

**SECOND JUDICIAL DISTRICT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO**

**FILED
2nd JUDICIAL DISTRICT COURT
Bernalillo County
11/5/2018 10:00 AM
James A. Noel
CLERK OF THE COURT
Catherine Chavez**

JOHN DOE “93”,

Plaintiff,

v.

D-202-CV-2018-08030

**ARCHDIOCESE OF SANTA FE, and
SAN FRANCISCO DE ASIS PARISH,
Ranchos de Taos,**

Defendants.

**COMPLAINT FOR DAMAGES
FOR CAUSING SEXUAL ABUSE BY PRIESTS,
FAILURE TO PREVENT SEXUAL ABUSE BY PRIESTS,
FOR THE SEXUAL ABUSE ITSELF, AND RELATED CLAIMS**

Plaintiff, by and through her attorneys, states as her complaint:

1. Defendant Archdiocese of Santa Fe (hereinafter “Archdiocese” or “ADSF”) is a New Mexico corporation with its principal place of business in Albuquerque, Bernalillo County, New Mexico and which operates facilities in central and northern New Mexico, including in Taos County, NM.
2. Defendant San Francisco De Asis Parish is a separate legal corporation, as of recent years, while at the time of the childhood sexual abuse, it was a separate sub-organization within the Archdiocese, at least for collection of money from parishioners and other topics.
3. Plaintiff resides in Taos County, NM.
4. Plaintiff was a victim of childhood sexual abuse perpetrated by a priest of the Archdiocese in 1955, which is 63 years ago.
5. The priest who sexually abused Plaintiff when he was a 12 year old child was Fr.

Joseph Maguire.

6. Fr. Maguire acted as an agent of the Archdiocese, which actively aided the agency relationship, empowering its Priest over minor parishioners like Plaintiff, even granting the Priest extraordinary powers over the lives of parishioners, particularly children.

7. The sexual abuse destroyed Plaintiff's religion, rendered his soul veritably shredded, and destroyed the ability to trust which carried over to being unable to have any religion.

8. In order to survive, and as a childhood coping device, Plaintiff suppressed everything as a child and told no one about the abuse by the priest, because the abuser was a priest.

9. Plaintiff's childhood coping skills of suppressing any processing of the childhood sexual abuse recently gave way in the year 2018. The 2018 realizations caused Plaintiff to now obtain professional therapeutic help regarding the abuse for the first time, as a result of the delayed psychological reactions to the abuse by Fr. Maguire. Plaintiff is only now realizing and connecting the harms caused to him by the actions and inactions of Defendants in causing the abuse by their priest.

10. Plaintiff now realizes he needs to understand why he has suffered from debilitating anxiety, sleep disorders, nightmares, depression, trust issues, intimacy issues, and a profound loss of faith, and has been otherwise harmed.

11. Plaintiff did not know the involvement of Defendants herein in empowering and protecting Fr. Maguire and other pedophile priests until 2018. Plaintiff could not have known or discovered the direct liability of Defendants until 2018, just as an asbestosis patient could not possibly understand the link between exposure to asbestos decades earlier and his current medical problems.

12. On the other hand, Defendants have long understood and have documented the phenomena of children suppressing psychological harms and not properly processing with professional help any effects of being raped as a child, and know that in many cases, children cannot come forward seeking help and accountability until thirty, forty, fifty, or as in this case, even sixty years later.

13. Because the true nature of Plaintiff's injury is inextricably entangled with the skepticism of the general public regarding the widespread nature of priest abuse in the Archdiocese, and because the Defendants' policies of institutional secrecy and evasion of transparency promote that skepticism by preventing the disclosure of documents to the general public, Plaintiff has not yet realized the nature of his injury, even with the help of professionals. Plaintiff cannot realize the true nature of his injury without Defendants' full disclosure of documents establishing that a cover-up of widespread abuse of minors by ADSF priests did in fact occur over the past decades in our state. The policies of secrecy, and the institutional failures to find and help priest abuse victims over several decades, has caused Plaintiff harm, and delayed his ability to come forward and seek help as a matter of need, until the present.

14. The sexual abuse of Plaintiff by the Defendants' priest caused Plaintiff harm.

15. The institutional failures to protect Plaintiff from pedophile priests such as Fr. Maguire caused Plaintiff harm.

16. The institutional secrecy policies to avoid scandal and not find and help victims when the Church knew there were plenty 'out there', caused Plaintiff harm, and also prevented him from realizing the source of his harm until 2018.

