

IN THE CIRCUIT COURT
TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

K.C.,

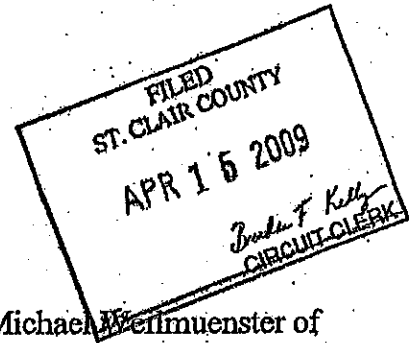
Plaintiff,

v.

The DIOCESE OF BELLEVILLE,
a religious association, and as a
nonprofit corporation,

Defendant.

Case No. 09-L-192



COMPLAINT

Comes now the Plaintiff, K.C., by and through his attorney, J. Michael Weilmuenster of Weilmuenster & Wigginton, P.C., and for his Complaint against Defendant, The DIOCESE OF BELLEVILLE, a religious association, and as a nonprofit corporation, states as follows:

ALLEGATIONS COMMON TO ALL COUNTS

1. Plaintiff, K.C., is a male, born in November, 1960, and is a citizen of the State of Illinois.
2. Defendant, DIOCESE OF BELLEVILLE ("DIOCESE"), is, and at all times herein mentioned was, a religious association, and a nonprofit corporation and had its headquarters in Belleville, St. Clair County, Illinois, and did its religious work in St. Clair County, Illinois and other locations within the borders of the State of Illinois.
3. RAYMOND KOWNACKI ("KOWNACKI") is an ordained Roman Catholic priest, who is a resident of St. Clair County, Illinois. At all times mentioned herein, KOWNACKI was employed by the DIOCESE.
4. From November 8, 1973, through 1982, KOWNACKI was appointed by the

K.C.
EXHIBIT
A

DIOCESE as the Pastor of St. Theresa's Catholic Church and School in Salem, Illinois.

5. The DIOCESE is, and was at all times relevant herein, a supervising entity of several parishes and churches in and around Southern Illinois, and had its offices in and principle place of business in St. Clair County, Illinois.

6. Ordination of a priest by the DIOCESE, or incardination of a priest to the DIOCESE, represented to the public and to those with whom the priest comes in contact that the priest was a person of excellent moral character, worthy of trust, and, specifically, that its members could reasonably rely upon the good moral character of the priest and trust that their children would be safe alone in the company of its priests.

7. That KOWNACKI was hired/ordained as a Roman Catholic Priest, and in such role, KOWNACKI was expected to perform certain acts and duties, including, but not limited to, supervising young people in their activities at the churches and schools associated with the DIOCESE, supervising young people in the quest for religious and spiritual understanding, teaching young people to act in a manner consistent with the ideals and teachings of the Roman Catholic Church, and other acts and duties consistent with his role as a spiritual mentor and leader.

8. At the time of his ordination as a priest, KOWNACKI took a vow of obedience to the DIOCESE. At all times pertinent herein, KOWNACKI was employed by the DIOCESE as a parish priest and was acting under the direct supervision, control and authority of its employees, agents and directors.

9. The DIOCESE appointed KOWNACKI as associate pastor and/or pastor at various parishes during KOWNACKI'S career.

10. Further, that the DIOCESE, with all that this entity stands for, implied that KOWNACKI was safe, morally and spiritually beneficial, and would not pose a risk to the children associated with the churches and groups affiliated with the DIOCESE.

11. During his tenure with the DIOCESE, KOWNACKI'S responsibilities included performing masses, solemnizing marriages, hearing confessions and granting absolution, the training, supervision and guidance of minor boys, and providing spiritual instruction and counseling to parishioners.

12. While employed at various parishes in the DIOCESE under the direct supervision and control of its agents and employees, KOWNACKI systematically sexually molested children, including K.C., entrusted to his care and tutelage.

HISTORICAL BACKGROUND

13. That in 1962, the DIOCESE adopted, continued and/or adhered to a policy for the investigation and handling of crimes of a sexual nature, perpetrated by priests against minors, and they were on notice that, absent suitable safeguards, minors were at grave risk of harm caused by priests who lacked adequate supervision.

14. The DIOCESE'S policies of secrecy and self-dealing were known to KOWNACKI and enabled and emboldened him in that he knew any complaints about his conduct would be minimized and he would be protected from public disclosure.

15. As detailed elsewhere in this complaint, the acts of the DIOCESE allowed pedophile predators such as KOWNACKI to perpetrate criminal acts of child sexual abuse upon children of its members. This is indicative of a pattern throughout many dioceses of the Roman Catholic Church that has gone on for decades throughout the United States. Persons controlling or directing the affairs of the Church, such as the DIOCESE, allowed this to occur by making

fraudulent representations, concealing criminal activity, obstructing justice and criminal investigations, evading civil and/or criminal liability, and by inculcating parishioners to keep their scandals secret through the guise of religious teachings and spiritual instruction and counseling.

16. The Church is a hierarchical organization having its principal place of business in Vatican City. The Vatican is considered a sovereign nation enjoying all the rights and privileges of a sovereign nation. The ultimate political and religious ruler of the Church and the Vatican is the Pope, currently Pope Benedict XVI.

17. The Church, its dioceses, religious Orders, and educational institutions are supported primarily by assessments and/or contributions by its member parishioners.

18. Leaders in the Church, including local leaders of the DIOCESE, were aware since at least the 1950's that there existed a disturbing number of incidents involving sexual molestation and abuse of minor children by Roman Catholic priests. (See, for example, the Holy See's 1962 INSTRUCTION entitled "On the Manner of Proceeding in Cases of Solicitation"). Plaintiff believed what he was taught by the Church. These teachings kept the wide spread problem of pedophile priests out of the public arena until recently.

