

II.
PARTIES

2. Plaintiff ROCIO CASTRO is an individual who resides in San Antonio, Bexar County, Texas.

3. Plaintiff YVONNE CASTRO is an individual who resides in San Antonio, Bexar County, Texas.

4. Plaintiff PATRICIA RODRIGUEZ is an individual who resides in San Antonio, Bexar County, Texas.

5. Plaintiff MAYRA HERNANDEZ is an individual who resides in San Antonio, Bexar County, Texas.

6. Defendant ROMAN CATHOLIC ARCHDIOCESE OF SAN ANTONIO, BY AND THROUGH ARCHBISHOP REVEREND GUSTAVO GARCIA-SILLER, HIS PREDECESSORS AND SUCCESSORS, AS ARCHBISHOP OF THE ROMAN CATHOLIC ARCHDIOCESE OF SAN ANTONIO (hereinafter "ARCHDIOCESE") is an unincorporated religious association and service of process may be perfected at its principal place of business at 2718 W. Woodlawn, San Antonio, Texas 78228.

7. Defendant ST. JOHN BERCHMANS CHURCH (hereinafter "ST. BERCHMANS") is a business operating in the State of Texas and service of process may be perfected through its registered agent for service, Winifred H. Dominguez, at 511 West French Place, San Antonio, Texas 78212.

III.
JURISDICTION

8. The court has jurisdiction over this action because the facts giving rise to this action occurred in whole or in part within Bexar County, Texas and the damages

sought by Plaintiffs are well in excess of the minimum jurisdictional limits of this Court.

IV.
VENUE

9. Venue is proper in Bexar County, Texas pursuant to Texas Civil Practice and Remedies Code §15.002(a)(1) because all or a substantial part of the events or omissions occurred in Bexar County, Texas.

10. Also, venue is proper in Bexar County, Texas pursuant to Texas Civil Practice and Remedies Code §15.002(a)(2) because Defendant ARCHDIOCESE resides in Bexar County, Texas.

V.
FACTUAL BACKGROUND

11. The sexual abuse of minors by members of the Catholic Church did not receive significant media attention until the mid-1980's, although it has been a recurring problem in the Catholic Church for many decades. The newfound attention continues to encourage many individuals to come forward and seek justice despite intimidation by the Catholic Church.

12. Before his death, Father Theo Clerx served as an ordained Roman Catholic priest at St. John BERCHMANS Church in San Antonio, Texas. At all times material herein, Father Clerx was an agent and employee of Defendants ARCHDIOCESE and ST. BERCHMANS. Plaintiffs were devout and deeply religious girls who were very active in the church. Over the years, Father Clerx developed a close relationship with Plaintiffs and their family. Father Clerx used their innocence, trust and confidence to sexually abuse, assault and batter Plaintiffs.

13. At all times relevant herein, Plaintiffs were under the age of consent. The episodes of abuse were frequent and salacious in nature. They often occurred on the property of Defendant ST. BERCHMANS and at the church-owned parsonage. These episodes continued for an unknown period of time.

VI. **NEGLIGENCE**

14. Defendants ARCHDIOCESE and ST. BERCHMANS committed acts of omission and commission, which collectively and severally, constituted negligence and gross negligence, which was the proximate cause of injuries and damages to Plaintiffs.

15. Defendants ARCHDIOCESE and ST. BERCHMANS failed to use reasonable care to prevent the negligent and grossly negligent acts from occurring. Specifically, Defendants ARCHDIOCESE and ST. BERCHMANS, through their employees and officers, were negligent and grossly negligent in the following respects:

- a. Failing to provide a safe environment for members of the Church, such as Plaintiffs;
- b. Failing to provide adequate supervision and monitoring of Father Clerx, who was allowed extensive unsupervised access to minors;
- c. Failing to institute and implement policies for the protection of minors;
- d. Failing to investigate allegations of inappropriate conduct;
- e. Failing to report the crimes against Plaintiffs to law enforcement;
- f. Failing to warn Plaintiffs or their family of the dangerous sexual propensities of Catholic priests, and Father Clerx in particular, toward minor children; and
- g. Retaining Father Clerx in a position of trust, confidence and authority as a priest in direct contact with minor children when it knew or should have known of his dangerous sexual propensities.

