

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

20101013252
CALENDAR/ROOM E
TIME 00:00
PI Other

JANE DOE 135,

Plaintiff,

v.

FR. FERNANDO ZULETA, and THE
CATHOLIC BISHOP OF CHICAGO, a.k.a
THE ARCHDIOCESE OF CHICAGO,

Defendants.

No.

COMPLAINT

The Plaintiff, Jane Doe 135 by and through her attorneys, Kerns, Frost & Pearlman, LLC, and Jeff Anderson & Associates, P.A., for her causes of action against the Defendants, Fr. Fernando Zuleta ("Zuleta") and the Catholic Bishop of Chicago ("the Archdiocese"), states the following:

PARTIES

1. Defendant Zuleta is a Catholic priest employed by the Archdiocese of Chicago, and currently resides in Chicago, Illinois.
2. Defendant Archdiocese was and is an Illinois corporation. At all times material to the complaint, the Archdiocese was conducting business in the State of Illinois.
3. Plaintiff, Jane Doe 135 was a resident of the State of Illinois at the time of all relevant conduct alleged herein.

FACTS COMMON TO ALL COUNTS

4. On information and belief, Zuleta works and has worked as an associate pastor at Resurrection Parish, in Chicago, Illinois.

5. In the course and scope of his employment with the Archdiocese, and in furtherance of the Archdiocese's and Catholic Church's mission, which includes providing counseling, medical care, and other social services to both the religious and non-religious members of the community, Zuleta provided grief counseling to the dying and their grieving family members.

6. During November 2008, and on information and belief with the permission and support of his superiors including Cardinal Francis George, Zuleta's work specifically included working as a chaplain and grief counselor at Rainbow Hospice ("Rainbow"), in Chicago, Illinois.

7. On information and belief, Zuleta also received training to treat individuals of all backgrounds to guide them safely through the grieving process.

8. During November 2008, Plaintiff's mother became stricken with a severe, debilitating, and terminal illness and was admitted to Rainbow.

9. Upon admission of Plaintiff's mother to Rainbow, Plaintiff was introduced to Zuleta. Zuleta held himself out as a professional who was qualified to offer plaintiff secular grief counseling or therapy, and did in fact offer to provide such counseling and therapeutic support to Plaintiff.

10. When Zuleta met Plaintiff, he recognized and understood that Plaintiff was in a severe stage of grieving, and was struggling to cope with the impending death of her mother.

11. During Plaintiff's mother's admission to Rainbow, Zuleta met with Plaintiff individually and privately for daily counseling sessions.

12. Plaintiff placed great trust in Zuleta, and viewed him as a counselor who was providing her much needed professional care and support during a time of tremendous need and

emotional vulnerability. Plaintiff confided in and relied upon Zuleta for emotional and/or psychological support during her sessions with him.

13. In November 2008, Zuleta counseled Plaintiff during his private meetings with her at Rainbow, and in subsequent meetings with her, about the “stages of grief,” and about her journey through these “stages of grief.” Zuleta’s counseling also included, but was not limited to helping Plaintiff cope with her severe feelings and/or symptoms of grief, and guiding her to heal emotionally from the distress that accompanied and followed her mother’s illness and death.

14. Within days of meeting Zuleta, Plaintiff developed an overwhelming psychological and emotional dependency on him as her counselor, which he allowed and encouraged to develop unchecked.

15. Also within days of meeting Zuleta, under the guise of providing further therapeutic grief counseling, Zuleta encouraged Plaintiff to continue her private counseling session at a local restaurant over coffee.

16. During the course of this meeting, Zuleta began ordering alcohol for Plaintiff until she became intoxicated. That evening, despite knowing Plaintiff had become intoxicated, that she had become emotionally dependent upon him, and also knowing her to be married, Zuleta kissed Plaintiff and touched her body in a sexual manner.

17. During the following and remaining days of her mother’s admission to Rainbow, Zuleta continued to have daily private meetings to treat, counsel, and guide Plaintiff through the clinical stages of grief. During these sessions, Zuleta also continued to escalate his advances towards Plaintiff by engaging in intimate conversation, and engaging in further kissing and sexual touching.

18. Approximately a week after being admitted to Rainbow, Plaintiff’s mother died.

19. Following her mother's death, Plaintiff remained severely distressed and emotionally dependent upon Zuleta. In the course and scope of his duties as Plaintiff's grief counselor, Zuleta encouraged, and did not responsibly manage Plaintiff's emotional dependence upon him.