19. Church leaders, including local leaders of the DIOCESE, were aware that child molesters (also variously characterized as pedophiles, ephebophiles, and/or those with psychosexual disorders) are recidivistic, mobile predators that usually abuse multiple victims and gravitate to activities with young persons in order to continue to molest.

20. Leaders in the Church, including local leaders of the DIOCESE, were aware the effects of sexual molestation upon children could be devastating, and knew that parishioners and

potential victims were largely naïve and ignorant of the reality and prevalence of pedophilia in the priesthood.

21. Leaders in the Church, including local leaders of the DIOCESE, were gravely concerned about the scandal that would result if parishioners and the public at large were aware of the prevalence of pedophilia in the priesthood. Further, these leaders were aware of, and gravely concerned about, the financial repercussions that such a scandal would bring to local parishes and the Roman Catholic Church as a whole.

22. Regrettably, Church leaders, including local leaders the DIOCESE, placed concern for the Church's reputation and financial well being over the safety and well being of its parishioners and children everywhere. As a result, since no later than the early 1960's, persons controlling or directing the affairs of the Church have engaged in a conspiracy to intentionally, recklessly and/or negligently conceal criminal conduct of their agents, aid and abet the concealment of that criminal conduct, aid and abet criminal sexual conduct, fail to report criminal conduct of their agents, obstruct justice, obstruct criminal investigations, obstruct state and/or local law enforcement, evade criminal and/or civil prosecution and liability, bribe and/or pay money to victims in order to keep their criminal conduct secret, violate the civil rights of children and families, commit fraud and/or fraudulent inducement of their parishioners in furtherance of their scheme to protect molesting priests and other clergy from criminal prosecution. This conspiracy was carried out in part to maintain or increase charitable contributions and tuition payments and/or to avoid public scandal involving the Church.

23. This conspiracy was conducted by and through the DIOCESE and others and directed by the Holy Roman Catholic Church (a/k/a, The Holy See).

24. Evidence of this conspiracy by the Church, including the DIOCESE and others, and of their knowledge that Roman Catholic clergy were abusing children can be seen in the Holy See's 1962 Instruction entitled "On the Manner of Proceeding in Cases of Solicitation". (Hereinafter referred to as "INSTRUCTION"). This INSTRUCTION was intended to reach all Patriarchs, Archbishops, Bishops and other diocesan ordinaries. The very top of the INSTRUCTION states that it is, "to be diligently stored in the secret archives of the Curia as strictly confidential. Nor is it to be published nor added to with any commentaries."

25. The INSTRUCTION contains explicit instructions as to how bishops and Church leaders are to proceed in cases where a priest engages in sexual conduct with minor children. The INSTRUCTION specifically mentions that these cases encompass situations where children are sexually abused. The INSTRUCTION makes clear throughout that, in all circumstances, sex abuse cases dealing with minor children are to be kept strictly secret. In particular, if Church leaders find that the allegations lack foundation, they are mandated to destroy all of the documents. If, however, the allegations are found to have foundation, the bishop and church leaders must keep the pertinent documents in secret archives. The Vatican INSTRUCTION also encourages bishops and Church leaders to avoid "scandal". The INSTRUCTION identifies the worst crime as any obscene, external act, gravely sinful, perpetrated in any way by a priest with youths of either sex or sex with brute animals (bestiality). The INSTRUCTION by its terms applies to keep secret these crimes.

26. As further evidence of this conspiracy to avoid "scandal" concerning the child sexual abuse by the Roman Catholic clergy, in 1985, the National Conference of Catholic Bishops received a report entitled "The Problem of Sexual Molestations by Roman Catholic Clergy" (Hereinafter referred to as "REPORT"). This REPORT described the continuing and

growing problem of child sexual abuse by priests within the Church. According to the REPORT, if the Church failed to deal with the problem of its pedophile priests, the Church could face liability in excess of \$1,000,000,000.00 over the next ten years.

27. The REPORT outlined steps that the Church, through the National Conference of Catholic Bishops, must take to protect the Church and parishioners from the devastating effects of priests who molest children. However, the Church and the National Conference of Bishops ignored the REPORT and, instead, continued to allow pedophile priests to molest children.

28. The REPORT further cautioned the National Conference of Catholic Bishops to resist the practice by some to sanitize or purge the secret files of potentially dangerous material. In addition, the REPORT warned the National Conference of Catholic Bishops that their practice of moving files containing potentially dangerous material to the Papal Apostolic Delegate, where the files would be immune from subpoena, could ultimately destroy the immunity enjoyed by the Holy See. Despite the seriousness of these warnings, they were not heeded.

29. Upon information and belief, the DIOCESE and others engaged in the conspiracy and other wrongful activity described above in order to avoid scandal and protect its offending priests and others in the Church who knew of their conduct from criminal and civil prosecution, and protect the financial interests of the Church and the DIOCESE.

30. In furtherance of its scheme and enterprise to protect predatory priests and other clergy from criminal prosecution, and to maintain or increase charitable contributions and tuition payments and/or avoid public scandal in the Church, persons controlling or directing the affairs of the DIOCESE and others, intentionally and fraudulently engaged in the routine practice of maintaining secret "sub secreto" archival files of sexual misconduct by priests. These sub secreto files were and are accessible to the bishops only. Such secret files were not reported to

or made available to law enforcement agencies which investigate the known crimes of the priests.

