

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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JOHN DOE NO. 1 and  
JANE DOE NO. 1; and  
JOHN DOE NO. 2 and  
JANE DOE NO. 2,

Plaintiffs,

vs.

BASILICA OF SAINT JOHN, f/k/a  
ST. JOHN'S CATHOLIC CHURCH  
OF DES MOINES  
and  
ROMAN CATHOLIC DIOCESE  
OF DES MOINES

Defendants.

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LAW NO. CL 67873

PETITION AT LAW

95 DEC 15 AM 9:47  
JERRY L. REAS  
CLERK DISTRICT COURT  
FILED

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**JURISDICTION**

1. Plaintiff, John Doe No. 1 is a resident of Polk County, Iowa and adopts the pseudonym of John Doe No. 1 for the purposes of this lawsuit.
2. Plaintiff, Jane Doe No. 1, is a resident of Polk County, Iowa, is the wife of Plaintiff, John Doe No. 1 and adopts the pseudonym of Jane Doe No. 1 for the purposes of this lawsuit.
3. Plaintiff, John Doe No. 2 is a resident of Polk County, Iowa and adopts the pseudonym of John Doe No. 2 for the purposes of this lawsuit.
4. Plaintiff, Jane Doe No. 2, is a resident of Polk County, Iowa, is the wife of Plaintiff, John Doe No. 2 and adopts the pseudonym of Jane Doe No. 2 for the purposes

of this lawsuit.

5. The Defendant Basilica of Saint John, f/k/a St. John's Catholic Church of Des Moines, is an Iowa corporation with its principal place of business in Des Moines, Polk County, Iowa.

6. The Defendant Roman Catholic Diocese of Des Moines is an Iowa corporation with its principal place of business in Des Moines, Polk County, Iowa.

### FACTS

7. In 1932, Msgr. Francis T. Zuch was ordained as a Catholic priest of the Roman Catholic Diocese of Des Moines and, until his death in 1993 had been under the supervision of the Roman Catholic Diocese of Des Moines by and through its bishops and agents.

8. From the time of his ordination, Msgr. Francis T. Zuch received various assignments by the Roman Catholic Diocese of Des Moines including assignments to parishes in various capacities.

9. Msgr. Francis T. Zuch was assigned as pastor of the Basilica of Saint John, f/k/a St. John's Catholic Church.

10. As pastor of St. John's Catholic Church, Msgr. Francis T. Zuch was responsible for and actively participated in the altar boy program, and St. John's Catholic School, including active participation in the religious education of the students.

11. During the time that Msgr. Francis T. Zuch was the pastor of St. John's Catholic Church, John Doe No. 1 and John Doe No. 2 and their families were members of the parish. John Doe No. 1 and John Doe No. 2 were students at St. John's Catholic School and altar boys.

12. John Doe No. 1 and John Doe No. 2 became acquainted with Msgr. Francis T. Zuch during the course of their religious education at St. John's Catholic School, through their participation in the altar boy program, and as altar boys serving Mass for Msgr. Francis T. Zuch.

13. Beginning in 1970 and ending approximately in 1975, Msgr. Francis T. Zuch systematically, and on numerous occasions, sexually abused John Doe No. 1 who was then a minor.

14. Beginning in 1970 and ending approximately in 1975, Msgr. Francis T. Zuch systematically, and on numerous occasions, sexually abused John Doe No. 2 who was then a minor.

15. Starting in the 1940's, Msgr. Francis T. Zuch engaged in a course of ongoing conduct of systematically sexually abusing numerous boys who were similarly situated as John Doe No. 1 and John Doe No. 2.

#### **DIVISION I**

#### **(RESPONDEAT SUPERIOR)**

COMES NOW Plaintiff John Doe No. 1, and for his cause of action against Defendants in Division I, states:

16. Plaintiff John Doe No. 1 herein repleads paragraphs 1 through 15 of this Petition and by this reference incorporates said paragraphs all to have the same force and effect as though fully set out herein.

17. The Defendants, knew or should have known that John Doe No. 1 and numerous other victims were being sexually abused and exploited by Msgr. Francis T. Zuch.

