

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

JOHN DOE M.A.J., an individual,

PLAINTIFF,

VS.

**THE CATHOLIC DIOCESE OF KANSAS
CITY– ST. JOSEPH, a not for profit
Corporation,**

HOLD SERVICE

DEFENDANT.

Civil Case No. _____

JURY TRIAL DEMANDED

PLAINTIFF'S PETITION FOR DAMAGES

COMES NOW Plaintiff, John Doe M.A.J., and for his causes of action against the Defendant alleges as follows:

NATURE OF PETITION

1. Defendant Catholic Diocese of Kansas City – St. Joseph (hereinafter “Diocese”) has knowingly concealed, abetted and ratified the sexual abuse of their minor parishioners by Monsignor Martin Froeschl (hereinafter “Froeschl”). This cover up has allowed Froeschl to access and sexually abuse numerous children, including the Plaintiff. Plaintiff brings this lawsuit in order to hold the Defendant responsible for the injuries they have caused and to protect other children from the pain of childhood sexual abuse.

2. Agents of Defendant Diocese have had actual knowledge of inappropriate sexual misconduct of Msgr. Froeschl with minor children and did not intervene for the safety of the children, did not report these priests to appropriate civil authorities, and, with the approval and/or direction of the Defendant Diocese, engaged in fraudulent concealment and/or concealment of a tort in violation of the laws of the State of Missouri.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the causes of action asserted herein and over the parties to this action. Plaintiff asserts claims under Missouri common law. This Court has jurisdiction because Defendant Diocese, including but not limited to, owned and/or operated Guardian Angels' Parish in Kansas City, Mo., at which Msgr. Froeschl was posted.

4. Further, the Diocese is licensed to do business or transact business in Missouri and has obtained the benefits of the laws of the State of Missouri and the benefits of the Missouri location. Finally, the sexual assaults, representations and breaches of legal duties occurred in the State of Missouri.

5. Venue is proper in Jackson County, Missouri under R. S. Mo. § 508.010, inasmuch as it is the location of Defendant Diocese's principal place of business and the location at which Plaintiff was first injured.

PARTIES

6. Plaintiff is an adult man and a resident of the State of Kansas. Plaintiff was a minor in Missouri at the time the sexual abuse alleged herein began. He is currently fifty years old.

7. At all times material, Defendant Diocese was and continues to be a not for profit corporation doing business in Missouri with its principal place of business located at 20 West 9th Street, Kansas City, MO. 64105.

8. At all times material hereto, Msgr. Froeschl was under the direct supervision, employ and control of the Diocese. All acts of sexual abuse alleged herein took place during functions in which Msgr. Froeschl had custody or control of Plaintiff in his role as a priest, counselor and authority figure. Upon information and belief, Msgr. Froeschl lived, worked

and/or was assigned to Guardian Angels Parish in Kansas City, Mo.

9. Msgr. Froeschl performed most of his work on the premises owned or operated by Defendant Diocese.

10. At all times relevant, the parishes and premises to which Msgr. Froeschl was posted were under the direct supervision and control of Defendant Diocese.

BACKGROUND FACTS APPLICABLE TO ALL COUNTS

11. When Plaintiff was approximately 9-11 years old, Msgr. Froeschl sexually abused him on property owned by Defendant Diocese.

12. Msgr. Froeschl provided the plaintiff and other boys wine at an apartment that the Diocese provided for its priests in Kansas City, Mo.

13. Msgr. Froeschl french-kissed the plaintiff, stuck his tongue in the young boy's ear and sodomized the boy.

14. Plaintiff was raised in a devout Catholic family that instilled in the plaintiff a deep respect for the Catholic Church and reverence for its clergy.

15. As a boy, Plaintiff viewed Msgr. Froeschl as a significant authority figure who was well respected in the community.

16. Msgr. Froeschl behaved as though his abuse and the drinking were normal, even beneficial activities for the plaintiff.

17. At the time that Msgr. Froeschl had unlawful sexual contact with Plaintiff, he falsely represented to Plaintiff that he was providing spiritual counseling, comfort, mentoring and advice to Plaintiff.

18. Msgr. Froeschl's status as a fiduciary to Plaintiff, and plaintiff's young age, vitiated any consent to the sexual contact.

19. Multiple priests and lay persons within the Defendant Diocese had actual knowledge that Msgr. Froeschl was physically and sexually abusive to children, providing alcohol to children, spending inordinate amounts of time with children, and bringing children to apartments for nights of debauchery and sexual abuse.

20. The Diocese knew and should have known that allowing Msgr. Froeschl access to young children as part of his official duties after reports of impropriety involved an unreasonable risk of causing emotional distress and severe injury to Plaintiff and other similarly situated individuals.

21. The Diocese knew of previous sexual abuse allegations involving Msgr. Froeschl.

22. By allowing Msgr. Froeschl to hold himself out as a priest and counselor to his parishioners and young children, the Diocese acted in an outrageous manner utterly repugnant to a civilized society.

