

JOHN DOE (ZJA),

Plaintiff,

vs.

ARCHDIOCESE OF MIAMI, INC.,
ARCHDIOCESE OF MIAMI, A
CORPORATION SOLE and
ARCHBISHOP WENSKI AS
CORPORATE SOLE OF THE
ARCHDIOCESE OF MIAMI,

Defendants.

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT, IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION

CASE NO.:

10-64439

FILED FOR RECORD
REC 28 PM 3:09
CIRCUIT COURT
DADE COUNTY
DAVID R. HARRIS

\$401-
R#0916
4541

COMPLAINT

Plaintiff, JOHN DOE (ZJA), brings this Complaint against Defendants, ARCHDIOCESE OF MIAMI, INC., ARCHDIOCESE OF MIAMI, A CORPORATION SOLE and ARCHBISHOP WENSKI AS CORPORATE SOLE OF THE ARCHDIOCESE OF MIAMI; as follows:

PARTIES AND JURISDICTION

1. This is an action for damages arising from the sexual abuse of a child by a priest with the ARCHDIOCESE OF MIAMI. The abuse was committed by Father CRISTOBAL DE JESUS PUERTAS, hereinafter "PUERTAS", when he was a priest while assigned by the ARCHDIOCESE OF MIAMI to St. Agatha Catholic Church in Miami, Florida.

2. This action seeks compensation in excess of \$5 million

3. Plaintiff JOHN DOE (ZJA), hereinafter "JOHN" is sui juris. This action is brought by a pseudonym to protect the Plaintiff's privacy and avoid shame and embarrassment which would likely arise given the sensitive allegations of child sexual abuse made in this complaint.

4. Defendant ARCHDIOCESE OF MIAMI, INC. is a non-profit Florida Corporation. Defendants ARCHDIOCESE OF MIAMI, INC., ARCHDIOCESE OF MIAMI, A CORPORATION SOLE and ARCHBISHOP WENSKI AS CORPORATE SOLE OF THE

ARCHDIOCESE OF MIAMI, hereinafter collectively the "ARCHDIOCESE" or the "ARCHDIOCESE OF MIAMI" are responsible for the interests of the Roman Catholic Church in Broward and Miami-Dade counties. The ARCHDIOCESE is responsible for the operations of St. Agatha Catholic Church and the acts and conduct of the clergy it assigns to St. Agatha Catholic Church.

SEXUAL ABUSE OF PLAINTIFF

5. JOHN was born in 1987. When JOHN was approximately 16 years old, Rosa Iraheta, a neighbor and Carmen Llerena, a friend, both devout Catholics, recommended that JOHN attend mass. JOHN accepted Ms. Iraheta and Ms. Llerena's recommendation and decided to seek spiritual guidance and assistance. Ms. Iraheta and Ms. Llerena, respectively, took JOHN to St. Agatha Catholic Church, a parish located within, owned by, operated and under direct control of the Archdiocese of Miami and its Archbishop, where JOHN became a parishioner. As a member of the Catholic faith, JOHN placed his trust and confidence in the Church and its clergy, and the Church taught JOHN to do so as well. JOHN would often go and pray at St. Agatha's chapel and also attended mass on a regular basis and after mass he would go by the rectory and sit and chat with Frank, an employee of the church, with whom he developed a good relationship.

6. Father CRISTOBAL DE JESUS PUERTAS, a priest at St. Agatha Catholic Church, took a particular interest in JOHN, befriended him, and gained his trust and confidence. JOHN turned to Father PUERTAS for inspiration, leadership, spiritual direction, guidance and counseling. After mass one day, Father PUERTAS asked JOHN to accompany him to his office to talk. Once in Father PUERTAS' office, Father PUERTAS sexually abused JOHN. Afterward, Father PUERTAS took JOHN out to eat and told him not to tell anyone because if he did, he would not go to heaven and that no one would believe him anyways.