31. In fact, on information and belief, the Church and its bishops encouraged the fraudulent purging of files and hiding of files from authorities and others seeking access to them. An example of such conduct is seen in a 1990 address to the National Conference of Catholic Bishops entitled "NCCB Guidelines, and other Considerations in Pedophilia Cases," by Bishop A. James Quinn, Auxiliary Bishop of Cleveland and a member of the Ad Hoc Committee to study how to handle wayward priests. In that address, Bishop Quinn stated:

"Nevertheless, Personnel files should be carefully examined to determine their content. Unsigned letters alleging misconduct should be expunged. Standard personnel files should contain no documentation relating to possible criminal behavior. Serious moral questions, signed allegations, those should be a part of the secret file anyhow. But they still subpoena them. But comb through your files. Now, when files have been subpoenaed, they cannot be tampered with, destroyed, removed; that constitutes obstruction of justice and contempt of court. Prior thought and study ought to be given if you think it's going to be necessary; if there's something there you really don't want people to see you might send it off to the Apostolic Delegate, because they have immunity to protect something that is potentially dangerous, or that you consider to be dangerous, you might send it there." (The Apostolic Nuncio is the delegate from the Vatican and Holy Sec, which the Church contends enjoys sovereign immunity from lawsuits and subpoenas).

In furtherance of this conspiracy, the Church, including the DIOCESE, have misrepresented, concealed and suppressed the existence of the problem of pedophile priests from parishioners and the public at large by suggesting that priests that were transferred because of credible allegations of sexual molestation or were in treatment due to sexual misconduct, were "on leave," on "retreat," on "sabbatical" and/or participating in "advanced studies".

32. Leaders of the Church, including local leaders of the DIOCESE, were aware that the problem of pedophile priests within the Church was a widespread problem since at least the 1950's and that as a result of their conspiracy to keep this problem secret, millions of innocent

children were put at risk. Thousands of those innocent children, including Plaintiff, fell prey to these pedophile priests and were gravely harmed and injured.

33. When credible evidence of sexual molestation by a priest was brought to the attention of the Church, including the DIOCESE, the church represented to victims and their families that such molestation was an isolated incident and that the problem would be "taken care of" by the Church. Church leaders, including local leaders of the DIOCESE, secretly colluded and conspired to conceal all such offenses using whatever means necessary including, but not limited to, transferring the offending priests to other assignments without informing the victims or their families that the priests would continue in ministry, parishioners or subsequent supervisors of the molestation or the reason for the transfer, and law enforcement or the general public about the offending priests' pedophile activities. Further, those offending priests which were removed from their assignments or suspended for misconduct were continuously listed in official Catholic Directories by euphemism, such as "absent on leave", "advanced studies", "on special assignment" or "retired".

34. Maintaining that they viewed sexual assaults of children by priests as moral failings, the Church, including the DIOCESE, professed to be saddened by such activity and claimed that at all times they took appropriate steps to detect and prevent such activities. In fact, to protect their reputations and income, the Church and the DIOCESE treated the sexual molestation of children by priests as scandal that was to be suppressed at any cost, despite knowing that suppression put the minor children under the care of the Church and the DIOCESE at grave risk.

35. The Church, including local leaders of the DIOCESE, deliberately adopted a policy of public deception.

36. It was and is the policy and practice of the Church and the DIOCESE, to secrete the identities, retain the services of, and protect sexual offenders who are or had been Roman Catholic priests incardinated to and functioning within the DIOCESE over whose conduct the DIOCESE had control, and for whom the DIOCESE was responsible in a master-servant relationship.

37. The Church and the DIOCESE purposely suppressed the identity of sexual offenders to prevent the filing of both criminal and civil complaints in courts of competent jurisdiction, thus enabling further criminal conduct by those sexual offenders, while preventing the diminution of the flow of donated funds to the church and the DIOCESE.

38. In instances where the Church, including local leaders of the DIOCESE, had actual knowledge about offending clerics, including KOWNACKI, they failed to warn children and their parents and denied knowledge thereof.

39. Despite having actual knowledge of KOWNACKI'S pedophile propensities and previous instances of molestation of other children, the DIOCESE, and others concealed the danger which he and other offending clerics presented by misrepresenting them as priests in good standing, thus enabling those offending clerics to retain their continued, unrestricted access to minor children.

40. Further, despite having actual knowledge of KOWNACKI'S recidivistic pedophile history, the DIOCESE did not provide KOWNACKI with ongoing sex abuse therapy or monitor him under close supervision.

DIOCESE'S Knowledge of KOWNACKI'S Prior Sexual Misconduct

41. Prior to KOWNACKI'S appointment as Pastor of St. Theresa's Catholic Church, the DIOCESE, by and through its agents and employees, including Bishop Zuroweste, received

numerous independent complaints regarding sexual impropriety on the part of KOWNACKI, including the following:

- a. In approximately 1972, the father of the Guatemalan girl contacted the DIOCESE complaining that KOWNACKI had impregnated his daughter, while he was there as a missionary from 1964 to 1970.
- b. In approximately March of 1973, the DIOCESE received a complaint from a priest that parents of a fourteen (14) year old girl had complained to him that KOWNACKI was molesting their daughter.
- c. On April 27, 1973, a meeting took place at the Chancery of the DIOCESE with Gina Trimble Parks, her parents, Father Dean Braun, Monsignor Sullivan, and Bishop Zuroweste, in which Gina related her knowledge and KOWNACKI's statements to her regarding acts of sexual misconduct perpetrated by KOWNACKI as follows:
 - i. While at St. Francisville, KOWNACKI took Gina to Tamaroa to clean his mother's house. They spent the night there. Gina went to bed and the next thing she knew, "Father was in bed with me and we had intercourse."
 - ii. KOWNACKI convinced Gina and her parents to let Gina go to Washington Park where she could be his housekeeper. She would be paid \$200 per month and she could go to high school in Highland. KOWNACKI would pay for her tuition. Once at Washington Park, KOWNACKI seduced her. He would give her alcohol and then get into bed with her. They had relations throughout the two years.
 - iii. Gina started dating a boy and later became pregnant. She planned

to marry the boy because she believed he was the father. KOWNACKI had told her that he had a vasectomy while in Guatemala. Gina and the boy told KOWNACKI of their plan to marry. Later after the boy left, KOWNACKI drank a lot. KOWNACKI started touching her and she said she didn't want to do it. He took his clothes off and tried to take hers off. Gina struggled with KOWNACKI and told him that he was raping her. She was able to get away and locked herself in her room. KOWNACKI came to her door later and tried to come in. Gina got dressed and got her keys and purse, but KOWNACKI broke in. He slapped her, grabbed her hair and threw her on the floor. She jumped out the window and attempted to run away, but police officers returned her to the rectory.

iv. Later, KOWNACKI told Gina that he wasn't infertile. He told her if she didn't want the baby, she could abort it. He gave her a concoction to drug her. He used his fingers to try to squeeze her uterus to force the baby out. She said no, but he did it anyway. She had a very bad (life threatening) cervical infection.

v. KOWNACKI told Gina that in Guatemala he had a housekeeper that he had a sexual relationship for years. KOWNACKI said that she became pregnant by another man. Afterwards, KOWNACKI had sexual relations with other girls in Guatemala.

vi. Gina said KOWNACKI engaged in a homosexual relationship with a twin Guatemalan boy which KOWNACKI brought to the United States and had living with him in the rectory for a period of time prior to April of

1973.

vii. Gina also reported that KOWNACKI did things with a fourteen (14) year old girl at the Washington Park Parish and that she called him every night.

viii. KOWNACKI drank almost a bottle of Scotch whiskey every night.

d. Three days later, Bishop Zuroweste and Monsignor Sullivan met with KOWNACKI and concluded that KOWNACKI needed help.

e. KOWNACKI resigned from his position as Pastor of St. Martin of Tours Parish in Washington Park, Illinois, at the request of the DIOCESE and was sent to Guest House.

f. The DIOCESE did not report any of the allegations of sexual misconduct on the part of KOWNACKI to civil authorities nor to the laity or the parishes of the DIOCESE.

Abuse of K.C.

42. During K.C.'s childhood, commencing in 1974 and continuing until 1977 at St. Theresa's School, Church, and/or Rectory, and while travelling to various locations, including Washington, D.C., and New York, KOWNACKI repeatedly sexually abused K.C. by touching or fondling K.C.'s genitalia and engaging in oral sex with K.C.

43. During the aforesaid time period when childhood sexual abuse occurred, KOWNACKI, an agent of the DIOCESE as the appointed Pastor of St. Theresa's Catholic Church and School in Salem, Illinois, participated in and assumed the responsibility for the training and spiritual well-being of K.C., a minor parishioner, as set forth above.

Delayed Discovery

Common Law and 735 ILCS 5/13-202.2

44. In 2008, K.C. began receiving psychological/psychiatric treatment.

45. In April 2008, a Quantitative EEG study was performed, which indicated that

K.C. suffered from a traumatic disorder as a result of a previous traumatic event. Through some additional counseling sessions, it was established that this traumatic disorder was a result of childhood sexual abuse that was perpetrated upon K.C. by KOWNACKI.

46. At that time, K.C. first learned that he had suffered psychological harm and/or injury, including a traumatic disorder, as a direct and proximate cause of the sexual abuse committed by KOWNACKI when he was a minor. Since April of 2008, K.C. has sought and received psychological counseling and treatment.

47. K.C. was reasonably and blamelessly prevented from knowing, discovering or becoming aware of any cause of action or psychological or psychiatric harm, illness, disease, or injury which occurred as a result of the childhood sexual abuse by KOWNACKI. K.C. specifically avers that at no time up until 2008 did K.C. have any apprehension, knowledge or understanding that the sexual contact caused him any harm or injury.

48. Prior to April of 2008, K.C. had not discovered, understood or appreciated that any problems he was experiencing (i.e. emotional, psychiatric, psychological and sexual) were caused by the sexual abuse as a minor.

49. K.C. did not know, nor have reason to know, until 2008 that KOWNACKI had sexually abused other children and that the DIOCESE knew that KOWNACKI had sexually abused other children before appointing him as the Pastor of St. Theresa's Parish. Further, it was the first time that K.C. knew or had reason to know of any wrongful conduct by the DIOCESE related to his childhood sexual abuse.

50. K.C. pleads delayed discovery of the harm and delay in learning of misconduct of the DIOCESE and thus delay in the accrual of his claims against the DIOCESE.

Equitable Estoppel/Equitable Tolling/Fraudulent Concealment

51. At all times herein, the laity of the DIOCESE, including K.C. and his parents,

reposed great trust and confidence in the DIOCESE, including the Bishop and clergy acting on its behalf, so that the DIOCESE, through its Bishop and clergy, gained influence and superiority over the laity of the DIOCESE, including K.C. and his parents. The relationship between the DIOCESE and K.C. was fiduciary in nature, creating a duty on the part of the DIOCESE to disclose material facts or not to conceal material facts relating to K.C.'s cause of action herein.

52. As set forth above, the DIOCESE at all times prior to and during the sexual abuse of K.C. concealed and withheld its knowledge of KOWNACKI's acts of sexual abuse against minors.