23. Defendant acted with depraved hearts knowing harm would likely occur again, including the damages to Plaintiff described herein and other similarly situated children.

24. Defendant knew or should have known this outrageous behavior would cause emotional distress to the plaintiff.

25. The Diocese, after learning of Msgr. Froeschl's and other agents' wrongful conduct, ratified the wrongful conduct described herein by failing to report it to law enforcement authorities, prospective parishioners, current parishioners, their families, victims, and the public; continuing to publicly endorse them, promote them, employ them, defend them, and represent to the public, to children, and to the people that had reported their sexual abuse that the Defendant Diocese viewed Msgr. Froeschl's actions as appropriate and reasonable conduct for priests under its supervision. The Diocese also ratified Msgr. Froeschl's conduct by encouraging the priests to

continue to abuse children, including the plaintiff.

26. Defendant Diocese aided and abetted Msgr. Froeschl by moving the priest from church to church following reports of his sexual abuse of minors; by enforcing the silence of the priests' abuse victims; by actively representing that Msgr. Froeschl was clergy in good standing despite having knowledge of their predatory inclinations; by concealing inappropriate involvement with children; by failing to stop acts of childhood sexual abuse occurring before the very eyes of their agents; by providing Msgr. Froeschl funds knowing the priest would use the funds to entice children, obtain access to children, and to purchase alcohol for children.

27. Defendant Diocese's endorsement of the sexual abuse it knew Msgr. Froeschl had committed, and the sexual abuse it knew several other clergy were then committing, created an environment within the Defendant Diocese in which the sexual abuse of children, and practices leading up to the sexual abuse of children, such as engaging them in inappropriate activities, became practices that were under the supervision of this Defendant Diocese.

28. Defendant's conduct communicated to Plaintiff and other victims that sexual abuse was proper and that legal action was not necessary. Therefore, Defendant Diocese knew, or should have known, that its actions would silence Plaintiff and other victims, prevent him from discovering his injuries, and exacerbate his emotional distress and trauma.

29. Defendant should be estopped from asserting any defense that Plaintiff's action is not timely because Defendant fraudulently concealed the wrongfulness of Msgr. Froeschl's and other clergy's conduct and the causal relationship to the harm suffered by Plaintiff.

30. The actions of Defendant, including Diocesan clergy and employees who knew of the inappropriate activities of Msgr. Froeschl, and the Diocese's actions in covering up and/or ratifying the actions of Msgr. Froeschl, caused Plaintiff not to understand the nature or

injuriousness of the acts perpetrated upon him.

31. As direct result of the Defendant's actions, Plaintiff has been caused to suffer distrust of those in authority including counselors, clergy and others; he has had relationship difficulties; and become emotionally labile. Plaintiff has suffered and continues to suffer shock, emotional distress, physical manifestations of emotional distress, embarrassment, and loss of self-esteem, disgrace, humiliation and loss of enjoyment of life. Plaintiff has suffered lost earning and lost earning capacity. Plaintiff has sustained or may in the future sustain expenses for medical and psychological treatment, therapy and counseling.

COUNT I
CHILD SEXUAL ABUSE

32. Plaintiff incorporates paragraphs 1-31 of this Petition as if fully set forth herein.

33. Defendant engaged in sexual conduct and contact upon the person of the Plaintiff, then a minor.

34. Defendant sexually abused the Plaintiff while the Plaintiff was in its custody and under its supervision.

35. Msgr. Froeschl sexually abused the Plaintiff while the Plaintiff was in the custody and under the supervision of the Defendant Diocese.

36. Msgr. Froeschl sexually abused the Plaintiff while the Plaintiff was on property owned and controlled by the Defendant Diocese.

37. Msgr. Froeschl sexually abused the Plaintiff while he was a managing agent of the Diocese.

38. The Diocese ratified Msgr. Froeschl's sexual abuse of the Plaintiff by encouraging him to commit the abuse and encouraging him to continue committing the abuse.

39. The Diocese aided and abetted Msgr. Froeschl's sexual abuse of the Plaintiff by furnishing him the means, location and opportunity to abuse the plaintiff; by consciously concealing the sexual abuse while the abuse was occurring; by actively concealing the abuse after it occurred by moving the priest to different assignments; by refusing to report the abuse; by refusing to take any action whatsoever to stop the abuse; and by representing falsely to plaintiff and the public at large that the priest's actions were appropriate.

40. All of the acts leading up to the childhood sexual abuse were within Msgr. Froeschl's scopes of employment, including the counseling and supervision provided by Reardon to the plaintiff.

41. The practice of childhood sexual abuse was sufficiently widespread among the agents of the Diocese and committed with the knowledge of the Diocese's supervisory agents, that the sexual abuse of minors became a collective objective of the Diocese, and therefore the acts of childhood sexual abuse were foreseeable acts within Msgr. Froeschl's scope of employment and were committed on behalf of Defendant Diocese.

42. The Diocese civilly aided and abetted the childhood sexual abuse of the plaintiff when agents of the Diocese generally took no action to deny the priests' access to plaintiff after gaining knowledge that Msgr. Froeschl was abusing the plaintiff.