20. To the contrary, Zuleta seduced and manipulated Plaintiff, and began a sexual relationship with her within days of her mother's admission to Rainbow. This relationship escalated immediately following her mother's death just as Plaintiff's emotional disturbance and need for counseling increased.

21. Within a week of Plaintiff's mother's death, Zuleta began engaging in sexual intercourse and other sexual acts with Plaintiff on a regular and repeated basis.

22. These sexual acts continued from approximately November 2008 to February 2009. These inappropriate and unprofessional sexual encounters also would regularly occur at the church rectory at Resurrection Parish.

23. In approximately December 2008, Plaintiff told her husband about the sexual relationship with Zuleta. Plaintiff's husband immediately informed Rainbow, as well as "Fr. Tom," Zuleta's immediate supervisor at the Archdiocese of Chicago, and Pastor of Resurrection Parish. On information and belief, this information was also reported to the Vicar for Priests and/or other officials within the Archdiocese in December 2008.

24. Upon learning of Zuleta's unethical relationship and gross mishandling of Plaintiff's grief counseling, Rainbow terminated Zuleta's privileges the same day that the report was made by Plaintiff's husband.

25. On information and belief, upon being contacted by Plaintiff's husband and in contrast to Rainbow's decision to immediately terminate Zuleta, Fr. Tom and/or Zuleta's other

superiors within the Archdiocese instead questioned the wisdom of Plaintiff's decision to tell her husband in the first place. On further information and belief, the Archdiocese took no action against Zuleta as a result of his conduct or the resulting scandal and harm to Plaintiff and Plaintiff's family, and did not otherwise prevent the improper and unethical relationship from continuing; including sexual encounters at the rectory at Resurrection Parish.

26. Zuleta's exploitation of Plaintiff's vulnerable emotional condition, and his sexual relationship with Plaintiff continued unabated through February, 2009. Throughout the course of this sexual relationship, from November 2008 through February 2009, Zuleta continued to counsel Plaintiff about her "stages of grief."

27. During and immediately following Zuleta's sexual relationship with Plaintiff, her life began to spiral out of control. Plaintiff has suffered and continues to suffer extreme emotional distress as a result of Zuleta's and the Archdiocese of Chicago's conduct, including but not limited to a loss of trust and a great sense of betrayal and of being exploited, trauma and shock to her nervous system, physical pain and suffering, depression and anxiety requiring hospitalization, attempted suicide and suicidal thoughts, guilt, shame, embarrassment, and loss of enjoyment of life. Plaintiff has also incurred, and will continue to incur medical and/or psychological expenses to treat the injuries caused by Zuleta and the Archdiocese.

COUNT I
SEXUAL EXPLOITATION IN COURSE OF COUNSELING
(ZULETA)

Plaintiff incorporates paragraphs 1 through 29 of this Complaint as if fully set forth under this Count I and further alleges:

28. Plaintiff consulted and sought professional counseling from Zuleta.

29. As a result of Plaintiff's condition, and the nature of the services rendered to Plaintiff, Plaintiff became emotionally dependent upon Zuleta.

30. Zuleta engaged in sexual contact with Plaintiff as alleged herein, in the course of and/or immediately following his counseling of Plaintiff in violation of 740 ILCS 140/1, et seq.

WHEREFORE, Plaintiff demands judgment in her favor and against Fr. Fernando Zuleta in an amount in excess of the jurisdictional limit of this Court, plus costs, expenses, attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT II
PROFESSIONAL NEGLIGENCE
(ZULETA)

Plaintiff incorporates paragraphs 1 through 29 of this Complaint as if fully set forth under this Count II and further alleges:

31. That Fernando Zuleta deviated from the acceptable standard of care during his counseling and treatment of Plaintiff between November 2008 and February 2009.

32. Zuleta's deviation included but was not limited to failing to properly manage Plaintiff's psychological and emotional dependence, and engaging in sexual contact with her. (Affidavit of Attorney pursuant to 735 ILCS 2/622(a)(2) is attached hereto as Exhibit 1).