53. In 1982, following the time period in which KOWNACKI sexually abused K.C., the DIOCESE received a report from family in St. Theresa's Parish that:

a. Their son, a freshman, cut KOWNACKI's grass. KOWNACKI invited the boy to spend the night. The boy had been running and KOWNACKI told him to take a shower and he would give him a massage. KOWNACKI started fondling, kissing, etc. The boy wanted to go home but KOWNACKI made him stay all night.

b. KOWNACKI told the boy that this was okay. "I've done it before." Two other boys were involved with KOWNACKI. KOWNACKI told the boy it was a sign of friendship and not to tell his parents.

c. The family planned to file suit if something wasn't done soon because they did not want any other boys in the Parish to be abused by KOWNACKI.

d. The family was afraid that KOWNACKI would become vicious if he found out that they reported him.

e. The report was received by someone in the Chancery Office of the DIOCESE, who concluded, "RAY IS SICK" and "Ray really needs professional help and treatment."

54. The DIOCESE asked the family of this minor boy not to tell anyone about the incident.

55. The DIOCESE did not require that KOWNACKI obtain professional help and treatment. Rather, KOWNACKI was reassigned directly as Pastor of St. Joseph's Parish in Cobden, effective July 6, 1982. There is no indication that anyone at St. Joseph's Parish in Cobden was notified by the DIOCESE of the prior allegations of sexual abuse against KOWNACKI. In fact, Bishop Wurm's letter regarding the appointment stated, "I heartily commend you [KOWNACKI] to all the people of your parish."

56. KOWNACKI made statements to the press in Salem, Illinois, that he asked Bishop Wurm, "for an assignment to work with the Hispanic community in the Cobden area." This news article was sent to Monsignor Schwaegel with a letter dated June 21, 1982 from the parents of the freshman boy who was abused by KOWNACKI at St. Theresa's. They note that, "this article in our town newspaper is almost more than we can handle." "Instead of being sorry and leaving quietly, he adds to it by lying." "We have done as you asked, and not said anything to anybody."

57. Monsignor Schwaegel, the Vice-Chancellor of the DIOCESE, responded to the letter on June 25, 1982. Schwaegel stated, "I can certainly understand your difficulty in accepting the manner in which Father [KOWNACKI] describes his termination at Salem and new assignment at Cobden." He encourages them to "let bygones be bygones." Schwaegel goes on to state, "I am sorry that Father [KOWNACKI] had to learn his lesson at the expense of causing grief to you and your family."

58. The DIOCESE actively concealed KOWNACKI's sexual abuse at St. Theresa's Parish, specifically including its knowledge of the sexual abuse of three minors, possibly

including K.C., by asking the parents of the minor boy not to tell anyone of the abuse, by misrepresenting to the parents of the freshman boy that these were the first instances of sexual abuse perpetrated by KOWNACKI, by failing to repudiate or correct the misrepresentations made by its agent, KOWNACKI, to the press of Salem, Illinois, regarding the circumstances of his reassignment to St. Joseph's Parish in Cobden, Illinois. The misrepresentations aided the DIOCESE in its plan to reinsert KOWNACKI into a new parish in another part of the DIOCESE and again hold out KOWNACKI as a priest fit to conduct the Catholic ministry there on behalf of the DIOCESE, a priest of good moral character, and an appropriate person to be around minor children and provide counseling and mentoring to the youth of the parish, while concealing the history of sexual abuse committed by KOWNACKI from the new parish.

59. This pattern was repeated when the DIOCESE subsequently transferred KOWNACKI from parishes at Harrisburg, Illinois, in 1984 and Valmeyer, Illinois in 1986 due to further allegations of inappropriate conduct with minors.

60. KOWNACKI was assigned to minister to the sick and elderly in 1987 until he was removed from ministry by the DIOCESE Review Board in 1995.

61. The Review Board was established in March of 1993. Margie Mensen was appointed as the Review Board Administrator by Bishop Keleher. However, Bishop Gregory did not give KOWNACKI's file to Mensen to investigate until much later in 1994 (it was not at the beginning of her term). The Review Board policy required that if an allegation came forward, within three days the Bishop had to notify the Board of the allegation and give whatever information he had.

62. The Review Board did not receive all of the documents in the DIOCESE's possession regarding KOWNACKI's sexual abuse and misconduct. Bishop Gregory gave

Mensen two letters from KOWNACKI to Gina Trimble Parks which were written after the meeting documented by Monsignor Sullivan. The Review Board never received the Transcript of Monsignor Sullivan's notes from 1973. Mensen was not aware of the allegations regarding the 14 year old girl at Washington Park and she would have been obligated to follow up if there was a name of a victim. Mensen had not seen all the documents regarding the allegations against KOWNACKI from St. Theresa's in 1982.

63. At all times prior to and following the sexual abuse of K.C. committed by KOWNACKI, the DIOCESE, by and through its agents and employees, has actively misrepresented, concealed, and withheld material facts from the laity of the DIOCESE, including K.C., regarding the numerous complaints of KOWNACKI sexually abusing children, possibly including K.C., throughout his career as priest with the DIOCESE.

64. The DIOCESE misrepresented, concealed, and withheld these material facts from the laity of the DIOCESE, including K.C., with the intent of concealing its role in enabling KOWNACKI to continually sexually abuse children.

65. K.C. will be prejudiced by the misrepresentations and concealment committed by the DIOCESE, if the Statute of Limitations and/or Statute of Repose are invoked to bar his claims.