43. The Diocese is liable for aiding and abetting under Section 562.056 RSMo for the following reasons:

a) The Diocese failed to discharge the specific duty owed to the plaintiff to protect the plaintiff from harm while the plaintiff was a minor in the custody and/or under the supervision of the Diocese.

b) The childhood sexual abuse committed by Msgr. Froeschl was committed

while Msgr. Froeschl was agents of the Diocese and acting within the scope of their employment/agency relationships and on behalf of the Diocese, and their offenses were at least misdemeanors under Missouri law.

c) High managerial agents of the Diocese, acting within the scope of their authority and employment within the Diocese, specifically acting within their authority to supervise and control the behavior of clergy working within their organizations, authorized or knowingly tolerated the childhood sexual abuse of the plaintiff.

44. The Diocese knew of Msgr. Froeschl's previous sexually abusive behavior.

45. The Defendant's actions were willful, wanton or reckless for which punitive damages are appropriate.

46. As a result of the above-described acts, Plaintiff has suffered, and continues to suffer shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; has lost earnings and earning capacity and/or has incurred and may continue to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT II **BATTERY**

47. Plaintiff incorporates paragraphs 1- 31 inclusive of this Petition as if fully set forth herein.

48. The sexual touching of Plaintiff was done with the intention of bringing about a harmful or offensive contact.

49. The sexual touching was not consented to by Plaintiff and/or the consent to the act

was procured by the fraud of Msgr. Froeschl and the Defendant Diocese.

50. As a result of the inappropriate touching, Plaintiff has been greatly injured.

51. Defendant's actions were willful, wanton or reckless for which punitive damages are appropriate.

52. The Defendant Diocese aided and abetted Msgr. Froeschl, furnishing him locations to minister, referrals to counsel youth, a vehicle, petty funds, and other instrumentalities, in addition to enforcing silence about the priest's actions, concealing evidence, providing false information concerning their faculties and actions taken to contain or correct their behavior, and refusing to contact law enforcement authorities or even remove the offending priests from a position in which they could prey upon children, including the Plaintiff; and encouraging the priests to commit the battery.

53. The Defendant Diocese ratified the abuse by encouraging Msgr. Froeschl to sexually abuse and continue to sexually abuse the plaintiff.

54. All of the acts leading up to the battery were within Msgr. Froeschl's scope of employment, including the counseling and supervision provided by Msgr. Froeschl to the plaintiff.

55. The practice of childhood sexual was sufficiently widespread among the agents of the Diocese and committed with the knowledge of the Diocese's supervisory agents, that the sexual abuse of minors became a collective objective of the Diocese, and therefore the act of childhood sexual abuse was a foreseeable act within Msgr. Froeschl's scope of employment and committed on behalf of the Diocese.

56. The Diocese civilly aided and abetted the childhood sexual abuse of the plaintiff when agents of the Diocese generally took no action to deny Msgr. Froeschl's access to plaintiff

after gaining knowledge that Msgr. Froeschl was sexually abusing the plaintiff.

57. The Diocese is liable for aiding and abetting under Section 562.056 RSMo for the following reasons:

a) The Diocese failed to discharge the specific duty owed to the plaintiff to protect the plaintiff from harm while the plaintiff was a minor in the custody and/or under the supervision of the Diocese.

b) The childhood sexual abuse committed by Msgr. Froeschl was committed while the priest was an agent of the Diocese and acting within the scope of their employment/agency relationship and on behalf of the Diocese, and their offenses were at least Missouri law misdemeanors.

c) High managerial agents of the Diocese, acting within the scope of their authority and employment within the Diocese, specifically acting within their authority to supervise and control the behavior of clergy working within their organizations, authorized or knowingly tolerated the childhood sexual abuse of the plaintiff.

58. As a result of the above-described acts, Plaintiff has suffered, and continues to suffer shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; has lost earnings and earning capacity and/or has incurred and may continue to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT III **BREACH OF FIDUCIARY DUTY/CONFIDENTIAL RELATIONSHIP**

59. Plaintiff incorporates paragraphs 1-31 inclusive of this Petition as if fully set forth

herein.

60. As a result of Plaintiff being a minor, and by Defendant undertaking the care, custody, maintenance and education of the then-vulnerable minor Plaintiff, Defendant pursued and acquired a position of empowerment, confidence, trust and custody vis-à-vis the Plaintiff.

61. Further, Defendant, by holding out the churches at which Msgr. Froeschl served as safe and secure institutions and holding themselves out as shepherds and leaders of the Roman Catholic Church, and Msgr. Froeschl as representative priests, solicited and/or accepted this position of empowerment. This empowerment prevented the then minor Plaintiff from effectively protecting himself and Defendant thus entered into a fiduciary and confidential relationship with Plaintiff.

62. Plaintiff reposed trust and confidence in Defendant and its priests as spiritual guides, authority figures, teachers, mentors and confidantes.

