

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WINONA

THIRD JUDICIAL DISTRICT

Case Type: Personal Injury

Doe 16,

Court File No.: 85-CV-13-1855

Plaintiff,

v.

COMPLAINT

Diocese of Winona,

Defendant.

Plaintiff, for his cause of action against Defendant, alleges that:

PARTIES

1. Plaintiff Doe 16 is a resident of the State of Iowa and at all relevant times for this Complaint he resided in the State of Minnesota. The identity of Plaintiff Doe 16 has been disclosed under separate cover to Defendant.

2. At all times material, Defendant Diocese of Winona (hereinafter "Diocese") was and continues to be an organization or entity, which includes but is not limited to civil corporations, decision making entities, officials, and employees, authorized to conduct business and conducting business in the State of Minnesota with its principal place of business at 55 West Sandburn Street, Winona, Minnesota. The Bishop is the top official of the Diocese and is given authority over all matters within the Diocese as a result of his position. The Diocese functions as a business by engaging in numerous revenue producing activities and soliciting money from its members in exchange for its services. The Diocese has several programs which seek out the participation of children in the Diocese's activities. The Diocese, through its officials, has control over those activities involving children. The Diocese has the power to appoint,

supervise, monitor, and fire each person working with children within the Diocese.

FACTS

3. At all times material, Father Thomas Adamson (hereinafter "Adamson"), was a Roman Catholic priest employed by Defendant Diocese. At all times material, Adamson remained under the direct supervision, employ and control of Defendant. Defendant placed Adamson in positions where he had access to and worked with children as an integral part of his work.

4. From 1958 through December 1974, Father Adamson was employed by the Defendant Diocese at various times as a teacher and principal at Diocesan parochial schools and as a parish priest working with children at Diocesan churches across southern Minnesota. He worked at the following locations within the Diocese of Winona:

- a. Winona, MN: Cotter High School
- b. Winona, MN: St. Casimir's
- c. Adrian, MN: St. Adrian High School
- d. Adrian, MN: St. Adrian's
- e. Rochester, MN: Lourdes High School
- f. Caledonia, MN: St. John's
- g. Caledonia, MN: Superintendent of Catholic Schools
- h. Rochester, MN: Lourdes High School
- i. Hammond, MN: St. Clement's
- j. Albert Lea, MN: St. Theodore's
- k. Fountain, MN: St. Lawrence O'Toole
- l. Wycoff, MN: St. Killian's

m. Rochester, MN: St. Francis

5. Adamson also worked in St. Bonifacius: St. Boniface; St. Paul Park: St. Thomas Aquinas; Columbia Heights: Immaculate Conception; and Apple Valley: Risen Savior.

6. In approximately 1963, Officials of Defendant Winona Diocese learned or should have learned that Adamson had a homosexual problem with little boys.

7. In approximately 1964, Officials of Defendant Winona Diocese, particularly then-Bishop Edward Fitzgerald, learned or should have learned that Father Adamson sexually abused a boy or boys in Caledonia. They also learned or should have learned that Adamson attempted to molest one of these boys at least five times. Adamson admitted to the Vicar General of the Diocese that he had touched one of the youth. On discovery of this abuse, these Officials transferred Adamson to a new parish and took no further steps to investigate the misconduct or prevent further sexual abuse by Adamson.

8. The Diocese knew or should have known that Adamson was a child molester and knew or should have known that Adamson was a danger to children before Adamson molested Plaintiff.

9. The Diocese negligently or recklessly believed that Adamson was fit to work with children and/or that any previous problems he had were fixed and cured; that Adamson would not sexually molest children and that Adamson would not injure children; and/or that Adamson would not hurt children.

10. Defendant placed Adamson at St. John's in Caledonia, Minnesota. Adamson had unlimited access to children at St. John's. Children, including Plaintiff, and their families were not told what Defendant knew or should have known - that Adamson had sexually molested numerous children and that Adamson was a danger to them.

11. Plaintiff Doe 16 participated in youth activities at St. John's. He was raised in a devout Roman Catholic family, served as an altar boy, and participated in activities at St. John's. Plaintiff Doe 16, therefore, developed great admiration, trust, reverence and respect for the Roman Catholic Church, including Defendant and its agents.

12. By holding Adamson out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, Defendant entered into a fiduciary relationship with the minor Plaintiff. 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 empowerment over Plaintiff.

13. Further, Defendant, by holding itself out as being able to provide a safe environment for children, 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 relationship with Plaintiff.

14. Defendant had a special relationship with Plaintiff.

15. Defendant owed Plaintiff a duty of reasonable care because it had superior knowledge about the risk that Adamson posed to Plaintiff, the risk of abuse in general in its programs and/or the risks that its facilities posed to minor children.