18. All of the actions of Msgr. Francis T. Zuch described in this Petition were performed by him within the scope and course of his employment with the named Defendants in this lawsuit, and by him under the authority and supervision of Basilica of Saint John and Roman Catholic Diocese of Des Moines and while acting as their agent and employee.

19. As a direct and proximate cause of the aforementioned conduct by Msgr. Francis T. Zuch in the scope and course of his employment with the named Defendants, John Doe No. 1's damages include but are not limited to the following:

- a) Severe emotional distress, past and future;
- b) Psychiatric and psychological treatment, past and future;
- c) Lost wages and earning capacity, past and future; and
- d) Medical expenses, past and future.

20. This action has been brought within four years from the discovery by the Plaintiff of the injury or, alternatively, the discovery by John Doe No. 1 of the causal relationship between the injury and the sexual abuse, as is required under Section 614.8A of the Code of Iowa.

21. The undersigned hereby certifies to the court that this action meets applicable jurisdiction requirements for amount in controversy.

WHEREFORE, the Plaintiff John Doe No. 1 prays for judgment against the Defendants in such a sum as to fairly and fully compensate him for his damages together with interest as provided by law and the costs of this action.

**DIVISION II**  
**(NEGLIGENCE)**

COMES NOW Plaintiff John Doe No. 1, and for his cause of action against Defendants in Division II, states:

22. Plaintiff John Doe No. 1 herein repleads paragraphs 1 through 21 of this Petition and by this reference incorporates said paragraphs all to have the same force and effect as though fully set out herein.

23. The Defendants owed a duty to the general public and John Doe No. 1 to properly supervise and/or screen its clergy.

24. The Defendants were negligent in one or more of the following respects:

- a. In failing to properly screen seminary applicants and, in particular, Msgr. Francis T. Zuch for pedophilic symptomatology;
- b. In failing to properly supervise Msgr. Francis T. Zuch;
- c. In failing to ascertain that Msgr. Francis T. Zuch was in need of treatment prior to the time he engaged in sexual abuse of John Doe No. 1;
- d. In failing to restrict the assignments and activities of Msgr. Francis T. Zuch such as not to put John Doe No. 1 and other young boys similarly situated in danger of sexual abuse and exploitation by Msgr. Francis T. Zuch.

25. By breaching these duties, the Defendants proximately caused the damages suffered by John Doe No. 1 herein.

WHEREFORE, the Plaintiff John Doe No. 1 prays for judgment against the Defendants in such a sum as to fairly and fully compensate him for his damages together with interest as

provided by law and the costs of this action.

### **DIVISION III**

#### **(BREACH OF DUTY TO CONTROL OR WARN)**

COMES NOW Plaintiff John Doe No. 1, and for his cause of action against Defendants in Division III, states:

26. Plaintiff John Doe No. 1 herein repleads paragraphs 1 through 25 of this Petition and by this reference incorporates said paragraphs all to have the same force and effect as though fully set out herein.

27. During the time Msgr. Francis T. Zuch was sexually abusing John Doe No. 1 as described in this Petition, the Defendants knew or should have known that Msgr. Francis T. Zuch was likely to sexually abuse children such as John Doe No. 1. The Defendants owed a duty to parishioners, including John Doe No. 1, to properly screen the clergy for those who might abuse young people in the manner described herein.

28. The Defendants breached their duty to warn or otherwise protect John Doe No. 1 from Msgr. Francis T. Zuch who was acting under their supervision and who they knew or should have known was likely to sexually abuse children such as John Doe No. 1 in the manner described herein.

29. The Defendants breached their duty to assure that Msgr. Francis T. Zuch would not be allowed to hold a position where he would have access to young people, such as John Doe No. 1 and furthermore, specifically placed Msgr. Francis T. Zuch in such a position as pastor of St. John's Catholic Church and St. John's Catholic School.

30. By breaching these duties, the Defendants proximately caused the damages

suffered by John Doe No. 1.

WHEREFORE, the Plaintiff John Doe No. 1 prays for judgment against the Defendants in such a sum as to fairly and fully compensate him for his damages together with interest as provided by law and the costs of this action.