63. As fiduciaries to Plaintiff, the Diocese had a duty to obtain and disclose information relating to sexual misconduct and other inappropriate behavior of their agents, including Msgr. Froeschl.

64. As his caretaker and fiduciary, the Defendant owed Plaintiff the duty of trust and loyalty, and the duty to work solely for his benefit.

65. Defendant had a duty to disclose to Plaintiff that abuse had occurred and could occur in the future, and further, the Defendant Diocese had an affirmative duty to protect a child in its care from Msgr. Froeschl.

66. As a fiduciary to Plaintiff, Defendant owed a strict duty to the Plaintiff to not deploy its superior resources, education, social and political power, experience and acumen vis-à-vis the child to the detriment of the child.

67. Defendant Diocese and Msgr. Froeschl breached their fiduciary duties and confidential relationships to Plaintiff and abused their positions of trust and confidence for their own personal gain, including without limitation, the following:

- a) Failing to report that sexual abuse to any outside authority or law enforcement.
- b) Misrepresenting the safety of leaving a child alone with Msgr. Froeschl.
- c) Failing to warn the plaintiff of the propensity of Msgr. Froeschl to sexually abuse children.
- d) Moving the priest from parish to parish following reports of sexual misconduct.
- e) Aiding and abetting of Msgr. Froeschl's abuse.
- f) Encouraging Msgr. Froeschl to sexually abuse the plaintiff.
- g) Failing to take any action to stop the abuse it knew was occurring.
- h) Failing to provide a safe environment for the children who relied upon them for their care, nurturance and support.
- i) Violating its duties of care imposed by its status as *in loco parentis* to the children over whom it exercised dominion and control;

68. Defendant Diocese used Plaintiff's dependency and innocence as a child to prevent him from recognizing the abuse as injurious. Defendant Diocese accomplished this end by:

- a) Enforcing the secrecy around the acts and/or by teaching Plaintiff that the acts were normal or necessary to the relationship.
- b) Hiding the fact of the previous abuse from any individuals that might

intervene, including parents, state authorities, parishes, and parishioners.

c) Failing to abide by its own internal, secular policies and procedures concerning removal, sanction or discipline of their agents and employees, knowing the individuals whom they serve rely upon those rules, policies and procedures;

d) Ratifying the abuse by Msgr. Froeschl by continuing to allow outings with children, and hiding the fact of his abuse from other individuals or organizations that might intervene to protect the children under his care, custody and/or control.

e) Endorsing the abuse by being present at the abuse with affirmative encouragement and without objection.

69. Msgr. Froeschl breached his fiduciary duties to Plaintiff and abused his position of trust and confidence for his own personal gain, including without limitation, the following:

a) Msgr. Froeschl engaged in sexual misconduct with Plaintiff;

b) Msgr. Froeschl represented to Plaintiff that his actions were appropriate and were part of Plaintiff's spiritual growth and counseling;

c) Msgr. Froeschl made sexual contact an implicit and explicit condition of plaintiff remaining in the good graces of his family;

d) Msgr. Froeschl made sexual contact an implicit and explicit condition of social support and company of the others at the church;

e) Msgr. Froeschl silenced the Plaintiff, making him live with a secret shame and degradation while then ministering to him physically, psychologically, emotionally and spiritually.

70. Defendant's actions and/or inactions were willful, wanton and reckless for which punitive damages are appropriate.

71. As a result of the above-described acts, Plaintiff has suffered, and continues to suffer shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; has lost earnings and earnings capacity, and/or has incurred and may continue to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT IV
FAILURE TO SUPERVISE CHILDREN

72. Plaintiff incorporates paragraphs 1-31 of this Petition as if fully set forth herein.

73. At all times material, the Diocese and its personnel were the supervisors and employers of Msgr. Froeschl.

74. Msgr. Froeschl failed to supervise children when he sexually abused the Plaintiff, and told the plaintiff the abuse was OK and educational, while the plaintiff was in his custody and under their supervision.

75. Msgr. Froeschl failed to protect the Plaintiff when he sexually abused the plaintiff.

76. The Diocese was aware of previous sexual misconduct by clergy within their boundaries and/or under their supervision, including Msgr. Froeschl and that future harm was certain or substantially certain to result without proper supervision.

77. The Diocese had knowledge of Msgr. Froeschl's past behavior and traits that placed the Diocese on notice that Msgr. Froeschl posed a danger to the plaintiff.

78. Defendant Diocese disregarded the known danger of sexual abuse that Msgr. Froeschl posed to the plaintiff, whom the Diocese were charged with safekeeping.

79. Defendant Diocese's inaction in this regard exposed Plaintiff to risk that was eventuated and which resulted in injury to Plaintiff.

80. Plaintiff was sexually abused on the property owned and operated by Defendant Diocese.

81. Plaintiff was sexually abused while in the custody of the Defendant Diocese.

82. Plaintiff was sexually abused while under the control of the Defendant Diocese.

83. Defendant Diocese knew or should have known that inappropriate touching of young children by their employees and/or designated agents would cause or was substantially certain to cause those children harm.