17. Since the late 1940s, the Archdiocese was specifically and repeatedly warned and was on notice of their common problem of priests exhibiting sexual attraction to children

and engaging in sexual activity with children. As awareness of widespread sexual abuse began to grow across the Church, facilities for the treatment of sexually abusive priests were founded between 1947 and 1971 across the country.

18. The Archdiocese of Santa Fe knew there were pedophiles in its midst, and certainly had such knowledge before Plaintiff was abused in 1955.

19. Regardless of whether Fr. Maguire was a known pedophile to the Archdiocese, the Defendants knew that some of its priests were pedophiles. In fact, the Archdiocese set up the Servants of the Paraclete and jointly operated that organization in the 1950's until 1971, when the Servants "split off" from the Archdiocese. The ADSF was on notice, therefore, that steps were needed to protect children from being alone with any priest, even in 1955.

20. The Defendants knew or should have known of the dangers that undetected pedophile priests posed to neighborhood or parish children with whom they came into contact.

21. Knowing of this risk, the Defendants had a duty to take reasonable steps to ensure that they did not hire or retain pedophile priests who would pose a danger to children, or to take reasonable steps to supervise all priests.

22. The Defendants breached this duty in this case.

23. Knowing of this risk, the Defendants had a duty to adequately supervise all of the priests that they hired/employed, to ensure that those priests properly performed their duties, exhibited no warning signs of possible pedophilia, and that those priests did not have high-risk unsupervised contact with minors. This duty existed regardless of any particular knowledge or suspicions of pedophilia regarding any individual priest at any moment in time.

24. The Defendants breached this duty.

25. Defendants owed a duty to hire, supervise and retain priests who would not molest and harm minors, and Defendants breached this duty.
26. The Defendants had a duty to protect minors from abuse by priests in its many parishes and missions.
27. The Defendants breached this duty.
28. The Defendants had a duty to keep the premises of its parishes and missions safe for use by Plaintiff and other parishioners.
29. The Defendants breached this duty.
30. But for the fact that Fr. Maguire was a priest, Plaintiff's family would never have allowed Plaintiff to spend unsupervised time with a relatively unknown man. They completely trusted Fr. Maguire, and they even believed he represented 'God on earth' and could do no wrong, because that is what the Defendants taught them to believe.
31. The Defendants' knowledge of the deference to priests ingrained in Catholic minors by their upbringing in the Church encouraged and facilitated the sexual abuse of those Catholic minors, including Plaintiff; Fr. Maguire exploited that blind trust and deference to priests taught to children.
32. Defendants allowed and encouraged extraordinary powers in the priests over the parishioners, and as such had heightened duties to help protect parishioners and particularly minors.
33. The Defendants' priest (Fr. Maguire) knew that Catholic minors were trained to give unquestioning obedience to priests, particularly at schools operated out of their parishes, and he abused this trained obedience for sexual gratification.
34. The scope of the Defendants' priest's employment, and the manner in which his agency was aided by Defendants, allowed him unfettered access to minors, and gave him

extraordinary power over minors – including Plaintiff.

35. The Defendants imbued Fr. Maguire with unchecked powers over Catholic children and teens, which caused situations where sexual abuse flowed therefrom. Area families were taught, and taught their children, to obey without question any priest who was God’s representative on earth, but even setting aside religious belief, to trust and obey priests as a matter of respect for community leaders.

36. The Defendants granted priests extraordinary power over parishioners, and particularly children, and even more particularly over young Catholic children, in at least the following ways:

- 1) Priests were to maintain a continuity of interaction with parishioners, children and altar servers, not confined by particular “business hours” or anything else;
- 2) Parishioners, children and altar servers were instructed to obey and revere the priests, and the priests were taught to cultivate that obedience and reverence in order to facilitate discipline, counseling, teaching, educating, and other areas not involving specific religious beliefs;
- 3) An extreme “credibility gap” existed between priests and children parishioners, which priests cultivated, noted and reminded others about, including victims of sexual abuse;
- 4) Defendants knew that viewing the priest through the eyes of the child or altar server, there existed reasonable perceptions by the child that the priest was imbued with authority over him or her (not necessarily as a religious belief matter, but as a supervisory matter, as teacher, counselor, guide, disciplinarian, school administrator, etc.); and
- 5) Defendants knew that using vestments, cloaks, wine, rituals, and intermingling

religious rhetoric with physical closeness with children, that minors would be subject to the extraordinary powers priests held.