66. K.C. pleads that the DIOCESE is equitably estopped from raising the statute of limitations or statute of repose as an affirmative defense. Further, the tolling of the statute of limitations and statute of repose has been delayed based on the doctrine of equitable tolling, the tolling provisions contained in the Childhood Sexual Abuse Act (the "CSAA") 735 ILCS 5/13-202.2(d-1)(2003), and the fraudulent concealment statute 735 ILCS 5/13-215.

COUNT I - NEGLIGENCE
(Restatement (Second) of Torts § 317)

For Count I of his Complaint, Plaintiff states as follows:

1.-66. K.C. hereby repeats, realleges and incorporates by reference the preceding paragraphs 1-66 of this Complaint as though fully set forth herein.

67. As of April 27, 1973, the DIOCESE knew or reasonably should have known that KOWNACKI suffered from a pedophilic mental disorder and alcoholism or that KOWNACKI otherwise exhibited dangerous propensities and that KOWNACKI was a danger to minors.

68. Despite this knowledge, Bishop Zuroweste appointed KOWNACKI as Pastor of St. Theresa's Parish, effective November 8, 1973.

69. That at all times relevant to the cause of action, KOWNACKI, was on the premises of St. Theresa's Parish as an agent, servant of the DIOCESE and using said premises in his role as parish priest under the direction of the DIOCESE.

70. That at all times relevant thereto, the DIOCESE knew or had reason to know that it had the ability to control KOWNACKI and knew or should have known of the necessity and opportunity for exercising such control.

71. That in violation of its duty, the DIOCESE failed to exercise reasonable care so as to control KOWNACKI or to prevent him from intentionally harming others or from conducting himself as to create an unreasonable risk of bodily injury to others by one or more of the following negligent acts and/or omissions:

a. Retained KOWNACKI as a parish priest and failed to terminate, reprimand, or impose any negative employment consequences as a result of his prior acts of sexual abuse or misconduct;

b. Failed to adequately monitor and supervise KOWNACKI in his performance

of his duties as parish priest and allowed KOWNACKI to have unsupervised contact with minors when it knew of past incidents and allegations of sexual abuse or misconduct involving minors; and

- c. Entrusted KOWNACKI with access to and control of St. Theresa's School, Church, Rectory, and parish grounds and failed to police St. Theresa's School, Church, Rectory, and parish grounds to prevent KOWNACKI from sexually abusing children and doing harm to others, including K.C.

72. That as a direct and/or proximate result of the conduct of the DIOCESE as described herein, K.C. has sustained sever and permanent psychological injuries, including but not limited to, post traumatic stress disorder and major depression, as a result thereof he has and will continue to experience:

- a) Mental pain and suffering;
- b) Emotional distress;
- c) Loss of a normal life; and
- d) Medical and counseling expenses.

WHEREFORE, K.C. prays for judgment against the DIOCESE, in a sum reasonable and equitable and in excess of \$50,000 to fairly compensate him for the injuries and damages sustained, plus costs of suit.

COUNT II
WILLFUL AND WANTON NEGLIGENCE

For Count II of his Complaint, Plaintiff states as follows:

I.-70. K.C. hereby repeats, realleges and incorporates by reference the preceding paragraphs 1-70 of this Complaint as though fully set forth herein.

71. That in violation of its duty, the DIOCESE failed to exercise reasonable care so as

to control KOWNACKI or to prevent him from intentionally harming others or from conducting himself as to create an unreasonable risk of bodily injury to others by one or more of the following willful, wanton, and/or reckless acts and/or omissions:

- a. Retained KOWNACKI as a parish priest and failed to terminate, reprimand, or impose any negative employment consequences as a result of his prior acts of sexual abuse or misconduct;
- b. Failed to adequately monitor and supervise KOWNACKI in his performance of his duties as parish priest and allowed KOWNACKI to have unsupervised contact with minors when it knew of past incidents and allegations of sexual abuse or misconduct involving minors; and
- c. Entrusted KOWNACKI with access to and control of St. Theresa's School, Church, Rectory, and parish grounds and failed to police St. Theresa's School, Church, Rectory, and parish grounds to prevent KOWNACKI from sexually abusing children and doing harm to others, including K.C.

72. That as a direct and/or proximate result of the conduct of the DIOCESE as described herein, K.C. has sustained sever and permanent psychological injuries, including but not limited to, post traumatic stress disorder and major depression, as a result thereof he has and will continue to experience:

- a) Mental pain and suffering;
- b) Emotional distress;
- c) Loss of a normal life; and
- d) Medical and counseling expenses.

73. That the conduct of the DIOCESE, by and through its agents and employees, as

described above constituted a violation of trust or confidence and/or was willful and wanton, showing complete indifference to or conscious disregard for the safety and wellbeing of K.C. and others.

74. With respect to the acts and/or omissions giving rise to liability, either:
- a. The DIOCESE, through its management, authorized the doing and the manner of the act or omission; or
 - b. The employee responsible for the act or omission was unfit, and the DIOCESE was reckless in employing him; or
 - c. The act or omission was that of a managerial employee who was acting in the scope of his employment; or
 - d. The DIOCESE, through its management or managerial employee, ratified or approved the act or omission.

75. Justice and the public good require an award of punitive or exemplary damages in such sum which will serve to punish the DIOCESE and to deter the DIOCESE from like conduct.

WHEREFORE, K.C. prays for judgment against the DIOCESE, in a sum reasonable and equitable and in excess of \$50,000 to fairly compensate him for the injuries and damages sustained, and in addition, exemplary amounts sufficient to punish and deter such conduct in the future, plus costs of suit.