84. Despite the risk posed by Msgr. Froeschl, Defendant Diocese continued to place Msgr. Froeschl in positions in which he would have daily contact with children.

85. Despite the risk posed by Msgr. Froeschl, Defendant Diocese ratified the priest's actions of sequestering themselves alone with small children by encouraging the abuse.

86. Despite the known risk posed by Msgr. Froeschl and others, Defendant took no action, such as contacting law enforcement officers, refusing custody of the plaintiff, or instructing Msgr. Froeschl to cease the abuse of the plaintiff, which would have protected the plaintiff.

87. Defendant's actions and/or inactions were willful, wanton and reckless for which punitive damages are appropriate.

88. As a result of the above-described acts, Plaintiff has suffered, and continues to suffer shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of

life; and/or has incurred lost earnings and earning capacity and may continue to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT V
INTENTIONAL FAILURE TO SUPERVISE CLERGY

89. Plaintiff incorporates paragraphs 1 – 31 of this Petition as if fully set forth herein.

90. At all times material, Defendant Diocese supervised and employed Msgr. Froeschl.

91. Defendant possessed actual knowledge of previous sexual misconduct by clergy within its boundaries, including Msgr. Froeschl, and that future harm was certain or substantially certain to result without proper supervision.

92. Defendant caused Msgr. Froeschl to be transferred from earlier assignments because of his inappropriate touching of young boys.

93. Defendant disregarded the known risk and actuality of sexual abuse posed by Msgr. Froeschl to the plaintiff.

94. Despite knowledge that Msgr. Froeschl had sexually abused children while serving as priests and as counselors, Defendant encouraged Msgr. Froeschl to commit sexual abuse upon children in their custody and on their property.

95. Despite knowledge that Msgr. Froeschl had sexually abused children while serving as a priest and as a counselor, Defendant continued to place Msgr. Froeschl in places of trust, knowing that he would use these positions to find vulnerable children and sexually abuse them.

96. Defendant failed to take any available action to prevent the childhood sexual abuse, including but not limited to:

- a) Instructing Msgr. Froeschl to stop sexually abusing children.
- b) Refusing the custody of the plaintiff.
- c) Reporting Msgr. Froeschl to law enforcement authorities.
- d) Detaining Msgr. Froeschl until authorities arrived.
- e) Restricting Msgr. Froeschl's contact with children.

97. By engaging in these actions, Defendant intentionally disregarded the risk posed by Msgr. Froeschl to these children.

98. Defendant knew or should have known that inappropriate touching of young children by its employees and/or designated agents would cause or was substantially certain to cause those children harm.

99. Defendant's actions and/or inactions were willful, wanton and reckless for which punitive damages and/or damages for aggravating circumstances are appropriate.

100. As a result of the above-described acts, Plaintiff has suffered, and continues to suffer shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; and/or has lost earnings and lost earning capacity and incurred and may continue to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT VI

NEGLIGENT SUPERVISION/RETENTION

101. Plaintiff incorporates paragraphs 1 – 31 of this Petition as if fully set forth herein.

102. At all times material, Defendant Diocese supervised and employed Msgr. Froeschl.

103. At all times, Defendant owned, operated and/or controlled the rectory at which the priest resided, the apartments in which he and other priests lived, and the church in which Msgr. Froeschl sexually abused the Plaintiff.

104. At all times, Defendant had control of its agent, Msgr. Froeschl

105. Defendant owed the Plaintiff a heightened standard of care because the Plaintiff was a minor in the custody and control of the Defendant, a status the Defendant invited.

106. Plaintiff was an invitee on Defendant's property.

107. Msgr. Froeschl presented a known threat to the plaintiff – Defendant was aware of previous sexual misconduct by clergy within their boundaries and under their supervision, including Msgr. Froeschl, and that future harm was certain or substantially certain to result without proper supervision.

108. Defendant breached its duty of care by aiding and abetting the priest.

109. Defendant breached its duty of care by enabling and encouraging the priest's abuse.

110. Defendant breached its duty of care by failing to remove the priest, failing to report the priest, and failing to protect the plaintiff.

111. Defendant breached its duty of care by failing to deny taking more children into their custody, knowing that Msgr. Froeschl posed a real threat of sexual abuse.

112. Defendant breached its duty of care by failing to supervise Msgr. Froeschl appropriately, including failing to supervise Msgr. Froeschl's use of the rectory, failing to supervise Msgr. Froeschl's activities with children, and moving Msgr. Froeschl into new churches and parishes where they would ready access to children and a place to abuse them after acquiring actual knowledge that Msgr. Froeschl were abusing children.

113. Defendant breached its duty of care by accepting the custody of the plaintiff, and then actually increasing the likelihood that the plaintiff would be harmed by placing a known pedophilic priest in his presence.

114. Defendant breached its duty of care by retaining Msgr. Froeschl in its employment after acquiring knowledge that Msgr. Froeschl were using his position as an agent, counselor and priest of the Defendant Diocese to abuse children.