16. Defendant owed Plaintiff a duty of reasonable care because it solicited youth and parents for participation in its youth programs; encouraged youth and parents to have the youth participate in its programs; undertook custody of minor children, including Plaintiff; promoted its facilities and programs as being safe for children; held its agents including Adamson out as safe to work with children; encouraged parents and children to spend time with its agents; and/or encouraged its agents, including Adamson, to spend time with, interact with, and recruit children.

17. Defendant had a duty to Plaintiff to protect him from harm because Defendant's actions created a foreseeable risk of harm to Plaintiff.

18. Defendant's breach of its duties include but are not limited to: failure to have sufficient policies and procedures to prevent child sex abuse, failure to properly implement the policies and procedures to prevent child sex abuse, failure to take reasonable measures to make sure that the policies and procedures to prevent child sex abuse were working, failure to adequately inform families and children of the risks of child sex abuse, failure to investigate risks of child molestation, failure to properly train the workers at institutions and programs within each Defendant's geographical confines, failure to have any outside agency test its safety procedures, failure to protect the children in their programs from child sex abuse, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, and leaders and people as safe, failure to train its employees properly to identify signs of child molestation by fellow employees, failure by relying upon mental health professionals, and/or failure by relying on people who claimed that they could treat child molesters.

19. Defendant failed to use ordinary care in determining whether its facilities were safe and/or to determine whether it had sufficient information to represent its facilities as safe. Defendant's failures include but are not limited to: failure to have sufficient policies and procedures to prevent abuse at its facilities, failure to investigate risks at its facilities, failure to properly train the workers at its facilities, failure to have any outside agency test its safety procedures, failure to investigate the amount and type of information necessary to represent its facilities as safe, failure to train its employees properly to identify signs of child molestation by fellow employees, failure by relying upon mental health professionals, failure by relying upon

people who claimed that they could treat child molesters.

20. Defendant Diocese also breached its duties to Plaintiff by failing to warn him and his family of the risk that Adamson posed and the risks of child sexual abuse by clerics. It also failed to warn him about any of the knowledge that Defendant had about child sex abuse.

21. Defendant Diocese also breached its duties to Plaintiff by failing to report Adamson's abuse of children to the police and law enforcement.

22. Defendant Diocese knew or should have known that some of the leaders and people working at Catholic institutions within the Diocese were not safe.

23. The Diocese knew or should have known that it did not have sufficient information about whether or not its leaders and people working at Catholic institutions within the Diocese were safe.

24. The Diocese knew or should have known that there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese.

25. The Diocese knew or should have known that it did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese.

26. The Diocese knew or should have known that it had numerous agents who had sexually molested children. It knew or should have known that child molesters have a high rate of recidivism. It knew or should have known that there was a specific danger of child sex abuse for children participating in their youth programs.

27. The Diocese held its leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and

families to its programs, marketing to youth and families, recruiting youth and families, and holding out the people that worked in the programs as safe.

28. Defendant was negligent and/or made representations to Plaintiff and his family during each and every year of his minority.

29. In approximately 1963-1964, Adamson engaged in unpermitted sexual contact with Plaintiff Doe.

30. The Diocese failed to inform law enforcement authorities that Adamson had sexually abused minor children. As a direct result, Adamson avoided criminal investigation and prosecution and continued to abuse minor boys.

31. In 2004, Defendant Diocese publically admitted that there were 13 priests who worked in the Diocese who had been credibly accused of sexually molesting minors. The Diocese has not released those names to the public. As a result children are at risk of being sexually molested.

32. As a direct result of the Defendant's conduct described herein, Plaintiff has suffered, and will continue to suffer, great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation, physical, personal and psychological injuries. Plaintiff was prevented, and will continue to be prevented, from performing his normal daily activities and obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and, on information and belief, has and/or will incur loss of income and/or loss of earning capacity.

**COUNT I: DEFENDANT DIOCESE –
NUISANCE (COMMON LAW AND MINN. STAT. § 561.01)**

33. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set

forth under this count.

34. Defendant continues to conspire and engage and/or has conspired and engaged in efforts to 1) conceal from the general public the sexual assaults committed by, the identities of, and the pedophilic/ephebophilic tendencies of, Adamson and Defendant's other agents on its list of credibly accused priests; 2) attack the credibility of the victims of Defendant's agents; and/or 3) protect Defendant's agents from criminal prosecution for their sexual assaults against children.

