

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT- LAW DIVISION

01 OCT 23 11 00 AM
DOROTHY BROWN
CLERK OF CIRCUIT COURT
LAW DIVISION

JOHN DOE 117 and JOHN DOE 118,)
)
Plaintiffs,)
)
vs.)
)
THE CHICAGO PROVINCE OF THE)
SOCIETY OF JESUS a/k/a THE JESUITS and)
FATHER DONALD J. MCGUIRE, S.J.)
)
Defendants.)
)
)

Trial by Jury Demanded

Case No.

2007L011952
CALENDAR/ROOM Z
TIME 00:00
PT Other

COMPLAINT

NOW COMES the Plaintiffs, by and through their attorneys, KERNS, FROST & PEARLMAN, and for their causes of action against Defendants, states as follows:

PARTIES

1. Plaintiff John Doe 117 was born on July 24, 1979 and is an adult male resident of the state of California.
2. Plaintiff John Doe 118 was born on October 24, 1987 and is an adult male resident of the state of Arizona.
3. Plaintiffs John Doe 117 and John Doe 118 are brothers. At all times material, Plaintiffs were minor residents of the State of Arizona. The identity of Plaintiffs has been made known to Defendants by separate cover letter.
4. At all times material, Defendant the Chicago Province of the Society of Jesus (the "Order" or the "Jesuits") was and is a world-wide Roman Catholic religious order of priests. Defendant Order does business in the state of Illinois, with its principal place of business located at 2050 N. Clark St., Chicago, IL 60614. The Order and its agents and employees were and

continue to be responsible for the selection and assignment of clergy, supervision of clergy activities, the exercise of authority over various members of its religious order, and the maintenance of the well-being of its members.

5. At all times material, Defendant Father Donald J. McGuire, S.J., (“McGuire”) was a resident of Illinois and a priest and member of Defendant Order. McGuire was educated by and ordained in 1961 by Defendant Order. At all times material, McGuire was under the direct supervision, employ and control of Defendant Order. McGuire was an adult and designated holy figure at the time of the facts alleged herein.

FACTS

6. At all times material to the complaint, Defendant Order was part of the Roman Catholic Church.

7. Defendant McGuire began his formal training to become a priest in 1947 and was ordained a Priest in 1961. Since the time that McGuire began his training, and at all times relevant to the Complaint, Defendant Order has monitored, supervised, trained, counseled, employed or otherwise exercised control over McGuire’s secular and non-secular activities.

8. Defendant Order transferred McGuire to several positions at different educational institutions and parishes including: Loyola Academy, Wilmette, IL; Loyola University, Chicago, IL; University of San Francisco, San Francisco, CA; Bellarmine Hall, Barrington, IL; Canisius House, Evanston, IL; and the Provincial Office, Chicago, IL.

9. From 1965 to January 1970, Defendant McGuire was a teacher and scholastic advisor at Loyola Academy, a prestigious high school operated by Defendant Order. McGuire lived on the Loyola Academy campus. Loyola was not a boarding school so no students were supposed to live there.

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10. McGuire engaged in a pattern and practice of sexually abusing Loyola Academy students during the years that he taught at the school. At various times from 1965 to 1969, McGuire had Loyola Academy students living with him in his room to facilitate his sexual abuse of them. For example, between 1966 and 1968 Victor Bender, a Loyola Academy student, lived in McGuire's room and was sexually abused virtually every day during that time period. Another Loyola Academy student, "John Doe 84", lived in McGuire's room at Loyola Academy between 1968 and 1969 and was sexually abused by McGuire almost daily.

11. Several Loyola administrators, officers, priests or teachers were aware, or should have been aware, that Defendant McGuire was sexually abusing minor boys while he was at Loyola Academy, including forcing students to sleep overnight in his room.

12. At some point in 1969, John Doe 84 told Father Schlax, a Chicago Archdiocese priest at Our Lady of Lourdes in Chicago, that McGuire was sexually abusing him. Father Schlax reported the conduct to the Defendant Order and Loyola Academy officials.

13. Almost immediately after Father Schlax reported the abuse, John Doe 84, his father, and Father Schlax met with representatives of the Order and Loyola Academy about McGuire's conduct. Rev. John Reinke, S.J., President of Loyola Academy; Rev. Robert Humbert, S.J., Headmaster of Loyola Academy; Rev. John Beall, S.J., Principal of Loyola Academy and others (collectively, the "Order Officials") were present at the meeting on behalf of the Order.

