

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

IN THE MARION _____ COURT
CAUSE NO.:

John Doe HB,)
)
) Plaintiff,)
)
)
) vs.)
)
) ARCHDIOCESE OF INDIANAPOLIS,)
) ST. CATHERINE PARISH n/k/a GOOD,)
) SHEPHERD PARISH, FR. HARRY MONROE,)
) and DOES 1-100, inclusive)
)
) Defendants.)

49007051001041951

FILED
OCT 25 2005
15
David Anne Sullivan
CLERK OF THE
MARION CIRCUIT COURT

COMPLAINT

Comes now the Plaintiff and based upon information and belief available to Plaintiff at the time of the filing of this Complaint, Plaintiff makes the following allegations:

PARTIES

1. Plaintiff John Doe HB is an adult male. Plaintiff was a minor at the time of the sexual abuse alleged herein. The name used by Plaintiff in this Complaint is not the real name of Plaintiff, but is a fictitious name used to protect the privacy of Plaintiff, a victim of childhood sexual abuse.
2. The Archdiocese of Indianapolis (“Defendant Diocese”) is a corporation authorized to conduct business and conducting business in the State of Indiana, with its principal place of business in Indianapolis, Indiana. Defendant Archdiocese has responsibility for Roman Catholic Church operations in Marion County, Indiana. Defendant Archdiocese is the Archdiocese in which the sexual abuse occurred.
3. The St. Catherine Parish in Indianapolis, Indiana (“Defendant Parish”) is a Roman

Catholic church. Upon information and belief, St. Catherine's Parish merged with another parish to form Good Shepherd's Parish. Defendant Parish is the parish where Plaintiff was a member during the period of wrongful conduct.

4. Father Harry Monroe was at all times relevant an ordained priest in the Defendant Diocese. During the dates of abuse, the Defendant Fr. Monroe was a practicing priest assigned to Defendant Diocese, Defendant Parish and Does 1 through 100, and were under the direct supervision, employ and control of Defendant Diocese, Defendant Parish and Does 1 through 100.
5. Defendant Does 1 through 100, inclusive, are individuals and/or business or corporate entities incorporated in and/or doing business in Indiana whose true names and capacities are unknown to Plaintiff who therefore sues such defendants by such fictitious names, and who will amend the Complaint to show the true names and capacities of each such Doe defendant when ascertained. Each such Defendant Doe is legally responsible in some manner for the events, happenings and/or tortuous and unlawful conduct that caused the injuries and damages alleged in this Complaint. Defendant Diocese, Defendant Parish, and Does 1 through 100 are some times hereinafter referred to as the "Defendants."
6. Each Defendant is the agent, servant and/or employee of other Defendants, and each Defendant was acting within the course and scope of his, her or its authority as an agent, servant and/or employee of the other Defendants. Defendants, and each of them, are individuals, corporations, partnerships and other entities which engaged in, joined in and conspired with the other wrongdoers in carrying out the tortuous and unlawful activities described in this Complaint, and Defendants, and

each of them, ratified the acts of the other Defendants as described in this Complaint.

7. The applicable statutes of limitations were tolled because the Plaintiff was placed under duress and was incapable of taking civil action as a result of the acts described herein. The applicable statutes of limitations were tolled pursuant to the Soldier's and Sailor's Relief Act, 50 U.S.C.A. § 525. The applicable statutes of limitations were tolled because the Defendants fraudulently concealed the fact that Defendant Monroe was a known sexual predator from Plaintiff.

BACKGROUND FACTS APPLICABLE TO ALL COUNTS

8. From approximately 1977 through 1978, Plaintiff, a minor at that time, attended Defendant Parish. During this time Plaintiff was sexually abused by Fr. Monroe.
9. The sexual abuse and exploitation of Plaintiff and the circumstances under which it occurred caused Plaintiff to develop various psychological coping mechanisms, including not recognizing the extent of the injuries he experienced as a result of the sexual abuse described herein.
10. The applicable statutes of limitations were tolled because the Defendants passively and actively fraudulently concealed the fact that Defendant Monroe was a known sexual predator from Plaintiff.
11. Defendants negligently failed to disclose to Plaintiff that they knew that Defendant Fr. Monroe was a child molester and a danger to children before he molested Plaintiff.
12. Defendants were in a specialized, confidential, or fiduciary relationship with Plaintiff until 2005.

13. Plaintiff did not discover nor with reasonable diligence could he have discovered until 2005 that Defendants knew that Defendant Fr. Monroe was a child molester and a danger to children before Monroe molested Plaintiff.
14. Defendants actions were calculated to mislead and hinder Plaintiff from obtaining and prevent inquiry or elude investigation into information about Defendants' knowledge about Defendant Fr. Monroe's history of sexually molesting children.
15. As a direct result of the wrongful conduct alleged herein, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full enjoyment of life; has sustained and continues to sustain loss of earnings and earning capacity; and/or has incurred and continues to incur expenses for medical and psychological treatment, therapy, and counseling.