COUNT III
FRAUD

For Count III of his Complaint, Plaintiff states as follows:

1.-66. K.C. hereby repeats, realleges and incorporates by reference the preceding paragraphs 1-66 of this Complaint as though fully set forth herein.

67. Bishop Zuroweste appointed KOWNACKI as Pastor of St. Theresa's Parish, effective November 8, 1973. By the appointment, KOWNACKI was being held out by the DIOCESE and the DIOCESE affirmatively represented to members of St. Theresa's Parish, including K.C. and his parents, that KOWNACKI was a priest fit to conduct the Catholic ministry there on behalf of the DIOCESE, a priest of good moral character, and an appropriate person to be around minor children and provide counseling and mentoring to the youth of the Parish.

68. The representations made by the DIOCESE concerning KOWNACKI's fitness to serve as Pastor of St. Theresa's Parish were false.

69. At all times herein, the DIOCESE, by and through its agents and employees, including Bishop Zuroweste and Monsignor Sullivan, knew or should have known that these representations were false.

70. K.C. (and his parents) believed and justifiably relied on the representations of the DIOCESE concerning KOWNACKI's fitness to serve as Pastor of St. Theresa's Parish by continuing to be active members of St. Theresa's Parish and allowing KOWNACKI to minister to them as their parish priest and by K.C. having unsupervised contact with KOWNACKI.

71. At all times herein, the laity of the DIOCESE, including K.C. and his parents, reposed great trust and confidence in the DIOCESE, including the Bishop and clergy acting on its behalf, so that the DIOCESE, through its Bishop and clergy, gained influence and superiority over the laity of the DIOCESE, including K.C. and his parents. The relationship between the DIOCESE and K.C. was fiduciary in nature.

72. Neither the DIOCESE nor any of its agents or employees, including Bishop Zuroweste, ever informed the members of St. Theresa's Parish, including K.C. and his parents,

of the prior allegations of sexual misconduct on the part of KOWNACKI, the reasons for KOWNACKI's removal as Pastor of St. Martin of Tours Parish in Washington Park, Illinois, or that just prior to being appointed as Pastor of St. Theresa's Parish KOWNACKI had undergone treatment at Guest House. These were material facts which the DIOCESE intentionally withheld and concealed from the members of St. Theresa's Parish, including K.C. and his parents, with the intent to induce them to accept KOWNACKI as their Pastor.

73. The members of St. Theresa's Parish, including K.C. and his parents, accepted KOWNACKI as their Pastor and K.C. had unsupervised contact with KOWNACKI in justifiable reliance on the facts as they knew them.

74. K.C. (and his parents) had no way of knowing or any reason to know of the prior allegations of sexual misconduct on the part of KOWNACKI, the reasons for KOWNACKI's removal as Pastor of St. Martin of Tours Parish in Washington Park, Illinois, or that just prior to being appointed as Pastor of St. Theresa's Parish KOWNACKI had undergone treatment at Guest House.

75. As a direct and/or proximate result of the misrepresentation, concealment, and/or withholding of material facts by the DIOCESE, K.C. was a victim of childhood sexual abuse at the hands of KOWNACKI.

76. While K.C. was a parishioner, an altar boy, a worker and a participant in religious/educational programs at St. Theresa's Catholic Church and School in Salem, Illinois, under the direction and/or supervision of KOWNACKI, KOWNACKI was viewed as a spiritual leader, teacher and counselor, routinely being present and interacting with minors. K.C. developed great admiration, trust, reverence, respect, obedience and religious obedience to KOWNACKI, who K.C. considered an *alter christi*, honored friend and religious mentor in

preparation for K.C.'s initiation into various Roman Catholic sacraments and K.C.'s contemplation of entering into the priesthood.

77. The DIOCESE, by and through KOWNACKI, its agent and employee, made the following representations of fact:

- a) Represented to K.C. that a sexual relationship between a priest and a minor was not harmful or injurious to the plaintiff; and
- b) Represented to K.C. that a sexual relationship between a priest and a minor was condoned by the Catholic Church;

78. The DIOCESE knew that these representations were false.

79. The DIOCESE, by and through its officers, directors, or managerial employees, knew that KOWNACKI was making said representations to minors to induce the minors to engage in sexual relations with him and the DIOCESE failed to repudiate the representations of KOWNACKI, as its agent and employee.

80. K.C. relied on the representations to his detriment.

81. During the aforesaid time period when childhood sexual abuse occurred, KOWNACKI, an agent of the DIOCESE as the appointed Pastor of St. Theresa's Catholic Church and School in Salem, Illinois, participated in and assumed the responsibility for the training and spiritual well-being of K.C., a minor parishioner, as set forth above.

82. The DIOCESE engaged in extreme and outrageous conduct by appointing KOWNACKI as Pastor of St. Theresa's Parish and representing that he was a priest who was fit for those duties, while concealing and withholding information about his history of sexual misconduct from the members of St. Theresa's Parish, including K.C.

83. The DIOCESE knew, based KOWNACKI's history of sexual abuse and

misconduct prior to the appointment at St. Theresa's Parish, that there was a high probability that KOWNACKI would sexually abuse children of the parish and that the sexual abuse suffered by the children would cause severe emotional distress.

84. That as a direct and/or proximate result of the conduct of the DIOCESE as described herein, K.C. has sustained severe and permanent psychological injuries, including but not limited to, post traumatic stress disorder and major depression, as a result thereof he has and will continue to experience:

- a) Mental pain and suffering;
- b) Emotional distress;
- c) Loss of a normal life; and
- d) Medical and counseling expenses.

