts in accordance with their manifestations of consent. At all times, Heckel and Hermley acted within the scope of that consent. All acts, if any, initially done outside the scope of that consent were ratified, affirmed, adopted or acquiesced in by Oblates, Salesianum and Diocese.

75. At all times and in all matters relevant hereto, Oblates, Salesianum, Heckel and Hermley were agents of Diocese. They were empowered by Diocese to perform duties and functions undertaken on behalf of Diocese. They accepted and consented to serve and act on Diocese's behalf as its agents. Diocese gave them the power to act on its behalf and to produce changes in legal relations by performing or not performing legal acts. Diocese conferred upon

them the authority (express, implied, apparent or inherent) to affect the legal relations of Diocese by performing acts in accordance with Diocese's manifestations of consent. At all times, they acted within the scope of that consent. All acts, if any, initially done outside the scope of that consent were ratified, affirmed, adopted or acquiesced in by Diocese.

H. Reckless and Gross Breach of Duty

76. The institutional defendants had a duty, arising from the licensing and employment of Heckel and Hermley to operate as priests, to ensure that they did not sexually abuse young male children when they operated as priests, confidants, counselors or teachers in homes, hospitals, parishes, schools and churches.

77. The institutional defendants had a duty arising from the special relationship that existed with plaintiff's parents and other parents of young, innocent, vulnerable children who attended Salesianum and parishes within the Diocese. This special relationship arose because of the high degree of vulnerability of the children entrusted to their care. As a result of this high degree of vulnerability and risk of sexual abuse inherent in such a special relationship, the institutional defendants were charged with a higher standard of care and were charged with a special duty to establish rigorous measures of protection not necessary for persons who are older and better able to safeguard themselves. Such measures should have included, *inter alia*, screening seminarians, monitoring priest behavior, prohibiting unsupervised contact between a child and an employee or agent, conducting ongoing background checks, ensuring that a priest receive the medical treatment requested by his medical professionals, not knowingly putting a child molester into contact with vulnerable children, and other reasonable measures.

78. The institutional defendants also had a duty, arising from their actual knowledge that Heckel and Hermley were child molesters and pedophiles, to ensure that they were not in a

position to molest young male minors. They also had a duty to use reasonable care to protect and supervise the children in their care, such as plaintiff.

79. In breach of these duties, Heckel and Hermley repeatedly molested numerous young male children, including plaintiff and others when they operated as priests in Delaware as an agent of the institutional defendants.

80. The institutional defendants engaged in a cover up of Heckel's and Hermley's sexual abuse of children.

81. In keeping with the Diocese's 60 year policy, pattern and practice of secrecy surrounding child abuse and pedophilia in the Roman Catholic Church, and the Oblates similar policy, pattern and practice, the institutional defendants intentionally, willfully and with a conscious disregard for the obvious risks to any child who came into contact with Heckel and/or Hermley, failed to warn of or disclose Heckel's and Hermley's abuse to public authorities or to the community and failed to warn parents or children, including plaintiff and his parents of Heckel's and Hermley's actions, inclinations and nature.

82. The institutional defendants' retention and placement of Heckel and Hermley in positions in which they had constant interaction with children, who they knew or should have known were threats to children, constituted an intentional failure to perform a manifest duty in reckless disregard of the consequences to all foreseeable victims of Heckel and Hermley, including plaintiff.

83. The institutional defendants' retention and placement of Heckel and Hermley in a position in which he had constant interaction with children, who they knew or should have know were threats to children, evidenced a conscious disregard for the safety of those children, including plaintiff.

84. The institutional defendants' failure to use reasonable care to protect and supervise the children under their care constituted an intentional failure to perform a manifest duty in reckless disregard of the consequences to all foreseeable victims of Heckel and Hermley, including plaintiff.

85. The institutional defendants' failure to use reasonable care and to properly supervise Heckel and Hermley constituted an intentional failure to perform a manifest duty in reckless disregard of the consequences to all foreseeable victims of Heckel and Hermley, including plaintiff.