115. Defendant disregarded the known risk of sexual abuse.

116. Defendant's actions caused injury to Plaintiff.

117. As a result of the above-described acts, Plaintiff has suffered, and continues to suffer shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; has lost earnings and earning capacity and/or has incurred and may continue to incur expenses for medical and psychological treatment, therapy, and counseling.

118. Defendant's actions and / or inactions were willful, wanton and reckless for which punitive damages are appropriate.

COUNT VII
CONSTRUCTIVE FRAUD
All Defendant

119. Plaintiff incorporates paragraphs 1-31 of this Petition as if fully set forth herein.

120. The position of power and authority of Defendant over plaintiff gives rise to a special relationship between the parties that is protected by law separate and apart from any other obligations, contractual or otherwise. Defendant deliberately invited and created a fiduciary and confidential relationship with Plaintiff.

121. Plaintiff reposed trust and confidence in the Defendant for his protection and well-being.

122. Plaintiff reposed trust and confidence in the Defendant and its priest as his spiritual guides, authority figures, counselors, mentors and confidantes.

123. As a result of Plaintiff being a minor and by Defendant undertaking the care and guidance of the then-vulnerable minor Plaintiff, Defendant entered into a relationship in which social, economic, and physical power rested exclusively in the hands of the Defendant, in which Defendant had power and mastery over the Plaintiff.

124. Further, Defendant Diocese held out Defendant Msgr. Froeschl as safe and secure leaders of the Roman Catholic Church and thereby solicited and / or accepted this position of empowerment. This empowerment, coupled with the Defendant's custody and control of the plaintiff, prevented the boy from effectively protecting himself. Thus, the Defendant entered into a fiduciary relationship with plaintiff.

125. As a fiduciary to Plaintiff, Defendant had a duty to obtain and disclose information relating to sexual misconduct and other inappropriate behavior of Defendant's agents, including Msgr. Froeschl. Further, as his caretaker and fiduciary, the Defendant owed Plaintiff the duty of trust and loyalty and the duty to work solely for his benefit, and to keep him safe. Defendant had a duty to disclose to Plaintiff and others the injurious nature of the abuse.

126. As fiduciaries to Plaintiff, Defendant Msgr. Froeschl had a duty to not sexually abuse the plaintiff, to report sexual abuse, to work solely for the benefit of the Plaintiff, and to keep the Plaintiff safe.

127. When Plaintiff was a young child, Defendant breached its fiduciary duties to Plaintiff and abused its position of trust and confidence for its own personal gain, including without limitation, the following:

- a) Defendant used Plaintiff's dependence and innocence as a child to prevent him from recognizing that the abuse was injurious.
- b) Defendant accomplished this end by enforcing the secrecy around the acts and / or teaching Plaintiff that the acts were normal or necessary to the relationship or that secrecy was necessary to prevent scandal and rejection by teachers, mentors, spiritual leaders and authority figures.
- c) Keeping a known pedophile in the presence of children such that he would be allowed to molest plaintiff.
- d) Hiding the fact of the previous abuse from any individuals that might intervene including parents, state authorities, parishes and parishioners.
- e) Failing to provide a safe environment for the children who relied upon them for their care, nurturance and support.
- f) Violating Defendant's duties of care imposed by their status as *in loco parentis* to the children over whom they exercised dominion and control.
- g) Failing to abide by Defendant's internal, secular policies and procedures concerning removal, sanction or discipline of his agents and employees, knowing the individuals whom they serve rely upon those rules, policies and procedures.
- h) Ratifying the abuse of Defendant Msgr. Froeschl by, without limitation, continuing to allow him to function as a priest, take outings with children, spend time with children at the rectory, encouraging his counseling of children, and hiding the fact of

his abuse from other individuals or organizations that might intervene to protect the children under the Defendant's care, custody and / or control.

128. Defendant's actions constituted constructive fraud upon the plaintiff.

129. As a result of the above-described acts, Plaintiff has suffered, and continues to suffer shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; has lost earnings and earning capacity and/or has incurred and may continue to incur expenses for medical and psychological treatment, therapy, and counseling.

130. Defendant's actions and/or inactions were willful, wanton and reckless for which punitive damages are appropriate.

COUNT VIII

FRAUD

131. Plaintiff incorporates paragraphs 1-31 of this Petition as if fully set forth herein.

132. Defendant knew or should have known of the sexual misconduct and other inappropriate behavior of its agents, including Msgr. Froeschl, as described in paragraphs 1-31 of this Petition.

133. Defendant misrepresented, concealed or failed to disclose information relating to sexual misconduct of their agents as described in paragraphs 1-31 of this Petition.

134. Defendant knew that it misrepresented, concealed or failed to disclose information relating to sexual misconduct of its agents, employees, or Msgr. Froeschl.

135. The fact that Defendant's agent Msgr. Froeschl had in the past and/or would in the future be likely to commit sexual misconduct with another minor was a material fact in Plaintiff's decision to accompany Msgr. Froeschl to the rectory.