14. After this meeting, John Doe 84 immediately transferred to another Jesuit school and McGuire was removed from Loyola Academy mid-year. The current superior general of Defendant Order, Fr. Edward Schmidt, was a scholastic teaching at Loyola Academy when John

Doe 84 was being abused, when John Doe 84 transferred, and when McGuire was removed from Loyola Academy mid-year.

15. Despite their knowledge of McGuire's criminal activity no later than 1969, no representative of the Order reported McGuire's crimes to law enforcement, the Illinois Department of Child and Family Services, or any other civil authorities.

16. Despite its knowledge of McGuire's criminal activities and propensity to engage in childhood sexual abuse, the Defendant Order transferred McGuire and allowed him to remain in ministry and travel around the world abusing children for at least 30 years after it knew of his sexual abuse of John Doe 84. Defendant's actions in this regard were taken to avoid scandal and hide McGuire's abuse from the community, the police and other civil authorities.

17. Based on information and belief, the Defendant Order was aware of other incidents of sexual abuse of children by McGuire between 1969 (when they learned of the abuse of John Doe 84) and before the abuse of Plaintiffs John Doe 117 and John Doe 118, which began in approximately 1988, and 2001 respectively.

18. Based on information and belief, prior to the abuse of Plaintiffs John Doe 117 and John Doe 118, Defendant Order resolved other allegations of childhood sexual abuse by McGuire requiring strict confidentiality in settlement agreements so as to continue to avoid scandal and hide McGuire's abuse from the community, the police and other civil authorities. Based on information and belief, Defendant Order did not remove or otherwise restrict McGuire's ministry or report these incidents to law enforcement or any other civil authority.

19. Plaintiffs John Doe 117 and John Doe 118 were raised in a devout Roman Catholic family, and regularly celebrated mass, received the sacraments, and participated in church related activities. As a result, Plaintiffs developed great admiration, trust, reverence, and

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respect for, and obedience to Roman Catholic priests from an early age, including Defendant McGuire. It was through this position of trust, respect and reverence that Defendant Order and McGuire gained access to Plaintiffs and their family.

20. Plaintiffs saw McGuire regularly, through retreats conducted by McGuire and during regular visits by McGuire to Arizona. John Doe 117, and his younger brother John Doe 118 after him, came to know, admire, trust and respect McGuire as a highly respected Jesuit priest, teacher, counselor, confessor, spiritual advisor and religious instructor.

21. In approximately 1988 or 1989, McGuire began sexually abusing Plaintiff John Doe 117. Defendant McGuire recruited and solicited sexual contact with the Plaintiff using the sacrament of the confession and utilized the confessional to further his sexual grooming and exploitation of John Doe 117.

22. In or about 1988 or 1989 McGuire sexually molested Plaintiff John Doe 117 in Arizona, by forcing Plaintiff to “massage” McGuire’s naked body, including but not limited to his genital area.

23. In the summer of 1992, when Plaintiff John Doe 117 was approximately 13 years old, McGuire sexually molested Plaintiff during a religious retreat in Arizona. McGuire’s sexual abuse of Plaintiff took many forms, including but not limited to fondling and other inappropriate sexual acts by McGuire.

24. In the summer of 1994, when Plaintiff John Doe 117 was approximately 15 years old and while he and his family were visiting Chicago, Illinois, McGuire again sexually molested him in McGuire’s residence.

25. Approximately one week after leaving Chicago and returning to Arizona during the summer of 1994, McGuire visited Plaintiff John Doe 117 and his family in Arizona, and again sexually molested John Doe 117 in a manner consistent with his prior abuse.

26. In addition to the physical acts of sexual abuse described herein, McGuire also showed John Doe 117 pornography and frequently had inappropriate and sexually graphic discussions with John Doe 117, including in the confessional.

27. From March 1999 through March 2007, Plaintiff John Doe 117 served in the United States Marine Corps. Pursuant to The Soldiers and Sailors Civil Relief Act of 1940, all Statute of Limitations impacting John Doe 117's claims are tolled during John Doe 117's period of military service.