7. Father PUERTAS sexually abused JOHN for several months between 2003 and

2004, regularly on Saturdays after mass, in his office, in his car while parked on church grounds and in motels and parks. After the sexual assaults, Father PUERTAS would often take JOHN out to eat and oftentimes would give him cigarettes and money.

8. Upon information and belief, Father PUERTAS sexually abused other boys before and during the time he abused JOHN. Upon information and belief, the ARCHDIOCESE knew or should have known that Father PUERTAS was a sexual predator before he sexually abused JOHN, but failed to report this information to the community of faith, to civil authorities, including law enforcement, or JOHN's parents such that JOHN and his parents could take steps to protect JOHN from PUERTAS.

9. Upon information and belief, at all relevant times, the ARCHDIOCESE had knowledge of Father PUERTAS' history of sexual perversity and inappropriate contact with children.

10. Upon information and belief, the Defendants concealed information that was pertinent and necessary for JOHN to bring civil claims in this matter. Upon information and belief, after finding out about the abuse, the Defendants actively took steps to conceal the abuse.

11. Despite its knowledge, the ARCHDIOCESE took no action against Father PUERTAS and continued to give him unfettered access to young boys.

12. At all relevant times, the ARCHDIOCESE had a policy of concealment in response to discovery of child sexual abuse or allegations of abuse. Among other things, a 1962 "confidential" policy document issued by the Vatican to all Catholic Bishops, including the Archbishop of the ARCHDIOCESE, instructed that allegations or incidents of sexual abuse were to be maintained in the "strictest" secrecy and threatened those who violated this policy with excommunication. The policy was intended to conceal sexual abuse by clergy and the ARCHDIOCESE wrongful conduct which facilitated the sexual abuse by clergy. The 1962

policy document was derived from an earlier 1922 document, which, in turn, was based on policies and practices of the Catholic Church dating back to the Middle Ages.

13. Upon information and belief, after JOHN was abused, the ARCHDIOCESE engaged in a plan and scheme consistent with the Vatican's secrecy policies and practices to avoid discovery of Father PUERTAS' sexual predatory behavior and the ARCHDIOCESE's wrongful conduct which enabled Father PUERTAS' sexual abuse of boys.

14. At all relevant times, it was the Defendants' policy to document reports of child sexual abuse; investigate internally such claims; interview witnesses; prepare a report detailing its investigation and findings; and to document responsive action with regard to the accused clergy. Pursuant to the Vatican's 1962 confidential policy document, the documentation for this investigation and report was to be placed in a special, separate file maintained in the "strictest" secrecy. All persons involved in the investigation were likewise sworn to the strictest secrecy. Upon information and believe, the ARCHDIOCESE maintained one or more such secret files on Father PUERTAS, which contained evidence and information regarding Father PUERTAS' sexual abuse of young children and the wrongful conduct of the ARCHDIOCESE that enabled Father PUERTAS' sexual abuse.

15. The secrecy policy was subsequently clarified and modified by the National Catholic Conference of Bishops, which instructed bishops across the United States, including the Archbishop of the ARCHDIOCESE, to destroy, or conceal or hide incriminating documents if a risk were perceived that such documents could be discovered through, among other things, discovery rules or orders in civil or criminal proceedings. The purpose or intent of these instructions was to avoid scandal and evade civil liability for the Defendants' conduct in harboring pedophile clergy and placing children at risk. Upon information and belief, incriminating documents in files relating to the acts and conduct of Father PUERTAS were destroyed, lost,

concealed or hidden in accordance with this policy and practice.

16. Upon information and belief, pursuant to its policies, practices and procedures the ARCHDIOCESE concealed and altered documents, which would have disclosed that the ARCHDIOCESE's wrongful conduct was the proximate cause of Plaintiff's injuries.

17. Additionally, pursuant to the general policies and practices of Defendants, secret files were maintained for sensitive materials, including files on clergy personnel engaged in sexual abuse of minors, which concealed facts demonstrating the Defendants' role in enabling and facilitating these abhorrent acts. It was further the policy and practice of the Defendants for their employees and representatives to maintain the secrecy of these files as a duty of the highest order, trumping other duties and moral obligations, including not only the duty to disclose but the obligation to tell the truth as well.