136. Defendant's actions and/or inactions were willful, wanton and reckless for which punitive damages are appropriate.

137. As a result of the above-described acts, Plaintiff has suffered, and continues to suffer shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; has lost earnings and earning capacity and/or has incurred and may continue to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT IX **FRAUDULENT MISREPRESENTATION**

138. Plaintiff incorporates paragraphs 1-31 of this Petition as if fully set forth herein.

139. The Defendant engaged in ongoing misrepresentation regarding the status of Msgr. Froeschl.

140. The Defendant, by and through their agents and administrators, represented that Msgr. Froeschl was a priest with whom children could be trusted.

141. Defendant continued to hold Msgr. Froeschl out to the community of the faithful as safe, secure parish priests.

142. Defendant Msgr. Froeschl, by holding themselves out as priests in good standing, falsely represented to the plaintiff that they intended to help, protect and instruct him.

143. Defendant knew such statements were false at the time they were made.

144. Plaintiff believed the statements so made by Defendant were true and reasonably relied to his detriment upon them.

145. As a result of Defendant's fraudulent misrepresentations, Plaintiff has been injured. Each and every one of his injuries caused by the sexual abuse by Defendant Msgr. Froeschl has been exacerbated by this second violation of Plaintiff's trust.

146. As a result of the above-described acts, Plaintiff has suffered, and continues to suffer shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; has lost earning and earning capacity and/or has incurred and may continue to incur expenses for medical and psychological treatment, therapy, and counseling.

147. Defendant's actions and / or inactions were willful, wanton and reckless for which punitive damages are appropriate.

COUNT X
CONSPIRACY TO COMMIT FRAUD OR CONSTRUCTIVE FRAUD

148. Plaintiff incorporates paragraphs 1-31 of this Petition as if fully set forth herein.

149. As a result of Plaintiff being a minor, and by Defendant undertaking the care and guidance of the then vulnerable minor Plaintiff, Defendant held a position of power over Plaintiff.

150. Defendant, by holding Msgr. Froeschl out as shepherds and leaders of the Roman

Catholic Church, solicited and/or accepted this position of power. This power differential prevented the then minor Plaintiff from effectively protecting himself and Defendant thus entered into fiduciary and /or confidential relationships with Plaintiff.

151. As fiduciaries and/or confidantes to Plaintiff, Defendant had a duty to obtain and disclose information relating to sexual misconduct and other inappropriate behavior of Defendant's agents.

152. Defendant had prior knowledge of past allegations of abuse and / or sexual impropriety with children involving Msgr. Froeschl.

153. Defendant had a duty to protect Plaintiff and others from a known perpetrator by warning plaintiff and others of the abuse, abusive propensities, and/or preventing Msgr. Froeschl from accessing young boys in his roles with the Church.

154. Defendant, however, failed to disclose information regarding Defendant Msgr. Froeschl's abusive tendencies and history of inappropriate and sexually abusive relationships with children, or to prevent the priests from unfettered access to children.

155. Defendant failed to disclose their knowledge of Msgr. Froeschl's history of using their positions as priests and counselor, and the Diocesan property to attract and gain access to unsupervised time with children.

156. Defendant actively represented that Defendant Msgr. Froeschl were capable counselors and priests, when they knew he had sexually abused children in the past.

157. Defendant actively developed a plan and a strategy for keeping Msgr. Froeschl's abusive tendencies away from public light, a plan which included:

- a) Transferring Msgr. Froeschl from church to church.
- b) Representing that Msgr. Froeschl were clergy in good standing.

c) Deliberately or recklessly failing to investigate obvious indicators of sexual misconduct, including inordinate amounts of time spent with children, the use of alcohol around children, reports of sexual impropriety, and close affiliation with other known pedophiles.

d) Failing to report any of Msgr. Froeschl's sexual misconduct or other behaviors involving minors to law enforcement or state authorities.

158. Defendant engaged in such acts knowingly and/or intentionally.

159. Defendant had come to a meeting of the minds on multiple occasions regarding a strategy to conceal Msgr. Froeschl's abusive tendencies.

160. Such actions constituted one step taken in furtherance of the conspiracy.

161. Defendant shared a common aim in encouraging and committing the sexual abuse of children.

162. Plaintiff's dependency and innocence as a child to prevent him from recognizing that the abuse was injurious.

163. Further, Defendant accomplished this end by enforcing the secrecy around the acts and/or by teaching Plaintiff that the acts were normal or necessary to the relationship. The actions of the priests and agents of the Diocese who knew of the relationship and took no action further indoctrinated this lesson. As a result, Defendant breached its fiduciary duties to Plaintiff by engaging in the willful, reckless and wanton conduct described herein, by failing to disclose information regarding the injurious nature of the abuse and/or in taking acts to conceal any such information.

164. The fact that Defendant's agents, including Msgr. Froeschl, had in the past and/or would in the future be likely to commit sexual misconduct with minors at the parish to which he

was assigned would have been a material fact in Plaintiff's decisions whether to associate with Msgr. Froeschl.