85. That the conduct of the DIOCESE, by and through its agents and employees, as described above constituted a violation of trust or confidence and/or was willful and wanton, showing complete indifference to or conscious disregard for the safety and wellbeing of K.C. and others.

86. With respect to the acts and/or omissions giving rise to liability, either:

- a. The DIOCESE, through its management, authorized the doing and the manner of the act or omission; or
- b. The employee responsible for the act or omission was unfit, and the DIOCESE was reckless in employing him; or
- c. The act or omission was that of a managerial employee who was acting in the scope of his employment; or
- d. The DIOCESE, through its management or managerial employee, ratified

or approved the act or omission.

87. Justice and the public good require an award of punitive or exemplary damages in such sum which will serve to punish the DIOCESE and to deter the DIOCESE from like conduct.

WHEREFORE, K.C. prays judgment against the DIOCESE, in a sum reasonable and equitable and in excess of \$50,000 to fairly compensate him for the injuries and damages sustained, and in addition, exemplary amounts sufficient to punish and deter such conduct in the future, plus costs of suit.

COUNT IV CIVIL CONSPIRACY

For Count IV of his Complaint, Plaintiff states as follows:

1.-66. K.C. hereby repeats, realleges and incorporates by reference the preceding paragraphs 1-66 of this Complaint as though fully set forth herein.

67. As of April 27, 1973, the DIOCESE knew or reasonably should have known that KOWNACKI suffered from a pedophilic mental disorder and alcoholism or that KOWNACKI otherwise exhibited dangerous propensities and that KOWNACKI was a danger to minors.

68. During K.C.'s childhood, commencing in 1974 and continuing until 1977 at St. Theresa's School, Church, and/or Rectory, and while travelling to various locations, including Washington, D.C., and New York, KOWNACKI repeatedly sexually abused K.C. by touching or fondling K.C.'s genitalia and engaging in oral sex with K.C.

69. Prior to 1973 and thereafter the DIOCESE, through Bishop Zuroweste, Bishop Wurm, Bishop Keleher, Bishop Gregory, Monsignor Bernard Sullivan, Monsignor Joseph Schwaegel, and Monsignor James Margason, and individual priests and clergy members, knowingly and voluntarily entered into a conspiracy and/or agreement with KOWNACKI,

individually and for his own person interest and benefit, and others, including the Holy See and other Dioceses of the Roman Catholic Church, to:

- a. Conceal and suppress the facts known to them and other conspirators of sexual abuse of children and other misconduct committed by priests and clergy employed by the DIOCESE, including KOWNACKI;
- b. Protect priests and clergy associated with and employed by the DIOCESE, including KOWNACKI from criminal investigation and/or prosecution for sexual abuse of minors; and
- c. Assign priests and clergy to new parishes when reports or allegations of sexual abuse and misconduct would surface, while making misrepresentations to both the new and old parishes to conceal and hide the allegations of misconduct.

70. The purpose of the conspiracy was:

- a. To protect the DIOCESE from negative publicity and embarrassment, to escape financial liability for its involvement in the sexual abuse of children and other misconduct, to hide the issue of sexual abuse of children and misconduct being committed by priests and clergy from lay members of the DIOCESE, and to keep all ordained priests and clergy in the service and employ of the DIOCESE, regardless of whether the priests and clergy have committed criminal acts of sexual abuse against children; and
- b. To protect the personal interest(s) of the individual priests and clergy, including but not limited to KOWNACKI, from criminal prosecution of their acts of sexual abuse of children and to ensure their continued employment with the DIOCESE in spite of their acts of sexual abuse and misconduct.

71. In furtherance of the conspiracy, to the detriment of K.C. and untold others, the DIOCESE committed the following wrongful/unlawful acts and/or omissions:

- a. Retained and failed to supervise KOWNACKI when it knew of the necessity and opportunity to do so;
- b. Fraudulently represented that KOWNACKI was fit to minister as a parish priest and was safe to have unsupervised contact with minors; and
- c. Fraudulently concealed and withheld its knowledge of prior complaints, allegations and incidents of sexual abuse or misconduct against KOWNACKI.

72. Said conduct of the DIOCESE in furtherance of the conspiracy facilitated and allowed KOWNACKI access and the opportunity to sexually abuse K.C.

73. That as a direct and/or proximate result of the conduct of the DIOCESE as described herein, K.C. has sustained sever and permanent psychological injuries, including but not limited to, post traumatic stress disorder and major depression, as a result thereof he has and will continue to experience:

- a) Mental pain and suffering;
- b) Emotional distress;
- c) Loss of a normal life; and
- d) Medical and counseling expenses.

74. That the conduct of the DIOCESE, by and through its agents and employees, as described above constituted a violation of trust or confidence and/or was willful and wanton, showing complete indifference to or conscious disregard for the safety and wellbeing of K.C. and others.

75. With respect to the acts and/or omissions giving rise to liability, either:

- a. The DIOCESE, through its management, authorized the doing and the manner of the act or omission; or
- b. The employee responsible for the act or omission was unfit, and the DIOCESE was reckless in employing him; or
- c. The act or omission was that of a managerial employee who was acting in the scope of his employment; or
- d. The DIOCESE, through its management or managerial employee, ratified or approved the act or omission.

76. Justice and the public good require an award of punitive or exemplary damages in such sum which will serve to punish the DIOCESE and to deter the DIOCESE from like conduct.

WHEREFORE, K.C. prays judgment against the DIOCESE, in a sum reasonable and equitable and in excess of \$50,000 to fairly compensate him for the injuries and damages sustained, and in addition, exemplary amounts sufficient to punish and deter such conduct in the future, plus costs of suit.

Respectfully Submitted,

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