35. The negligence and/or deception and concealment by Defendant was and is injurious to the health and/or indecent or offensive to the senses and/or an obstruction to the free use of property by the general public, including but not limited to, residents in the Diocese of Winona and all other members of the general public who live in communities where Defendant's credibly accused molesters live. It was and is indecent and offensive to the senses, so as to interfere with the general public's comfortable enjoyment of life in that the general public cannot trust Defendant to warn parents of the presence of the current and/or former credibly accused molesters, nor to identify their current and/or former credibly accused molesters, nor to disclose said credibly accused molesters' assignment histories, nor to disclose their patterns of conduct in grooming and sexually assaulting children, all of which create an impairment of the safety of children in the neighborhoods in Minnesota and throughout the Midwest United States where Defendant conducted, and continues to conduct, its business.

36. The negligence and/or deception and concealment by Defendant was specially injurious to Plaintiff's health as he was repeatedly sexually assaulted by Defendant's agent, Adamson.

37. The negligence and/or deception and concealment by Defendant also was

specially injurious to Plaintiff's health in that when Plaintiff finally discovered the negligence and/or deception and concealment of Defendant, Plaintiff experienced mental and emotional distress that Plaintiff had been the victim of the Defendant's negligence and/or deception and concealment; that Plaintiff had not been able to help other minors being molested because of the negligence and/or deception and concealment; and that Plaintiff had not been able to because of the negligence and/or deception and concealment to receive timely medical treatment needed to deal with the problems Plaintiff had suffered and continues to suffer as a result of the molestations.

38. Plaintiff also suffered special, particular and peculiar harm after he learned of the Diocese's concealment of its list of priests credibly accused of sexually molesting minors, which continues as long as the list remains concealed. As a result of the concealment, Plaintiff has suffered and continues to suffer lessened enjoyment of his life, impaired health, emotional distress, and/or physical symptoms of emotional distress. He has also experienced depression, anxiety, and anger.

39. The continuing public nuisance created by Defendant was, and continues to be, the proximate cause of the injuries and damages to the general public and of Plaintiff's special injuries and damages as alleged.

40. In doing the aforementioned acts, Defendant acted negligently and/or intentionally, maliciously and with conscious disregard for Plaintiff's rights.

41. As a result of the above-described conduct, Plaintiff has suffered the injuries and damages described herein.

COUNT II: DEFENDANT DIOCESE -
NEGLIGENCE

42. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set

forth under this count.

43. Defendant Diocese owed Plaintiff a duty of reasonable care.

44. Defendant Diocese breached the duty of reasonable care it owed Plaintiff.

45. Defendant's breach of its duty was the proximate cause of Plaintiff's injuries.

46. As a direct result of Defendant's negligent conduct, Plaintiff has suffered the injuries and damages described herein.

**COUNT III: DEFENDANT DIOCESE –
NEGLIGENT SUPERVISION**

47. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count.

48. At all times material, Defendant Adamson was employed by Defendant Diocese and was under Defendant Diocese's direct supervision, employ and control when he committed the wrongful acts alleged herein. Defendant Adamson engaged in the wrongful conduct while acting in the course and scope of his employment with Defendant Diocese and/or accomplished the sexual abuse by virtue of his job-created authority. Defendant Diocese failed to exercise ordinary care in supervising Defendant Adamson in his parish assignment within the Diocese and failed to prevent the foreseeable misconduct of Defendant Adamson from causing harm to others, including the Plaintiff herein.

49. As a direct result of Defendant's negligent conduct, Plaintiff has suffered the injuries and damages described herein.

**COUNT IV: DEFENDANT DIOCESE –
NEGLIGENT RETENTION**

50. Plaintiff incorporates all consistent paragraphs of this complaint as if fully set forth under this count.

51. Defendant, by and through its agents, servants and employees, became aware, or should have become aware, of problems indicating that Adamson was an unfit agent with dangerous and exploitive propensities, yet Defendant failed to take any further action to remedy the problem and failed to investigate or remove Adamson from working with children.

52. As a direct result of Defendant's negligent conduct, Plaintiff has suffered the injuries and damages described herein.

PRAYER FOR RELIEF

53. Plaintiff demands judgment against Defendant in an amount in excess of \$50,000.00, plus costs, disbursements, reasonable attorney's fees, interest, and such other and further relief as the court deems just and equitable.

54. Plaintiff requests an order requiring that the Diocese publically release the names of all credibly accused child molesting priests, each such priests history of abuse, each such priests pattern of grooming and sexual behavior, and his last known address.

Dated: 8/27/13

JEFF ANDERSON & ASSOCIATES, P.A.



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ACKNOWLEDGMENT

The undersigned hereby acknowledges that sanctions, including costs, disbursements, and reasonable attorney fees may be awarded pursuant to Minn. Stat. § 549.211 to the party against whom the allegations in this pleading are asserted.