165. Plaintiff justifiably relied upon Defendant for information relating to sexual misconduct of Defendant's agents. Plaintiff further relied upon Defendant to ensure his safety while he was in the Defendant's care and custody.

166. Defendant's actions and/or inactions were willful, wanton and reckless for which punitive damages are appropriate.

167. As a result of the above-described acts, Plaintiff has suffered, and continues to suffer shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; has lost earnings and earning capacity and/or has incurred and may continue to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT XI **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

168. Plaintiff incorporates paragraphs 1- 31 of this Petition as if fully set forth herein.

169. The Defendant intentionally failed to supervise, remove or otherwise sanction Msgr. Froeschl after it had actual notice of the dangerous propensities of these priests to abuse children and continued to place them in positions of authority over children and adolescents, including Plaintiff.

170. Defendant knew or should have known that Msgr. Froeschl were unsuitable for the positions that they held.

171. Defendant failed to adequately review and monitor the services provided by Msgr. Froeschl, intentionally turning a blind eye to their misconduct.

172. Defendant intentionally failed to confront, remove or sanction Msgr. Froeschl about known irregularities in their employment, including taking young children on trips, providing them money, alcohol and drugs, and spending unusual amounts of time alone with children and having received reports of impropriety.

173. Defendant failed to act upon information gained during the course of their supervision of Msgr. Froeschl

174. Defendant intentionally failed to supervise the children within its care, custody or control from coming in contact with the known risk presented by Msgr. Froeschl

175. Msgr. Froeschl engaged in intentional, outrageous conduct when Msgr. Froeschl continued to insinuate himself into the Plaintiff's family and continued acting as the confidant to his mother, after sexually abusing the plaintiff.

176. At all times relevant, Defendant was in a fiduciary and/or confidential relationship with Plaintiff. Instead of acting in the best interest of Plaintiff, as required when one is in a fiduciary status, Defendant held out to him a priest with a known history of child sexual abuse as an appropriate individual with whom Plaintiff should interact.

177. Defendant allowed and/or encouraged its agents to turn a blind eye toward sexual abuse of minors in furtherance of its policy of covering up these crimes.

178. At all times relevant, Defendant engaged in extreme and outrageous conduct, intended to cause or committed in reckless disregard of the probability of causing emotional distress and harm.

179. Msgr. Froeschl intentionally inflicted emotional distress upon the plaintiff when

he touched him in a sexualized manner.

180. Defendant's actions were intended only to cause emotional distress in the plaintiff.

181. Defendant engaged in unconscionable, outrageous conduct beyond all possible bounds of decency and utterly intolerable in a civilized society. Defendant's conduct caused Plaintiff severe emotional distress of such a nature that no reasonable person in a civilized society could be expected to endure it.

182. Defendant's actions and/or inactions were willful, wanton and reckless for which punitive damages are appropriate.

183. As a result of the above-described acts, Plaintiff has suffered, and continues to suffer shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; has lost earnings and earning capacity and/or has incurred and may continue to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT XII **NEGLIGENCE**

184. Plaintiff incorporates paragraphs 1-31 of this Petition as if fully set forth herein.

185. Defendant had a duty to protect children served by its churches.

186. Upon information and belief, defendant, by and through its agents, servants and employees, knew or reasonably should have known of its Priests' dangerous and exploitative propensities and/or that they were unfit agents, and despite such knowledge, Defendant breached their duty to protect plaintiff when they failed to protect plaintiff from the sexual abuse described

herein.

187. Defendant's actions and/or inactions were willful, wanton and reckless for which punitive damages are appropriate.

188. As a direct result of the acts or omissions described herein, plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress that is medically diagnosable and significant, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing his daily activities and obtaining the full enjoyment of life; has sustained loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks that this Court award judgment against Defendant as follows:

Awarding compensatory damages in excess of the jurisdictional amount, statutory damages, and punitive damages in favor of Plaintiff against Defendant for damages sustained as a result of the wrongdoings of Defendant, together with interest thereon;

Awarding Plaintiff his costs and expenses incurred in this action, including reasonable allowance of fees for Plaintiff's attorneys, experts, and reimbursement of Plaintiff's and counsel's expenses;

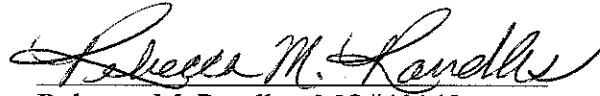
Granting such other and further relief as the Court deems appropriate and just.

JURY TRIAL DEMANDED

Plaintiff demands a trial by jury on all issues triable in this case.

Respectfully Submitted,

RANGLES, MATA & BROWN, LLC

A handwritten signature in black ink, reading "Rebecca M. Randles". The signature is fluid and cursive, with the first name "Rebecca" and last name "Randles" clearly legible.

Rebecca M. Randles, MO#40149

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ATTORNEY FOR PLAINTIFF