18. The policies and practices of the ARCHDIOCESE designed to conceal sexual abuse by clergy and protect it from scandal and civil liability include the following:

- (a) transfer and reassignment of clergy known or suspected to abuse minors;
- (b) concealing from parishioners and even other clergy that a priest reassigned to their parish posed a danger to children;
- (c) failing to alert parishioners from the priest's prior assignments that their children were exposed to a known or suspected child molester;
- (d) failing to report sexual abuse to criminal authorities as required by law; and
- (e) otherwise protecting and fostering the interests of abusive clergy to the detriment of the victims and the community, for the purpose of avoiding scandal and public scrutiny.

19. Upon information and belief, the ARCHDIOCESE became aware that Father PUERTAS was sexually abusing minors in the relevant time frame and took affirmative steps to

conceal the abuse and its own malfeasance in accordance with the foregoing policies and practices.

20. Before, during and after the time that Father PUERTAS sexually abused JOHN, there were glaring red flags that alerted and should have informed the Defendants of PUERTAS' sexual misconduct with boys.

21. Upon information and belief, at least Father Rolando G. Garcia, the pastor of St. Agatha Catholic Church knew about Father PUERTAS and his sexual abuse of boys before and during the sexual of abuse perpetrated by Father PUERTAS upon JOHN. These allegations were concealed and covered up by at least Fr. Garcia and the ARCHDIOCESE, and as a result Father PUERTAS continued in his position as a priest of St. Agatha Catholic Church.

22. Upon information and belief, at all relevant times the ARCHDIOCESE actively concealed facts that would have informed JOHN and/or his family that the negligent acts and omissions of the ARCHDIOCESE were a proximate cause of the abuse and his injuries.

23. Father PUERTAS and JOHN were in a fiduciary relationship. Father PUERTAS was in a position of trust and confidence with JOHN. JOHN looked to Father PUERTAS for counseling and guidance.

24. The ARCHDIOCESE was in a fiduciary relationship with JOHN. The ARCHDIOCESE was in a position of trust and confidence with JOHN. JOHN looked to the ARCHDIOCESE and its representatives for counseling and guidance. In addition, the ARCHDIOCESE knew that JOHN had a special and privileged relationship with Father PUERTAS in light of Father PUERTAS' contact with JOHN.

25. The ARCHDIOCESE owed JOHN a fiduciary duty to:

- a) Investigate and warn JOHN of the potential harm from Father PUERTAS;
- b) Disclose their awareness of facts regarding Father PUERTAS that created a likely potential harm;

- c) Disclose their own negligence with regard to hiring, supervision and retention of Father PUERTAS;
- d) Provide a safe environment for JOHN where he would be free from abuse; and
- e) Protect JOHN from exposure to harmful individuals like Father PUERTAS.

26. The ARCHDIOCESE breached its fiduciary duty to JOHN by failing to:

- a) Investigate and warn JOHN of potential for harm from Father PUERTAS;
- b) Disclose its awareness of facts regarding Father PUERTAS that created a likely potential for harm;
- c) Disclose their own negligence with regard to hiring, supervision and retention of father PUERTAS;
- d) Provide a safe environment for JOHN where he would be free from abuse; and
- e) Protect JOHN from exposure to harmful individuals like Father PUERTAS.

27. Upon information and belief, before, during and after the period in which JOHN was abused by Father PUERTAS, the ARCHDIOCESE engaged in acts to conceal and cover up its negligence in the hiring, retention, and/or supervision of Father PUERTAS. This campaign included, without limitation, (i) maintaining one or more secret files and destroying or removing incriminating documents within its files, (ii) covering up and concealing reports of sexual abuse of boys by PUERTAS; and (iii) failing to disclose facts pertaining to the ARCHDIOCESE's negligence despite its fiduciary duty to disclose this information. The ARCHDIOCESE in this manner prevented discovery of information that would have informed a reasonable person that the negligent acts and omission of the ARCHDIOCESE was a proximate cause of Plaintiff's injuries.