33. This deviation was the direct and proximate cause of Plaintiff's injuries as alleged herein.

WHEREFORE, Plaintiff demands judgment in her favor and against Fr. Fernando Zuleta in an amount in excess of the jurisdictional limit of this Court, plus costs, expenses, attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT III
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(ZULETA)

Plaintiff incorporates paragraphs 1 through 29 of this Complaint as if fully set forth under this Count III and further alleges:

34. Defendant Zuleta maintained a positions of trust, power, and authority over Plaintiff, and Plaintiff was dependent upon Zuleta.

35. At or about the time that Zuleta engaged in inappropriate, unethical, and unprofessional sexual conduct with Plaintiff, he knew or should have known that:

- a. Plaintiff was grieving over the illness and loss of her mother, and was in an observable state of severe grief;
- b. Plaintiff possessed all of the vulnerabilities unique to a person in need of and seeking grief counseling;
- c. Plaintiff was emotionally dependent upon Zuleta.

36. Defendant's conduct as alleged herein was manipulative and exploitative. Zuleta's conduct was also extreme and outrageous conduct that goes beyond all reasonable bounds of decency.

37. As a direct and proximate result of one or more of the aforementioned intentional acts or omissions, Plaintiff sustained severe and extreme physical and emotional distress, embarrassment, humiliation, psychological trauma, and the other injuries alleged herein.

WHEREFORE, Plaintiff demands judgment in her favor and against Fr. Fernando Zuleta in an amount in excess of the jurisdictional limit of this Court, plus costs, expenses, attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT IV
BATTERY
(ZULETA)

38. Plaintiff incorporates paragraphs 1 through 29 of this Complaint as if fully set forth under this Count IV and further alleges:

39. Defendant Zuleta engaged in unpermitted, harmful and offensive sexual contact upon the Plaintiff as alleged herein.

40. Under the circumstances alleged, and prior to engaging in the unpermitted, harmful and offensive sexual contact, Plaintiff had developed an overwhelming dependency on Zuleta, which he allowed and encouraged to develop unchecked, such that Plaintiff was rendered incapable of offering knowing consent to any such physical touching.

41. As a direct and proximate result of the sexual battery and sexual abuse, Plaintiff has suffered the injuries and damages described herein.

WHEREFORE, Plaintiff demands judgment in her favor and against Fr. Fernando Zuleta in an amount in excess of the jurisdictional limit of this Court, plus costs, expenses, attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT V
NEGLIGENCE
(ARCHDIOCESE OF CHICAGO)

Plaintiff incorporates paragraphs 1 through 29 of this Complaint as if fully set forth under this Count V and further alleges:

42. Defendant Archdiocese of Chicago, by and through its authorized agents, servants, and/or employees, officers, and directors, owed a duty to Plaintiff to exercise reasonable care under the circumstances, and to refrain from careless and negligent conduct against members of the public, including people such as Plaintiff whom are being provided counseling by one of its employees. This duty included, but is not limited to a duty to supervise Zuleta in his activities, and to otherwise prevent Zuleta from harming others, including Plaintiff.

43. Notwithstanding this duty, Defendant Archdiocese, by and through its authorized agent(s), servant(s), employee(s), officer(s) and/or director(s) breached this duty by committing

one or more of the following careless and negligent acts and/or omissions in breach of its duty of care:

- a. did not to intervene and prevent continued sexual exploitation of Plaintiff by Zuleta despite being informed that he had previously engaged in exploitative sexual contact with Plaintiff in the course of grief counseling;
- b. retained Zuleta and allowed Zuleta to resume his position as a grief counselor and employee despite the fact that it knew or should have known that he was unfit for the position;
- c. failed to adequately supervise Zuleta, who continued to have sex in the rectory at Resurrection Parish despite possessing knowledge that he had and was engaged in an inappropriate, unethical, and harmful sexual relationship with Plaintiff;
- d. did not protect Plaintiff from harm;
- e. was otherwise careless and negligent.

44. As a direct and proximate result of one or more of the aforementioned acts and/or omissions Plaintiff was subjected to sexual exploitation by Zuleta, and was caused to suffer the injuries described herein.