86. The institutional defendants' failure to use reasonable care to properly supervise Heckel and Hermley evidenced a conscious disregard for the safety of the children within their care, including plaintiff.

I. Fiduciary Relationships

87. Fiduciary relationships existed between plaintiff and his parents on the one hand, and Heckel, Hermley, Salesianum, Oblates and Diocese on the other. These relationships are characterized by the highest degree of trust, confidence, good faith, honesty and candor, as well as a prohibition against self-dealing.

88. Similar or identical to the fiduciary relationships that characterize the lawyer-client, doctor-patient and clergyman-church member relationships, such special relationships also existed in this case between plaintiff and his parents (who were members of the Roman Catholic Church and religion and faithful adherents to its doctrines, rituals, hierarchical organization and precepts), and Heckel, Hermley and several agents of Salesianum, the Oblates and the Diocese who all were Roman Catholic priests.

89. This special fiduciary relationship was formed due to defendants' positions of the

highest trust and spiritual authority as high ranking members of the Roman Catholic religion to which plaintiff and his parents were adherents. It was formed when plaintiff and his parents placed trust in the faithful integrity of defendants and their agents as religious authorities and leaders.

90. This special fiduciary relationship was also formed due to the actions of plaintiff's parents entrusting him to defendants' care in the school setting of Salesianum, the parish they attended and throughout the Diocese.

91. As a result of placing this trust, defendants gained influence, superiority and assumed religious control and responsibility over plaintiff and his parents. Defendants assumed a duty to act for or give advice to plaintiff and his parents regarding matters falling within the scope of the relationship.

92. Such a special fiduciary relationship also was formed through the giving of regular sums of money by plaintiff's parents, through participation in religious rituals and celebrations and through organizational membership.

J. Causation

93. The willful, wanton and reckless actions of the defendants were the proximate cause of separate and distinct immediate and long term injuries and conditions which plaintiffs suffered. The actions of each defendant played a determinative role in these injuries. The negligence and gross negligence of the defendants was a substantial or motivating factor in causing plaintiff's injuries.

K. Injuries of Plaintiff John Roe #5

94. Immediately after he was sexually abused, plaintiff lost his ability to trust anyone and to form relationships.

95. Immediately after he was sexually abused, plaintiff began experiencing overwhelming shame, anger and guilt.

96. Plaintiff turned to alcohol and illicit substances to self-medicate against the feelings of overwhelming shame, anger and guilt after Heckel sexually abused him. This only intensified after Hermley sexually abused him.

97. By the time he reached twelfth grade, plaintiff could no longer stand to be in a school full of priests, as he had been sexually abused by two of them. Plaintiff thus dropped out of high school, only many years later receiving his GED and attending college. As a result of plaintiff's decision to drop out of high school because of the sexual abuse perpetrated against him by Heckel and Hermley, plaintiff's father kicked plaintiff out of the house at age 17.

98. As a result of the sexual abuse perpetrated against him by Heckel and Hermley, plaintiff has had trouble with male authority figures since high school. This has led to numerous job changes for plaintiff.

99. Plaintiff has suffered from depression and anxiety since he was victimized by Heckel and Hermley and continues to suffer from these conditions to the current day. Plaintiff experiences severe anxiety when exposed to anything that relates to church.

100. As a result of his inability to trust people, plaintiff has experienced one failed marriage, is socially isolated and alienated from his family.

101. Plaintiff suffers from a deep sense of shame and guilt as a result of the sexual abuse perpetrated against him by Heckel and Hermley and, as a result, deeply believes that no one could ever love him.

102. As a result of his inability to trust others and his deep-seeded belief that no one could ever love him after being victimized by Heckel and Hermley, plaintiff is unable to engage

in intimacy inherent in romantic relationships.

103. Because he felt such shame and guilt over the abuse perpetrated against him by Heckel and Hermley, plaintiff was unable to share his experience of being victimized with anyone until 2004.