37. Defendants knew for decades, and as early as the 1940's and 1950's, that there is danger inherent in granting priests extraordinary power over child parishioners, knowing there were pedophiles in their midst, and that doing so carried corresponding responsibility and duty to protect the children and this child.

38. The Archdiocese caused the abuse of Plaintiff by, among other things, empowering priests to abuse minors, looking the other way when it was obvious there was a problem from pedophiles being in their midst, and adhering to policies and practices of secrecy to protect abusive priests and protect the Archdiocese from scandal.

39. Adherence to these policies and practices of secrecy was more important to the Defendants than warning parishioners of sexually abusive priests in their midst, which would have promoted safety and accountability, and in this case, would have helped Plaintiff try to heal his shredded soul, and find relief from anxiety related issues.

40. As a direct and proximate result of childhood sexual abuse at the hands of the Defendants' Priest (Fr. Maguire), and the Defendants' historical protection and empowerment of abusers, Plaintiff suffered and continues to suffer emotional distress, recognition of which as needing professional help has been delayed until 2018. Plaintiff is now searching for survival strategies suited to his current age and station in life, and hoping to turn a corner towards a retired life ahead that has hope and promise, rather than filled with post-trigger flashbacks, uncontrollable anxiety, and constantly strained interpersonal relationships with friends, family, and loved ones.

41. Plaintiff's childhood survival strategies successfully blocked and boxed away any ability to understand the nature of the abuse by the Catholic organization, especially given

the cover-up and secrecy policies that Defendants have utilized in past decades, and continue to utilize to date.

42. Any statute of limitations in New Mexico begins running in 2018 with the rise and discovery of this current therapeutic need, and discovery of the conduct of Defendants.

43. The harm and suffering of many victims, including Plaintiff, could have been at least partially alleviated or ameliorated by earlier professional intervention, which the Defendants' policies of secrecy and non-disclosure of documents and information to the public have prevented. As such, the Defendants have at the very least exacerbated harms to Plaintiff by maintaining certain policies and procedures and by aiding the conduct of their priests.

44. Plaintiff suffered harm as a proximate result of the Defendants' breaches of duties set forth above.

45. Plaintiff is entitled to all compensation allowable under New Mexico jury instructions for harms caused by Defendants and their priest, including punitive damages.

46. The Defendants are responsible for any punitive damages awarded by juries against the Archdiocese or its Parishes for institutional conduct knowingly taken to protect and empower pedophile priests.

47. The Archdiocese is legally responsible for punitive damages for the harms caused by its pedophile priests on ADSF premises, even if the premises have been "moved" to a land trust or a parish as its own corporation since 2012 in an attempt to shield assets from juries.

48. Defendant Archdiocese of Santa Fe has previously admitted that there are 78 credibly accused priests, according to its own investigations.

49. Defendant's own investigations were kept secret from the parishes, as well as from

law enforcement.

50. The Defendants have for many years knowingly maintained and continue to knowingly maintain policies and practices of telling parishioners that priests are on “sabbatical” when they are actually undergoing treatment for alleged sexual misconduct.

51. The Defendants have for many years knowingly maintained and continue to knowingly maintain policies and practices of non-disclosure of documents detailing and demonstrating the methods by which they handle their internal investigations of clergy accused of the sexual abuse of minors and/or other parishioners.

52. By failing to inform parishioners, civil authorities, or the general public of the child sexual abuse perpetrated by their clerics, the Defendants have knowingly engaged in conduct injurious to the health, safety, and welfare of large numbers of the public – particularly minors, but including adult survivors of childhood sexual abuse as well.

53. This secretive conduct has placed hundreds of New Mexicans at the risk of sexual abuse from unknown abusive clerics, or has prevented hundreds of adult survivors of childhood priest abuse from starting therapeutic recovery.

54. These policies and practices of non-disclosure, which were knowingly created and are knowingly maintained by the Defendants, are injurious to the health, safety, and welfare of large numbers of the public at all times and under all circumstances, and thus constitute a *nuisance per se*.