28. Because of the traumatic physical and psychological impact of the sexual abuse, John Doe 117 repressed McGuire's sexual abuse of him and did not know that he sustained any injuries because of McGuire's sexual abuse of him until 2006, further tolling the statute of limitations. While John Doe 117 recently remembered certain acts of sexual abuse by McGuire in 2006, he continues to repress many of his interactions with McGuire.

29. In approximately 2001, when Plaintiff John Doe 118 was 13 years old, Defendant McGuire recruited and solicited sexual contact with Plaintiff John Doe 118 using the sacrament of the confession. McGuire utilized the confessional to further his sexual grooming and exploitation of John Doe 118.

30. In or about the fall of 2001, John Doe 118 was recruited to act as McGuire's alter server whenever McGuire was in Arizona to conduct retreats and/or saying mass. During this time, and while visiting the homes of members of the faith, McGuire would walk around naked in front of Plaintiff John Doe 118, and force John Doe 118 to "massage" McGuire's naked body

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including his genital area. During this same time period, McGuire would touch and grope John Doe 118 in an inappropriate and sexual manner.

31. In late 2001 or early 2002, McGuire again requested Plaintiff John Doe 118 to be his server. Again, McGuire forced John Doe 118 to “massage” McGuire’s naked body including, but not limited to his genital area.

32. During a visit to Arizona in March 2002, McGuire again solicited Plaintiff John Doe 118, by engaging in sexually explicit conversation while viewing and showing John Doe 118 pornographic materials. During this visit McGuire touched John Doe 118 in an inappropriate and sexual manner.

33. McGuire mentally and physically intimidated and threatened Plaintiffs John Doe 117 and John Doe 118 in order to silence these Plaintiffs and allow the abuse to continue.

34. Defendant Order had learned of McGuire’s pedophilic behavior and his propensity to engage in sexual abuse no later than 1969. Upon information and belief, Defendant Order became aware of other instances in which McGuire sexually abused minor boys between 1969 and 1988. Defendant Order had actual knowledge of material facts regarding McGuire's individual pedophile impulses and behavior before he abused Plaintiff, but failed to act on that knowledge.

35. Despite Defendant Order’s knowledge of McGuire’s pedophilic behavior no later than 1969, Defendant Order did not remove McGuire from ministry or otherwise restrict his ministry or access to children in any way. Defendant Order did not report McGuire to law enforcement or any other civil authority or otherwise warn its members or the public at large that McGuire posed a significant risk to children. Rather, to avoid scandal, the Defendant Order ignored the problem and in fact added to it by representing McGuire as a priest in good standing

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and allowing McGuire to continue in ministry all over the world where he could have access to and abuse children, including Plaintiff.

36. In February 2006, a Wisconsin jury criminally convicted McGuire of sexually abusing Victor Bender and John Doe 84 during trips to Wisconsin while they were Loyola Academy students. McGuire was sentenced to 7 years in prison, but remains free in the Chicago area pending his appeal.

37. The sexual abuse of the Plaintiff John Doe 117, and the circumstances under which the abuse occurred, caused Plaintiff to develop various physical injuries and psychological injuries, including but not limited to, symptoms of psychological distress, great shame, guilt, self-blame, confusion, depression, repression, loss of self-esteem, humiliation, loss of enjoyment of life, loss of religious faith, severe psychological injury and will be deprived of earning capacity, and has and/or will in the future incur expenses for psychological treatment, therapy and counseling.

38. The sexual abuse of the Plaintiff John Doe 118, and the circumstances under which the abuse occurred, caused Plaintiff to develop various physical injuries and psychological injuries, including but not limited to, symptoms of psychological distress, great shame, guilt, self-blame, confusion, depression, repression, loss of self-esteem, humiliation, loss of enjoyment of life, loss of religious faith, severe psychological injury and will be deprived of earning capacity, and has and/or will in the future incur expenses for psychological treatment, therapy and counseling.

COUNT I: BATTERY / CHILD SEXUAL ABUSE (John Doe 117)
DEFENDANT MCGUIRE

Plaintiff John Doe 117 incorporates Paragraphs 1 through 38 of this Complaint as if fully set forth under this count and further alleges that:

39. From approximately 1988 through 1994, while Plaintiff was at all times a minor, McGuire engaged in the aforementioned un-permitted, harmful and offensive sexual contact upon the person of Plaintiff.

40. As a direct result of this sexual abuse, Plaintiff has suffered the physical and psychological injuries and damages described herein.