104. Plaintiff also has suffered a complete loss of his Catholic faith, which was very important to him due to his devout upbringing, as a result of Heckel's and Hermley's sexual abuse of him and the Oblates and the Church's lack of response to the pervasive problem of pedophiles in the priesthood.

105. Plaintiff's separate and distinct immediate and long term injuries and conditions, which were the result of childhood sexual abuse perpetrated by Heckel and Hermley include, but are not limited to, the above-mentioned injuries, guilt, emotional pain, fear, fright, shame, humiliation, anger, loss of enjoyment of life, embarrassment, substance abuse, alcoholism, economic losses and other temporary and permanent personal injury.

COUNT I (Gross Negligence)

106. Plaintiff repeats and realleges paragraphs 1-105 set forth above.

107. Defendants Oblates, Salesianum and Diocese owed a duty of care to the plaintiff under the circumstances then existing.

108. Defendants Oblates, Salesianum and Diocese intentionally, willfully, wantonly, recklessly, and with gross negligence breached their duty to the plaintiffs by retaining and not supervising Heckel and Hermley, failing to warn plaintiff, and failing to protect plaintiff from the foreseeable criminal acts of Heckel and Hermley when they knew or should have known that Heckel and Hermley posed a danger to plaintiff. They knew that Heckel and Hermley had previously sexually abused other students.

109. Oblates, Salesianum and Diocese's breach of duty constituted an intentional failure to perform a manifest duty in reckless disregard of the consequences to all foreseeable victims of Heckel and Hermley, including plaintiff.

110. Defendants Oblates, Salesianum and Diocese evidenced a conscious disregard for the risk of harm to the foreseeable victims of Heckel and Hermley, all children at Salesianum and in the Diocese, including plaintiff.

111. As a direct and proximate result of the Defendants' gross negligence and intentional, willful, wanton, and reckless acts, plaintiff has been injured.

112. The actions of the Defendants were reckless, intentional and malicious and merit an award of punitive damages.

113. Plaintiff's right be free of gross negligence by the Defendants has been denied under the common law of the State of Delaware and the Act.

COUNT II (Assault and Battery)

114. Plaintiff repeats and realleges paragraphs 1-113 set forth above.

115. The acts of Heckel and Hermley toward plaintiff are crimes in Delaware under, *inter alia*, 11 Del. C. §§ 615, 769, and 778. They also constituted civil assault and battery. These intentional torts occurred during the normal course of their routine and regular employment duties. Under agency principles, their employers, Oblates, Salesianum and Diocese are legally responsible for these torts.

116. The actions of Oblates, Salesianum and Diocese were reckless, intentional and malicious and merit an award of punitive damages.

117. Plaintiff's right be free of assault and battery has been denied under the common law of the State of Delaware and the Act.

COUNT III (Breach of Fiduciary Duty)

118. Plaintiff repeats and realleges paragraphs 1-117 set forth above.

119. Defendants Oblates, Salesianum and Diocese owed various fiduciary duties to plaintiff.

200. Defendants Oblates, Salesianum and Diocese grossly breached those fiduciary duties.

201. As a direct and proximate result of the Oblates, Salesianum and Diocese's breach of fiduciary duties, plaintiff has been injured.

202. The actions of the defendants Oblates, Salesianum and Diocese were reckless, intentional and malicious and merit an award of punitive damages.

203. Plaintiff's rights have been denied under the common law of the State of Delaware and the Act.

COUNT IV (Fraud)

204. Plaintiff repeats and realleges paragraphs 1-203 set forth above.

205. Oblates, Salesianum and Diocese, by licensing and employing Heckel and Hermley, falsely represented to the plaintiff that Heckel and Hermley were religious authorities and leaders of integrity and worthy of plaintiff's trust.

206. Oblates, Salesianum and Diocese knew that representation was false, or it was made with reckless indifference to the truth.

207. The representation was made with an intent to induce plaintiff to engage with and associate with Heckel and Hermley, such as by attending Salesianum.

208. Plaintiff's engagement and association with Heckel and Hermley were done in justifiable reliance upon the representation.