55. Plaintiff is entitled to equitable abatement of Defendants’ policies and practices allowing the non-disclosure and non-prosecution of clergy credibly accused of sexual contact with minors, and seeks the release of documents to the public, to wit:

- a. documents that show the Church stopped or dissuaded potential prosecutions;
- b. documents that show the Church prevented or dissuaded HSD/CYFD

- investigations of priests;
- c. documents that show the Church protected priest abusers from scandal at the expense of victims;
 - d. documents that show the Church fought for a harsh Statute of Limitations in the 1990's to cut off all claims by victims, and still does not support a new, open era of "no Statute of Limitations" for all New Mexicans raped by priests; and
 - e. various timelines that show the extent of abuse by credibly accused priests from 1960-1992, (with victims' names redacted).

**COUNT I
PUBLIC NUISANCE**

Plaintiff re-alleges the facts and allegations set forth above.

56. The Defendants have knowingly created and maintained numerous policies and practices of cover-up and secrecy injurious to the health, safety, and welfare of large numbers of the public, including minors and adult survivors of childhood sexual abuse.

57. This conduct by the Defendants constitutes a public nuisance.

58. In the past, this conduct by the Defendants caused Plaintiff's abuse, and in the present, this conduct by the Defendants continues to cause harm to Plaintiff, and other known and unknown adult survivors of child sexual abuse.

59. The conduct of Defendants was willful, intentional, wanton, and/or taken in utter disregard of the safety and wellbeing of others, including Plaintiff, and subjects the Defendants to punitive damages.

WHEREFORE, Plaintiff requests abatement of Defendants' conduct, policies, and practices constituting public nuisance (including disclosure of documents to the public as described above), and for such other and further relief as this Court may deem appropriate.

**COUNT II
NEGLIGENCE**

Plaintiff re-alleges the facts and allegations set forth above.

60. The Defendants had and continue to have numerous duties to prevent their conduct or the conduct of their priests from harming people, including Plaintiff, and the Defendants breached these duties, resulting in damage to Plaintiff, all as described above.

61. The Defendants are directly liable for their own negligence.

62. The conduct of Defendants was willful, intentional, wanton, and/or taken in utter disregard of the safety and wellbeing of others, including Plaintiff, and subjects the Defendants to punitive damages.

WHEREFORE, Plaintiff requests judgment against the Defendants in an amount reasonable to compensate her for damages, including punitive damages, for interest including pre-judgment interest, costs, and such other and further relief as this Court may deem appropriate, including the release of documents as described above.

**COUNT III
VICARIOUS LIABILITY**

Plaintiff re-alleges the facts and allegations set forth above.

63. The abuse of Plaintiff by the Defendants' Priest (Fr. Pairon), constituted batteries, among other torts, and was within the course and scope of that priest's employment by the Defendants, or was the result of the agency relationship aided by Defendants.

64. The Defendants are vicariously liable for the conduct of the priest who abused Plaintiff.

65. The conduct of Defendants was willful, intentional, wanton, and/or taken in utter disregard of the safety and wellbeing of others, including Plaintiff, and subjects the

Defendants to punitive damages.

WHEREFORE, Plaintiff requests judgment against the Defendants in an amount reasonable to compensate her for damages, including punitive damages, for interest including pre-judgment interest, costs, and such other and further relief as this Court may deem appropriate.

**COUNT IV
INTENTIONAL INFLICTION
OF EMOTIONAL DISTRESS**

Plaintiff re-alleges the facts and allegations set forth above.

66. The past and present conduct of the Defendants regarding childhood sexual abuse perpetrated by their priests, constitutes intentional infliction of emotional distress on all victim-survivors, including Plaintiff.

67. As a direct and proximate cause of Defendants' conduct, Plaintiff has suffered and will continue to suffer damages.

68. The conduct of Defendants was willful, intentional, wanton, and/or taken in utter disregard of the safety and wellbeing of others, including Plaintiff, and subjects the Defendants to punitive damages.

WHEREFORE, Plaintiff requests judgment against the Defendants in an amount reasonable to compensate her for damages, including punitive damages, for interest including pre-judgment interest, costs, and such other and further relief as this Court may deem appropriate.