**DIVISION IV**  
**(OUTRAGEOUS CONDUCT)**

COMES NOW Plaintiff John Doe No. 1, and for his cause of action against Defendants in Division IV, states:

31. Plaintiff John Doe No. 1 herein repleads paragraphs 1 through 30 of this Petition and by this reference incorporates said paragraphs all to have the same force and effect as though fully set out herein.

32. The conduct of the Defendants as alleged herein was extreme and outrageous, was intentional or reckless, and caused severe emotional distress to John Doe No. 1 in addition to other damages alleged herein.

33. John Doe No. 1, who along with his parents had entrusted his spirit and his youth to his church and his religion, had a special relationship with the Defendants herein that was blatantly violated.

WHEREFORE, the Plaintiff John Doe No. 1 prays for judgment against the Defendants in such a sum as to fairly and fully compensate him for his damages together with interest as provided by law and the costs of this action.

**DIVISION V**

**(LOSS OF CONSORTIUM)**

COMES NOW Plaintiff Jane Doe No. 1, and for her cause of action against Defendants in Division V, states:

34. Plaintiff Jane Doe No. 1 herein repleads paragraphs 1 through 33 of this Petition and by this reference incorporates said paragraphs all to have the same force and effect as though fully set out herein.

35. That Jane Doe No. 1 is the wife of Plaintiff John Doe No. 1.

36. That Jane Doe No. 1 has lost the companionship and society of John Doe No. 1 as a result of his injuries, and is entitled to be compensated therefore.

WHEREFORE, the Plaintiff Jane Doe No. 1 prays for judgment against the Defendants in such a sum as to fairly and fully compensate her for her damages together with interest as provided by law and the costs of this action.

**DIVISION VI**

**(RESPONDEAT SUPERIOR)**

COMES NOW Plaintiff John Doe No. 2, and for his cause of action against Defendants in Division VI, states:

37. Plaintiff John Doe No. 2 herein pleads paragraphs 1 through 15 of this Petition and by this reference incorporates said paragraphs all to have the same force and effect as though fully set out herein.

38. The Defendants, knew or should have known that John Doe No. 2 and numerous other victims were being sexually abused and exploited by Msgr. Francis T. Zuch.



39. All of the actions of Msgr. Francis T. Zuch described in this Petition were performed by him within the scope and course of his employment with the named Defendants in this lawsuit, and by him under the authority and supervision of Basilica of Saint John and Roman Catholic Diocese of Des Moines and while acting as their agent and employee.

40. As a direct and proximate cause of the aforementioned conduct by Msgr. Francis T. Zuch in the scope and course of employment with the named Defendants, John Doe No. 2's damages include but are not limited to the following:

- a) Severe emotional distress, past and future;
- b) Psychiatric and psychological treatment, past and future;
- c) Lost wages and earning capacity, past and future; and
- d) Medical expenses, past and future.

41. This action has been brought within four years from the discovery by the Plaintiff of the injury or, alternatively, the discovery by John Doe No. 2 of the causal relationship between the injury and the sexual abuse, as is required under Section 614.8A of the Code of Iowa.

WHEREFORE, the Plaintiff John Doe No. 2 prays for judgment against the Defendants in such a sum as to fairly and fully compensate him for his damages together with interest as provided by law and the costs of this action.

**DIVISION VII**  
**(NEGLIGENCE)**

COMES NOW Plaintiff John Doe No. 2, and for his cause of action against Defendants in Division VII, states:

42. Plaintiff John Doe No. 2 herein repleads paragraphs 1 through 15 and paragraphs 37 through 41 of this Petition and by this reference incorporates said paragraphs all to have the same force and effect as though fully set out herein.

43. The Defendants owed a duty to the general public and John Doe No. 2 to properly supervise and/or screen its clergy.

44. The Defendants were negligent in one or more of the following respects:

- a. In failing to properly screen seminary applicants, and, in particular, Msgr. Francis T. Zuch for pedophilic symptomatology;
- b. In failing to properly supervise Msgr. Francis T. Zuch;
- c. In failing to ascertain that Msgr. Francis T. Zuch was in need of treatment prior to the time he engaged in sexual abuse of John Doe No. 2;
- d. In failing to restrict the assignments and activities of Msgr. Francis T. Zuch such as not to put John Doe No. 2 and other young boys similarly situated in danger of sexual abuse and exploitation by Msgr. Francis T. Zuch.