WHEREFORE, Plaintiff John Doe 117 demands judgment against McGuire in an amount in excess of \$50,000, plus costs, disbursements, reasonable attorney's fees, interest and such other relief as the court deems just and equitable.

COUNT II: NEGLIGENCE (John Doe 117)
DEFENDANT JESUITS

Plaintiff John Doe 117 incorporates Paragraphs 1 through 38 of this Complaint as if fully set forth in this count and further alleges:

41. As specified herein, McGuire sexually abused Plaintiff for several years while he was a minor child, beginning when Plaintiff was approximately nine years old.

42. By holding McGuire out as a fit agent, Defendant Jesuits was responsible for the supervision, care and physical safety of Plaintiff. As such, Defendant Jesuits owed Plaintiff a duty to provide for the supervision, care, and physical safety of Plaintiff in a reasonable manner, including the obligation to inform Plaintiff of McGuire's known dangerous propensities.

43. Defendant Jesuits knew or should reasonably have known of McGuire's dangerous and exploitative propensities as a child sexual abuser and/or an unfit agent. Prior to the time that McGuire abused Plaintiff, Defendant Jesuits had actual or constructive notice that McGuire was sexually abusing other minors. Despite such knowledge, Defendant Jesuits negligently retained and/or failed to supervise McGuire in his position of trust and authority as a priest, counselor and teacher, where he was able to commit the wrongful acts against Plaintiff.

44. Despite the Jesuits' knowledge that McGuire was a pedophile, the Jesuits did not impose any restrictions on McGuire's conduct. The Jesuits did not warn anybody about McGuire's behavior. Defendant Jesuits breached its duty of care by exposing Plaintiff to unsupervised contact with McGuire, permitting him to sexually abuse Plaintiff.

45. As a direct result of this negligent conduct, Plaintiff has sustained and continues to sustain the injuries and damages alleged herein.

WHEREFORE, Plaintiff John Doe 117 demands judgment against Defendant The Chicago Province of the Society of Jesus in an amount in excess of \$50,000.00 plus costs, disbursements, reasonable attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT III: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(John Doe 117)
DEFENDANT MCGUIRE

Plaintiff John Doe 117 incorporates paragraphs 1 through 38 of the Complaint as if fully set forth under this count.

46. Defendant McGuire's conduct described herein is extreme and outrageous.

47. Defendant McGuire knew that there was a high probability that his conduct would inflict severe emotional distress upon Plaintiff John Doe 117.

48. Defendant McGuire recklessly disregarded the high probability that its conduct would inflict severe emotional distress upon Plaintiff and its conduct, did, in fact, cause Plaintiff severe emotional distress.

49. Plaintiff suffered medically significant and diagnosable distress as a result of Defendant Jesuit's actions as set forth in the facts above.

WHEREFORE, Plaintiff John Doe 117 demands judgment against Defendant Donald J. McGuire, S.J. in an amount in excess of \$50,000.00 plus costs, disbursements, reasonable attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT IV: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(John Doe 117)
DEFENDANT JESUITS

Plaintiff John Doe 117 incorporates paragraphs 1 through 38 of the Complaint as if fully set forth under this count.

50. Defendant Jesuit's conduct described herein is extreme and outrageous.

51. Defendant Jesuits knew that there was a high probability that its conduct would inflict severe emotional distress upon Plaintiff John Doe 117.

52. Defendant Jesuits recklessly disregarded the high probability that its conduct would inflict severe emotional distress upon Plaintiff and its conduct, did, in fact, cause Plaintiff John Doe 117 severe emotional distress.

53. Plaintiff John Doe 117 suffered medically significant and diagnosable distress as a result of Defendant Jesuit's actions as set forth in the facts above.

WHEREFORE, Plaintiff John Doe 117 demands judgment against Defendant The Chicago Province of the Society of Jesus in an amount in excess of \$50,000.00 plus costs,

disbursements, reasonable attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT V: BATTERY / CHILD SEXUAL ABUSE (John Doe 118)
DEFENDANT MCGUIRE

Plaintiff John Doe 118 incorporates Paragraphs 1 through 38 of this Complaint as if fully set forth under this count and further alleges that:

54. From approximately fall 2001 through spring 2002, while Plaintiff John Doe 118 was at all times a minor, McGuire engaged in the aforementioned un-permitted, harmful and offensive sexual contact upon the person of Plaintiff.