**COUNT V
VOIDABLE TRANSACTIONS**

69. Plaintiff realleges the facts and allegations set forth above, and adds:

70. Plaintiffs in many cases against the Archdiocese (including the Plaintiff in this case)

have alleged a right to compensation from the Archdiocese for damages suffered from childhood sexual abuse perpetrated by Defendant's agents. Although this right to compensation is disputed by the Archdiocese, it constitutes a claim under New Mexico's fraudulent/voidable conveyance laws.

71. As such, the Plaintiffs in these cases against the Archdiocese (including the Plaintiff in this case) are creditors of the Archdiocese for purposes of the New Mexico's fraudulent/voidable conveyance laws, and the Archdiocese a debtor for the purposes of those same laws.
72. Beginning in 2012 (understanding its vulnerability to institutional liability and public nuisance claims, and in anticipation of a new wave of claims of childhood sexual abuse by the Archdiocese's priests), the Archdiocese began the process of incorporating its individual parishes as separate entities, and transferring Archdiocese corporate assets either into these newly created corporations, or into other "trusts" and "funds" under Defendants' control.
73. Beginning in 2013 (understanding its vulnerability to institutional liability and public nuisance claims, and in anticipation of a new wave of claims of childhood sexual abuse by ADSF priests), the Archdiocese created a Real Estate Trust and transferred hundreds of ADSF real estate parcels to the Archdiocese of Santa Fe Real Estate Corporation (Archdiocese Real Estate Corporation), which was designated as Trustee of the Real Estate Trust. The Archdiocese Real Estate Corporation shares a physical address with the corporate entity of the Archdiocese of Santa Fe.
74. The purpose of transferring these substantial assets to the newly incorporated parishes and the Archdiocese Real Estate Corporation was to shield the assets from possible future creditors, including victims of sexual abuse. Defendant has resolved hundreds

of claims of sexual abuse of minors by its priests over the past 25 years for millions of dollars, according to its own published “letters to the people”.

75. Upon information and belief, a comparison of the financial statements of the Archdiocese of Santa Fe before and after these transfers in 2012 and 2013 could show that the Archdiocese drastically reduced its own corporate assets, for no apparent purpose but shielding the assets from possible future creditors, including Plaintiff.
76. The Archdiocese transferred virtually all of its corporate assets to the newly incorporated parishes and the Archdiocese Real Estate Corporation (in 2012 and 2013 respectively), or other entities created for this same purpose.
77. While taking steps to indicate independence on paper, the Archdiocese retains absolute control over the individually incorporated parishes and the Archdiocese Real Estate Corporation, and any other entity it has created for this same purpose.
78. Archdiocese Chancellor and Vicar General serve as listed Officers for the individually incorporated parishes, and the Chancellor serves as a Director for the individually incorporated parishes.
79. The “Presidents” of the individually incorporated parishes are all Archdiocese priests who answer directly to the Archbishop of Santa Fe, and have no authority to operate as clerics in the Archdiocese without the Archbishop’s permission.
80. The Archbishop of Santa Fe serves as the Chairman of the Board of the Archdiocese Real Estate Corporation, which as Trustee for the Real Estate Trust has unilateral ultimate authority over the disposition of “Real Estate Trust” Assets.
81. Archdiocese transfers of its corporate assets to the individually incorporated parishes and the Archdiocese Real Estate Corporation, or other similarly functioning entities, were made for the primary purpose of shielding those assets from creditors like

Plaintiff.

WHEREFORE, Plaintiff requests that Defendant transfers of assets to the individually incorporated parishes and the Archdiocese Real Estate Corporation, or similar such entities, be deemed “voidable transactions” after discovery and briefing and upon pre-trial motion, and under New Mexico’s fraudulent/voidable conveyance laws, that appropriate equitable relief be devised to protect Plaintiff’s claims until such time as the Defendant’s debt to the Plaintiff may be properly ascertained by jury trial(s), either in this Court or pursuant to some Bankruptcy proceeding, and for any other relief this Court may deem just and proper.

LAW OFFICES OF BRAD D. HALL, LLC

/s/ Brad D. Hall 11/05/18
BRAD D. HALL
LEVI A. MONAGLE
320 Gold Ave SW #1218
Albuquerque, NM 87102
(505) 255-6300, (505) 255-6323 Fax

-and-

LISA P. FORD
320 Gold Ave SW #1218
Albuquerque, NM 87102
(505) 385-7443