WHEREFORE, Plaintiff demands judgment in her favor and against the Catholic Bishop of Chicago in an amount in excess of the jurisdictional limit of this Court, plus costs, expenses, attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT VI
SEXUAL EXPLOITATION IN COURSE OF COUNSELING
(ARCHDIOCESE OF CHICAGO)

Plaintiff incorporates paragraphs 1 through 29 of this Complaint as if fully set forth under this Count VI and further alleges:

45. Defendant Archdiocese failed to take reasonable action when it knew or had reason to know that Zuleta had engaged in sexual contact with the Plaintiff in violation of 740 ILCS 140/2 and 740 ILCS 140/3.

WHEREFORE, Plaintiff demands judgment in her favor and against the Catholic Bishop of Chicago in an amount in excess of the jurisdictional limit of this Court, plus costs, expenses, attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT VII
VICARIOUS LIABILITY
(ARCHDIOCESE OF CHICAGO)

Plaintiff incorporates paragraphs 1 through 29 of this Complaint as if fully set forth under this Count VII and further alleges:

46. At all times material, Defendant Archdiocese employed Zuleta. Zuleta was under the Archdiocese's supervision, employ, and control when he committed the wrongful and negligent acts described herein.

47. Zuleta engaged in this negligent conduct while acting in the course and scope of his employment and/or accomplished the prohibited sexual contact by virtue of his job created authority as a grief counselor.

48. Defendant Archdiocese also held Defendant Zuleta out to the community as a fit and competent agent of the Archdiocese. Defendant Zuleta committed the acts alleged within the apparent authority arising from his agency. This conduct was undertaken in the course and scope of Zuleta's employment with Defendant Archdiocese and/or was ratified by Defendant Archdiocese after it was specifically informed of Zuleta's sexual contact with Plaintiff in the course of the above-described grief counseling.

49. Defendant Zuleta was acting to serve the interests of his employer when he committed the negligent acts and sexual contact alleged herein. Specifically, Defendant Zuleta, in furtherance of the Archdiocese's goals to provide secular counseling and social support to the lay community, was required to gain Plaintiff's trust, and was also thereby required to responsibly manage that trust and the emotional dependence incidental thereto in the course of providing grief counseling to Plaintiff in conformity with 740 ILCS 140/1, et seq., and the standard of care owed by grief counselors.

50. Defendant Archdiocese ratified Zuleta's conduct when it chose to take no action in response to being notified that Zuleta was sexually exploiting Plaintiff.

51. Defendant Zuleta engaged in the wrongful conduct alleged in this Complaint during his agency relationship with Defendant Archdiocese, and the Archdiocese is responsible for his wrongful conduct under the law of vicarious liability, and the doctrine of respondeat superior.

52. As a direct result of the negligent conduct and sexual contact alleged, Plaintiff has suffered the injuries and damages as described herein.

WHEREFORE, Plaintiff demands judgment in her favor and against the Catholic Bishop of Chicago in an amount in excess of the jurisdictional limit of this Court, plus costs, expenses, attorney's fees, interest, and such other relief as the court deems just and equitable.

COUNT VIII
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(ARCHDIOCESE OF CHICAGO)

Plaintiff incorporates paragraphs 1 through 29 of this Complaint as if fully set forth under this Count VIII and further alleges:

53. Defendant Archdiocese acted with callous and reckless disregard for the safety and well-being of Plaintiff as alleged herein. Defendant Archdiocese's permitting and ratifying the continuous sexual exploitation of a grieving Plaintiff constitutes extreme and outrageous conduct that goes beyond all reasonable bounds of decency.

54. As a direct and proximate result of one or more of the aforementioned intentional acts or omissions, Plaintiff sustained severe and extreme physical and emotional distress, embarrassment, humiliation, psychological trauma, and the other injuries alleged herein.

WHEREFORE, Plaintiff demands judgment in her favor and against the Catholic Bishop of Chicago in an amount in excess of the jurisdictional limit of this Court, plus costs, expenses, attorney's fees, interest, and such other relief as the court deems just and equitable.

PLAINTIFF DEMANDS TRIAL BY JURY

Respectfully Submitted,


One of Plaintiff's Attorneys

Marc J. Pearlman
Michael L. Brooks
David A. Argay
KERNS, FROST & PEARLMAN, LLC
70 W. Madison St., Ste. 5350
Chicago, IL 60602
(312) 261-4550
Firm ID No. 43936

Jeffrey R. Anderson
JEFF ANDERSON & ASSOCIATES, P.A.
366 Jackson St., Ste. 100
St. Paul, MN 55101
(651) 227-9990