FIRST CAUSE OF ACTION

CHILDHOOD SEXUAL ABUSE

16. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.
17. From approximately 1977 through 1978, the Defendant Fr. Monroe engaged in unpermitted, harmful and offensive sexual conduct and contact upon the person of Plaintiff in violation of Indiana law. Said conduct was undertaken while the Defendant Fr. Monroe was an employee and agent of Defendant Diocese, Defendant Parish, and Does 1 through 100, while in the course and scope of

employment with Defendant Diocese, Defendant Parish, and Does 1 through 100, and/or was ratified by Defendant Diocese, Defendant Parish, Does 1 through 100.

18. Prior to or during the abuse alleged above, Defendants knew, had reason to know, or were otherwise on notice of the unlawful sexual conduct by the Defendant Fr. Monroe. Defendants failed to take reasonable steps and failed to implement reasonable safeguards to avoid acts of unlawful sexual conduct in the future by the Defendant Fr. Monroe, including, but not limited to, preventing or avoiding placement of the Defendant Fr. Monroe in functions or environments in which contact with children was an inherent part of those functions or environments. Furthermore, at no time during the periods of time alleged did Defendants have in place a system or procedure to supervise and/or monitor employees, volunteers, representatives, or agents to insure that they did not molest or abuse minors in Defendants' care, including the Plaintiff.
19. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

SECOND CAUSE OF ACTION

NEGLIGENCE

20. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.
21. Defendants had a duty to protect the minor Plaintiff when he was entrusted to their care by Plaintiff's parents. Plaintiff's care, welfare, and/or physical custody was temporarily entrusted to Defendants. Defendants voluntarily accepted the entrusted care of Plaintiff. As such, Defendants owed Plaintiff, a minor child, a special duty of care, in addition to a duty of ordinary care, and owed Plaintiff the higher duty of care that adults dealing with children owe to protect them from harm.
22. Defendant Diocese, Defendant Parish, and Does 1 through 100, by and through their agents, servants and employees, knew or reasonably should have known of the Defendant Fr. Monroe's dangerous and exploitive propensities and/or that the Defendant Fr. Monroe were unfit agents. It was foreseeable that if Defendants did not adequately exercise or provide the duty of care owed to children in their care, including but not limited to Plaintiff, the children entrusted to Defendants' care would be vulnerable to sexual abuse by the Defendant Fr. Monroe.
23. Defendants breached their duty of care to the minor Plaintiff by allowing the Defendant Fr. Monroe to come into contact with the minor Plaintiff without supervision; by failing to adequately hire, supervise, or retain the Defendant Fr. Monroe who they permitted and enabled to have access to Plaintiff; by failing to investigate or otherwise confirm or deny such facts about the Defendant Fr. Monroe; by failing to tell or concealing from Plaintiff, Plaintiff's parents, guardians, or law enforcement officials that the Defendant Fr. Monroe was or may have been sexually

abusing minors; by failing to tell or concealing from Plaintiff's parents, guardians, or law enforcement officials that Plaintiff was or may have been sexually abused after Defendants knew or had reason to know that the Defendant Fr. Monroe may have sexually abused Plaintiff, thereby enabling Plaintiff to continue to be endangered and sexually abused, and/or creating the circumstance where Plaintiff was less likely to receive medical/mental health care and treatment, thus exacerbating the harm done to Plaintiff; and/or by holding out the Defendant Fr. Monroe to the Plaintiff and his parents or guardians as being in good standing and trustworthy. Defendants cloaked within the facade of normalcy Defendants' and/or the Defendant Fr. Monroe's contact and/or actions with the Plaintiff and/or with other minors who were victims of the Defendant Fr. Monroe, and/or disguised the nature of the sexual abuse and contact.

24. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

THIRD CAUSE OF ACTION

NEGLIGENT SUPERVISION/FAILURE TO WARN

25. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.
26. Defendant Diocese, Defendant Parish, and Does 1 through 100 had a duty to provide reasonable supervision of the Defendant Fr. Monroe; to use reasonable care in investigating the Defendant Fr. Monroe; and to provide adequate warning to the Plaintiff, the Plaintiffs' family, minor students, and minor parishioners of the Defendant Fr. Monroe's dangerous propensities and unfitness.
27. Defendant Diocese, Defendant Parish and Does 1 through 100, by and through their agents, servants and employees, knew or reasonably should have known of the Defendant Fr. Monroe's dangerous and exploitive propensities and/or that the Defendant Fr. Monroe was an unfit agent. Despite such knowledge, Defendant Diocese, Defendant Parish, Defendant and Does 1 through 100 negligently failed to supervise the Defendant Fr. Monroe in the position of trust and authority as Roman Catholic Priests, religious instructors, counselors, school administrators, school teachers, surrogate parents, spiritual mentors, emotional mentors, and/or other authority figures, where he was able to commit the wrongful acts against the Plaintiff. Defendant Diocese, Defendant Parish, and Does 1 through 100 failed to provide reasonable supervision of the Defendant Fr. Monroe, failed to use reasonable care in investigating the Defendant Fr. Monroe, and failed to provide adequate warning to Plaintiff and Plaintiffs' family of the Defendant Fr. Monroe's dangerous propensities and unfitness. Defendant Diocese, Defendant Parish, and Does 1 through 100 further failed to take reasonable measures to prevent future sexual abuse.
28. As a result of the above-described conduct, Plaintiff has suffered, and continues to

suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

FOURTH CAUSE OF ACTION

NEGLIGENT FAILURE TO WARN, TRAIN, OR EDUCATE PLAINTIFFS

29. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.
30. Defendants breached their duty to take reasonable protective measures to protect Plaintiff and other minor parishioners and/or students from the risk of childhood sexual abuse by the Defendant Fr. Monroe, such as the failure to properly warn, train, or educate Plaintiff and other minor parishioners and/or students about how to avoid such a risk.
31. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred

and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

FIFTH CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

32. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.
33. Defendants' conduct was extreme and outrageous and was intentional or done recklessly.
34. As a result of Defendants' conduct, Plaintiff has experienced and continues to experience severe emotional distress.
35. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

SIXTH CAUSE OF ACTION

PREMISES LIABILITY

36. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.
37. At all times herein mentioned, Defendant Diocese, Defendant Parish, and Does 1 through 100 were in possession of the property where the Plaintiff was groomed and

assaulted by the Defendant Fr. Monroe, and had the right to manage, use and control that property.

38. At all times herein mentioned, Defendant Diocese, Defendant Parish, and Does 1 through 100 knew that the Defendant Fr. Monroe had a history of committing sexual assaults against children, and that any child at, among other locations, Defendant Parish, was at risk to be sexually assaulted by the Defendant Fr. Monroe.
39. Defendant Diocese, Defendant Parish, and Does 1 through 100 knew or should have known that Defendant Parish had a history of sexual assaults against children committed by the Defendant Fr. Monroe and that any child at, among other locations, the Defendant Parish, was at risk to be sexually assaulted. It was foreseeable to Defendant Diocese, Defendant Parish, Does 1 through 100 that the Defendant Fr. Monroe would sexually assault children if they continued to allow the Defendant Fr. Monroe to teach, supervise, instruct, care for, and have custody and control of and/or contact with children.
40. At all times herein mentioned, Defendant Diocese, Defendant Parish, and Does 1 through 100 knew or should have known the Defendant Fr. Monroe was repeatedly committing sexual assaults against children.
41. It was foreseeable to Defendant Diocese, Defendant Parish, and Does 1 through 100 that the sexual assaults being committed by the Defendant Fr. Monroe would continue if Defendant Diocese, Defendant Parish, and Does 1 through 100 continued to allow the Defendant Fr. Monroe to teach, supervise, instruct, care for, and have custody of and/or contact with young children.
42. Because it was foreseeable that the sexual assaults being committed by the

Defendant Fr. Monroe would continue if Defendant Diocese, Defendant Parish, and Does 1 through 100 continued to allow them to teach, supervise, instruct, care for, and have custody of and/or contact with young children, Defendant Diocese, Defendant Parish, and Does 1 through 100 owed a duty of care to all children, including Plaintiff, exposed to the Defendant Fr. Monroe. Defendant Diocese, Defendant Parish, and Does 1 through 100 also owed a heightened duty of care to all children, including Plaintiff, because of their young age.

43. By allowing the Defendant Fr. Monroe to teach, supervise, instruct, care for, and have custody of and/or contact with young children, and by failing to warn children and their families of the threat posed by the Defendant Fr. Monroe, Defendant Diocese, Defendant Parish, and Does 1 through 100 breached their duty of care to all children, including Plaintiff.
44. Defendant Diocese, Defendant Parish, and Does 1 through 100 negligently used and managed Defendant Parish, and created a dangerous condition and an unreasonable risk of harm to children by allowing the Defendant Fr. Monroe to teach, supervise, instruct, care for and have custody of and/or contact with young children at, among other locations, Defendant Parish.
45. As a result of the dangerous conditions created by Defendant Diocese, Defendant Parish, and Does 1 through 100, numerous children were sexually assaulted by the Defendant Fr. Monroe.
46. The dangerous conditions created by Defendant Diocese, Defendant Parish, and Does 1 through 100 were the proximate cause of Plaintiff's injuries and damages.
47. As a result of the above-described conduct, Plaintiff has suffered, and continues to

suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

SEVENTH CAUSE OF ACTION

ACTUAL FRAUD

48. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.
49. Defendants Diocese and Church affirmatively represented to Plaintiff and his family that Defendant Fr. Monroe did not have a history of molesting children, that Defendants Diocese and Church did not know that Defendant Fr. Monroe had a history of molesting children and that Defendants Diocese and Church did not know that Defendant Fr. Monroe was a danger to children.
50. Defendant Fr. Monroe did have a history of sexually molesting children. Defendants Diocese and Church knew that Defendant Fr. Monroe had a history of sexually molesting children and that he was a danger to children.
51. Plaintiff justifiably relied upon Defendants Diocese's and Church's misrepresentations which proximately caused him to be sexually molested by Defendant Fr. Monroe and suffer the other damages described herein.

52. Defendants Diocese and Church knew that their misrepresentations were false or at least were reckless without care of whether these representations were true or false.
53. Defendants Diocese and Church made the misrepresentation with the intent to deceive Plaintiff and to induce him to act on the misrepresentations to his detriment.
54. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

EIGHTH CAUSE OF ACTION

CONSTRUCTIVE FRAUD

55. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.
56. As a result of Plaintiff being a minor, and by Defendants Diocese and Church undertaking the care and guidance of the then vulnerable minor Plaintiff, Defendants Diocese and Church held a position of empowerment over Plaintiff.
57. Further, Defendants Diocese and Church, by holding themselves out as shepherds and leaders of the Roman Catholic Church, solicited and/or accepted this position

of empowerment. This empowerment prevented the then minor Plaintiff from effectively protecting himself and Defendants Diocese and Church thus entered into a fiduciary relationship with Plaintiff.

58. Defendants Diocese and Church were in specialized positions where they had knowledge that Plaintiff did not. Defendants Diocese and Church were in positions to have this knowledge because they were Defendant Fr. Monroe's employer and because the Defendants were responsible for Defendant Fr. Monroe. Plaintiff on the other hand was a child. As a child he was not in a position to have information about Defendant Fr. Monroe's molestation of other children.
59. As a fiduciary to Plaintiff, Defendants Diocese and Church had a duty to obtain and disclose information relating to sexual misconduct and other inappropriate behavior of Defendant Fr. Monroe.
60. Defendants Diocese and Church affirmatively represented to Plaintiff and his family that Defendant Fr. Monroe did not have a history of molesting children, that Defendants did not know that Defendant Fr. Monroe had a history of molesting children and that Defendants did not know that Defendant Fr. Monroe was a danger to children.
61. Defendant Fr. Monroe did have a history of sexually molesting children. Defendants Diocese and Church knew that Defendant Fr. Monroe had a history of sexually molesting children and that he was a danger to children.
62. Plaintiff justifiably relied upon Defendants Diocese's and Church's misrepresentations which proximately caused him to be sexually molested by Defendant Fr. Monroe and suffer the other damages described herein.

63. Defendants Diocese and Church gained an advantage at the expense of Plaintiff, including that Defendants were able to avoid scandal by concealing Defendant Fr. Monroe, Defendants were able to protect their finances by representing to parents and children that Fr. Monroe did not have history of abusing children, and Defendants were able to keep their position of power and prestige in the community. Plaintiff on the other hand had to suffer the sexual molestation at the hands of a trusted priest and also suffer the other damages alleged herein.
64. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff prays for damages; costs; interest; statutory/civil penalties according to law; and such other relief as the court deems appropriate and just.

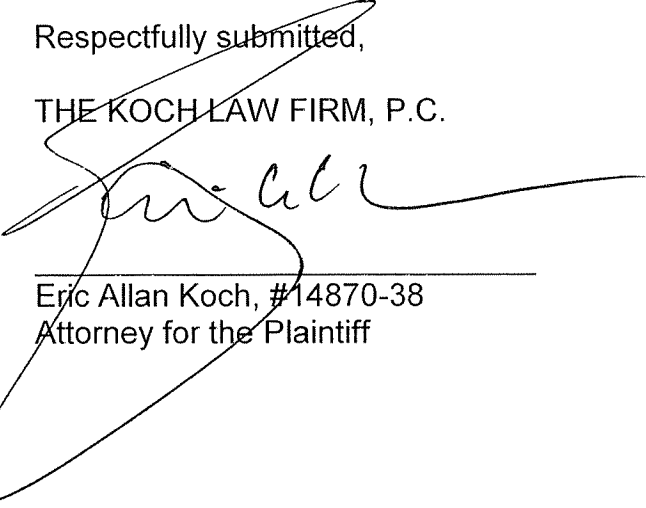
JURY DEMAND

Plaintiff demands a jury trial on all issues so triable.

Respectfully submitted,

THE KOCH LAW FIRM, P.C.

By:



Eric Allan Koch, #14870-38
Attorney for the Plaintiff

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