16. Defendants ARCHDIOCESE and ST. BERCHMANS bear vicarious liability for the acts and omissions of its agents, employees and officers under the theories of respondeat superior and/or apparent authority. In particular, Defendants ARCHDIOCESE and ST. BERCHMANS bear vicarious liability for the acts and omissions of Father Theo Clerx.

VII.
BREACH OF FIDUCIARY DUTY

17. Defendants ARCHDIOCESE and ST. BERCHMANS and its agents were in a special position of trust and authority with respect to Plaintiffs. In addition to being a priest of St. John BERCHMANS Church, Father Clerx was a provider to Plaintiffs. Father Clerx made daily visits to Plaintiffs' home under the pretext of ensuring that Plaintiffs and their family were adequately fed and sheltered. Both as priest and provider, Father Clerx breached his fiduciary duty and used his position of trust to sexually exploit, violate, abuse and assault Plaintiffs. Plaintiffs were seriously injured as a direct and proximate result of that breach. Such misconduct was known, or with the exercise of reasonable care should have been known by Defendants ARCHDIOCESE and ST. BERCHMANS.

VIII.
PREMISES LIABILITY

18. Defendants ARCHDIOCESE and ST. BERCHMANS knew or should have known that Father Clerx was committing criminal acts on its premises. The episodes of sexual abuse suffered by Plaintiffs frequently occurred in and on Defendants' property. Defendants ARCHDIOCESE and ST. BERCHMANS breached the duty of care it owed to Plaintiffs as invitees on its premises by facilitating Father Clerx's sexual predations.

Plaintiffs were seriously injured as a direct and proximate result of that breach.

IX.
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

19. For a trusted priest and provider to sexually abuse and assault minor girls constitutes extreme and outrageous conduct. For a church to facilitate its priest in his sexual predations constitutes extreme and outrageous conduct. Defendants ARCHDIOCESE and ST. BERCHMANS intentionally caused severe emotional distress to Plaintiffs and Plaintiffs suffered severe injuries as a direct and proximate result.

X.
SEXUAL ASSAULT AND BATTERY OF A CHILD

20. Plaintiffs were minors at all times relevant herein. At the time this cause of action arose, the age of consent was 18. Father Theo Clerx used his position in the Church and the trust he gained from Plaintiffs to commit sexual abuse, sexual assault and sexual battery of Plaintiffs. Father Clerx committed these acts intentionally and knowingly; he used his mantle of authority as a minister of the church to perpetrate these crimes. Father Clerx's misconduct was known, or with the exercise of reasonable care should have been known by Defendants ARCHDIOCESE and ST. BERCHMANS.

XI.
GROSS NEGLIGENCE

21. Defendants' conduct described herein constitutes gross negligence as defined in TEX. CIV. P. & REM. CODE § (11)(A) & (B). As a result of such gross negligence of Defendants, Plaintiffs are entitled to exemplary damages and under CPRC §41.008(c) this case will have no statutory limits in regards to exemplary damages as this conduct involves sexual assault (§22.011), aggravated sexual assault (§22.021), and injury to a child (§22.04).

XII.
DAMAGES

22. Defendants' egregiously wrongful conduct resulted in and proximately caused injury to the Plaintiffs. Plaintiffs seek damages allowed in the State of Texas in an amount within the jurisdictional limits of the Court. The damages include past and future physical pain and mental anguish, past and future severe psychological pain and suffering, past and future emotional distress, and past and future medical expenses.

23. Plaintiffs seek unliquidated damages that are within the jurisdictional limits of the Court, and exemplary damages for the harm caused by Defendants' malice, fraud, and/or gross negligence.

XIII.
PRE-JUDGMENT AND POST-JUDGMENT INTEREST

24. Plaintiffs herein claim interest in accordance with Texas Finance Code §304.001, *et seq.* and any other applicable law.

XIV.
DEMAND FOR JURY TRIAL

25. Plaintiffs demand a jury trial and tender the appropriate fee with this petition.

XV.
REQUEST FOR DISCLOSURE

26. Under Texas Rule of Civil Procedure 194, Plaintiffs request that Defendants disclose, within 50 days of service of this request, the information or material described in Rule 194.2.

XVI.
PRAYER

27. For these reasons, Plaintiffs ask that the Court issue citations for Defendants to appear and answer, and that Plaintiffs be awarded a judgment against Defendants for damages described herein, for cost of suit, interest as allowable by law and for such other relief, in law and in equity, to which Plaintiffs may be justly entitled.

Respectfully submitted,

HILLIARD MUÑOZ GONZALES LLP

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