209. As a direct and proximate result of defendants' false representations, plaintiff was injured.

210. The actions of Oblates, Salesianum and Diocese were reckless, intentional and malicious and merit an award of punitive damages.

211. Plaintiff's rights have been denied under the common law of the State of Delaware and the Act.

COUNT V (Breach of Contract/Breach of Implied Covenant of Good Faith and Fair Dealing)

212. Plaintiff repeats and realleges paragraphs 1-213 set forth above.

214. Each school year, a contract was formed between plaintiff's parents, the Oblates and Salesianum when plaintiff's parents agreed to pay the Oblates tuition and in consideration, the Oblates and Salesianum agreed to educate plaintiff.

215. At the end of each school year, a new contract was formed for the next year.

216. One of the implied terms of these contracts was to keep plaintiff safe.

217. Another of the implied terms was that the Oblates, Salesianum and their employees, priests, teachers and agents would not allow plaintiff to be sexually molested, abused or raped by teachers and priests at the school.

218. Another of the implied terms was that if teachers, priests or other employees of the Oblates or Salesianum observed plaintiff being sexually abused by a priest, they would immediately step in and stop such blatantly inappropriate conduct.

219. Defendants and their priests, teachers, employees and agents breached these duties.

220. Plaintiff has endured a lifetime of injuries as a result of this breach.

221. Plaintiff was a third party beneficiaries of this contract. Both plaintiff's parents and

defendants intended this contract to be for plaintiff's benefit and intended to confer third party status upon him. Both plaintiff's parents and defendants intended that plaintiff have enforceable rights under this contract.

222. Plaintiff's rights have been denied under the common law of the State of Delaware and the Act.

COUNT VI (Conspiracy)

223. Plaintiff repeats and realleges paragraphs 1-222 set forth above.

224. Defendants conspired with Heckel and Hermley and agreed not to punish them for sexually abusing numerous children.

225. Defendants conspired with Heckel and Hermley to enable them to continue sexually abusing children into the future.

226. Defendants conspired with Heckel and Hermley to cover up their histories of sexually abusing young children.

227. Defendants conspired with Heckel and Hermley to hide and actively suppress and intentionally misrepresent their sexual abuse of children and to induce plaintiff, and others, to engage and associate with Heckel and Hermley.

228. Defendants conspired among themselves, with Heckel and Hermley, with other priests and with other Bishops and Dioceses around the country to actively suppress and intentionally misrepresent the concrete evidence which warned of the dangers to children of abusive priests in the ministry. This suppression and misrepresentation was done with the intent of causing plaintiff, plaintiff's parents and others to remain ignorant of these dangers.

229. Defendants made a calculated business decision that it would be less costly to cover-up Heckel's and Hermley's history of sexual abuse and continually to move them to new

locations than to deal with the ramifications of stopping and exposing their sexual abuse of children.

230. Defendants' actions placed plaintiff in the reasonable foreseeable danger of being abused by known child molesters.

231. As a direct and proximate result of defendants' conspiracy, plaintiff was injured.

232. The actions of Oblates, Salesianum and Diocese were reckless, intentional and malicious and merit an award of punitive damages.

233. Plaintiff's rights have been denied under the common law of the State of Delaware and the Act.

COUNT VII (Aiding and Abetting)

234. Plaintiff repeats and realleges paragraphs 1-233 set forth above.

235. As a direct and proximate result of defendants' aiding and abetting Heckel and Hermley, plaintiff was injured.

236. The actions of Oblates, Salesianum and Diocese were reckless, intentional and malicious and merit an award of punitive damages.

237. Plaintiff's rights have been denied under the common law of the State of Delaware and the Act.

WHEREFORE, plaintiff prays that the Court:

- (a) Enter judgment against the defendants, jointly and severally.
- (b) Enter a judgment against the defendants, jointly and severally, for compensatory and punitive damages.
- (c) Enter a judgment against defendants, jointly and severally, for costs and pre and post judgment interest and attorneys' fees.
- (d) Require such other and further relief as the Court deems just and proper under the

circumstances.

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