45. By breaching these duties, the Defendants proximately caused the damages suffered by John Doe No. 2 herein.

WHEREFORE, the Plaintiff John Doe No. 2 prays for judgment against the Defendants in such a sum as to fairly and fully compensate him for his damages together with interest as

provided by law and the costs of this action.

## **DIVISION VIII**

### **(BREACH OF DUTY TO CONTROL OR WARN)**

COMES NOW Plaintiff John Doe No. 2, and for his cause of action against Defendants in Division VIII, states:

46. Plaintiff John Doe No. 2 herein repleads paragraphs 1 through 15 and paragraphs 36 through 45 of this Petition and by this reference incorporates said paragraphs all to have the same force and effect as though fully set out herein.

47. During the time Msgr. Francis T. Zuch was sexually abusing John Doe No. 2 as described in this Petition, the Defendants knew or should have known that Msgr. Francis T. Zuch was likely to sexually abuse children such as John Doe No. 2. The Defendants owed a duty to parishioners, including John Doe No. 2, to properly screen the clergy for those who might abuse young people in the manner described herein.

48. The Defendants breached their duty to warn or otherwise protect John Doe No. 2 from Msgr. Francis T. Zuch who was acting under their supervision and who they knew or should have known was likely to sexually abuse children such as John Doe No. 2 in the manner described herein.

49. The Defendants breached their duty to assure that Msgr. Francis T. Zuch would not be allowed to hold a position where he would have access to young people, such as John Doe No. 2 and furthermore, specifically placed Msgr. Francis T. Zuch in such a position as pastor of St. John's Catholic Church and St. John's Catholic School.

50. By breaching these duties, the Defendants proximately caused the damages

suffered by John Doe No. 2.

WHEREFORE, the Plaintiff John Doe No. 2 prays for judgment against the Defendants in such a sum as to fairly and fully compensate him for his damages together with interest as provided by law and the costs of this action.

#### DIVISION IX

#### (OUTRAGEOUS CONDUCT)

COMES NOW Plaintiff John Doe No. 2, and for his cause of action against Defendants in Division IX, states:

51. Plaintiff John Doe No. 2 herein repleads paragraphs 1 through 15 and paragraphs 36 through 50 of this Petition and by this reference incorporates said paragraphs all to have the same force and effect as though fully set out herein.

52. The conduct of the Defendants as alleged herein was extreme and outrageous, was intentional or reckless, and caused severe emotional distress to John Doe No. 2 in addition to other damages alleged herein.

53. John Doe No. 2, who along with his parents had entrusted his spirit and his youth to his church and his religion, had a special relationship with the Defendants herein that was blatantly violated.

WHEREFORE, the Plaintiff John Doe No. 2 prays for judgment against the Defendants in such a sum as to fairly and fully compensate him for his damages together with interest as provided by law and the costs of this action.

DIVISION X  
(LOSS OF CONSORTIUM)

COMES NOW Plaintiff Jane Doe No. 2, and for her cause of action against Defendants in Division X, states:

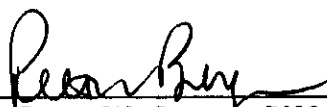
54. Plaintiff Jane Doe No. 2 herein repleads paragraphs 1 through 15 and paragraphs 36 through 53 of this Petition and by this reference incorporates said paragraphs all to have the same force and effect as though fully set out herein.

55. That Jane Doe No. 2 is the wife of Plaintiff John Doe No. 2.

56. That Jane Doe No. 2 has lost the companionship and society of John Doe No. 2 as a result of his injuries, and is entitled to be compensated therefore.

WHEREFORE, the Plaintiff Jane Doe No. 2 prays for judgment against the Defendants in such a sum as to fairly and fully compensate her for her damages together with interest as provided by law and the costs of this action.

BERGER & CULP, P.C.



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ATTORNEY FOR PLAINTIFFS

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