55. As a direct result of this sexual abuse, Plaintiff has suffered the physical and psychological injuries and damages described herein.

WHEREFORE, Plaintiff John Doe 118 demands judgment against McGuire in an amount in excess of \$50,000, plus costs, disbursements, reasonable attorney's fees, interest and such other relief as the court deems just and equitable.

COUNT VI: NEGLIGENCE
(John Doe 118)
DEFENDANT JESUITS

Plaintiff John Doe 118 incorporates Paragraphs 1 through 38 of this Complaint as if fully set forth in this count and further alleges:

56. As specified herein, McGuire sexually abused Plaintiff for several years while he was a minor child, beginning when Plaintiff was thirteen years old.

57. By holding McGuire out as a fit agent, Defendant Jesuits was responsible for the supervision, care and physical safety of Plaintiff. As such, Defendant Jesuits owed Plaintiff a

duty to provide for the supervision, care, and physical safety of Plaintiff in a reasonable manner, including the obligation to inform Plaintiff of McGuire's known dangerous propensities.

58. Defendant Jesuits knew or should reasonably have known of McGuire's dangerous and exploitative propensities as a child sexual abuser and/or an unfit agent. Prior to the time that McGuire abused Plaintiff John Doe 118, Defendant Jesuits had actual or constructive notice that McGuire was sexually abusing other minors. Despite such knowledge, Defendant Jesuits negligently retained and/or failed to supervise McGuire in his position of trust and authority as a priest, counselor and teacher, where he was able to commit the wrongful acts against Plaintiff.

59. Despite the Jesuits' knowledge that McGuire was a pedophile, the Jesuits did not impose any restrictions on McGuire's conduct. The Jesuits did not warn anybody about McGuire's behavior. Defendant Jesuits breached its duty of care by exposing Plaintiff John Doe 118 to unsupervised contact with McGuire, permitting him to sexually abuse Plaintiff.

60. As a direct result of this negligent conduct, Plaintiff John Doe 118 has sustained and continues to sustain the injuries and damages alleged herein.

WHEREFORE, Plaintiff John Doe 118 demands judgment against Defendant The Chicago Province of the Society of Jesus in an amount in excess of \$50,000.00 plus costs, disbursements, reasonable attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT VII: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(John Doe 118)
DEFENDANT MCGUIRE

Plaintiff John Doe 118 incorporates paragraphs 1 through 38 of the Complaint as if fully set forth under this count and further alleges:

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61. Defendant McGuire's conduct described herein is extreme and outrageous.

62. Defendant McGuire knew that there was a high probability that his conduct would inflict severe emotional distress upon Plaintiff John Doe 118.

63. Defendant McGuire recklessly disregarded the high probability that its conduct would inflict severe emotional distress upon Plaintiff and its conduct, did, in fact, cause Plaintiff severe emotional distress.

64. Plaintiff suffered medically significant and diagnosable distress as a result of Defendant McGuire's actions as set forth in the facts above.

WHEREFORE, Plaintiff John Doe 118 demands judgment against Defendant Donald J. McGuire, S.J. in an amount in excess of \$50,000.00 plus costs, disbursements, reasonable attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT VIII: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(John Doe 118)
DEFENDANT JESUITS

Plaintiff incorporates paragraphs 1 through 38 of the Complaint as if fully set forth under this count.

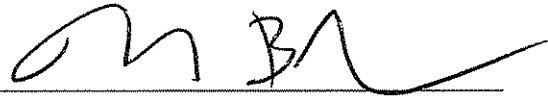
65. Defendant Jesuit's conduct described herein is extreme and outrageous.

66. Defendant Jesuits knew that there was a high probability that its conduct would inflict severe emotional distress upon Plaintiff John Doe 118.

67. Defendant Jesuits recklessly disregarded the high probability that its conduct would inflict severe emotional distress upon Plaintiff and its conduct, did, in fact, cause Plaintiff John Doe 118 severe emotional distress.

68. Plaintiff John Doe 118 suffered medically significant and diagnosable distress as a result of Defendant Jesuit's actions as set forth in the facts above.

WHEREFORE, Plaintiff John Doe 118 demands judgment against Defendant The Chicago Province of the Society of Jesus in an amount in excess of \$50,000.00 plus costs, disbursements, reasonable attorney's fees, interest, and such other relief as the court deems just and equitable.



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