COUNT I
NEGLIGENCE

28. Plaintiff repeats and re-alleges Paragraph 1 through 27 above.

29. At all material times, the ARCHDIOCESE owed a duty to Plaintiff to use reasonable care to insure the safety, care, well being and health of the minor JOHN while he was under the care, custody or in the presence of the ARCHDIOCESE. The ARCHDIOCESE's duties encompassed the hiring, retention and supervision of Father PUERTAS and otherwise providing a safe environment for JOHN.

30. The ARCHDIOCESE breached these duties by failing to protect the minor, JOHN from sexual assault and lewd and lascivious acts committed by the agent and employee of the ARCHDIOCESE, Father PUERTAS.

31. At all relevant times, the ARCHDIOCESE knew or in the exercise of reasonable care should have known that Father PUERTAS was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and protection, including JOHN.

32. With such actual or constructive knowledge, the ARCHDIOCESE provided Father PUERTAS unfettered access to JOHN and gave him unlimited and uncontrolled privacy.

33. At all relevant times, the ARCHDIOCESE created an environment which fostered child sexual abuse against children it had a duty to protect, including JOHN.

34. At all relevant times, the ARCHDIOCESE created an environment which fostered child sexual abuse against children it had a duty to protect, like JOHN.

35. As a direct and proximate result of the ARCHDIOCESE's negligence, JOHN suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

36. The ARCHDIOCESE's conduct shows a reckless or willful disregard for the safety and well being of JOHN.

WHEREFORE, Plaintiff demands judgment against the ARCHDIOCESE OF MIAMI for compensatory damages, costs and such other and further relief as this Court deems proper.

COUNT II
RESPONDEAT SUPERIOR / VICARIOUS LIABILITY

37. Plaintiff repeats and re-alleges Paragraphs 1 through 27 above.

38. Father PUERTAS was at all material times hereto the employee, appointee and agent of the ARCHDIOCESE.

39. Father PUERTAS was authorized to be alone with JOHN and to have unfettered and unsupervised access to young JOHN in the rectory and elsewhere.

40. The acts described above occurred on the premises of land operated and/or controlled by the ARCHDIOCESE (or at a place authorized by the ARCHDIOCESE), occurred during working hours, and occurred in the course and scope of the performance of Father PUERTAS' duties. Father PUERTAS' initial contact and relationship with JOHN was in furtherance of the business of the ARCHDIOCESE. In addition, Father PUERTAS was authorized to touch JOHN and display affection in a manner consistent with providing counseling, spiritual guidance and leadership. Father PUERTAS extended and converted his authorized touching into the sexual abuse of JOHN as described above.

41. Upon information and belief, Father PUERTAS was authorized to touch JOHN in an improper manner.

42. The wrongful acts of Father PUERTAS were committed in the actual or apparent course and scope of his employment or agency with the ARCHDIOCESE.

43. The wrongful acts were committed while Father PUERTAS was doing what his employment or agency contemplated.

44. Father PUERTAS acted with willful or reckless disregard for JOHN's welfare.

45. Father PUERTAS' conduct was outrageous, going beyond all bounds of decency.

46. As a result of Father PUERTAS' conduct, JOHN suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

47. Under the doctrine of respondeat superior, the ARCHDIOCESE is responsible for the negligent, reckless and intentional actions of its servant, Father PUERTAS, committed in the actual or apparent scope of his duties.

WHEREFORE, Plaintiff JOHN DOE (ZJA) demands judgment against the ARCHDIOCESE OF MIAMI for compensatory damages, costs and such other and further relief as this Court deems just and proper. Plaintiff reserves the right to move to amend the Complaint in accordance with Florida Statutes, to assert a claim for punitive damages at a later date.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial in this action.

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By: 

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