

STATE OF MINNESOTA
COUNTY OF WINONA

DISTRICT COURT
THIRD JUDICIAL DISTRICT

John Doe 121,

Court File No.:

Plaintiff,

v.

COMPLAINT

Diocese of Winona and St. Mary's
Catholic Church

Defendant.

Plaintiff, for his First Amended Complaint and his causes of action against Defendants,
alleges as follows:

PARTIES

1. Plaintiff John Doe 121 is an adult male resident of the State of Minnesota whose identity has been disclosed to Defendants by separate cover letter. Plaintiff was a minor at the time of the sexual abuse alleged herein.

2. At all times material, the Defendant Diocese of Winona ("Diocese") was and continues to be a Minnesota non-profit religious corporation, authorized to conduct business and conducting business in the State of Minnesota with its principal place of business located at 55 W. Sanborn, Winona, Minnesota 55987. 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.

3. At all times material, the Defendant St. Mary's Catholic Church ("St. Mary's") was and continues to be a Minnesota non-profit religious corporation, authorized to conduct business and conducting business in the State of Minnesota with its principal place of business located at 1303 West Broadway, Winona, MN 55987. St. Mary's owns and operates St. Mary's Parish and St. Mary's School in Winona, Minnesota.

FACTS

4. At all times material, Father Richard Hatch (hereinafter "Fr. Hatch"), now deceased, was an ordained Roman Catholic priest employed by Defendant Diocese from about 1954 to 2005 and employed by St. Mary's from June 19, 1962 through approximately August 25, 1963.

5. In approximately 1962, when Plaintiff was approximately 13 or 14 years old, Plaintiff attended St. Mary's. At about this same time, Fr. Hatch sexually abused Plaintiff.

6. Fr. Hatch engaged in unpermitted, harmful, and offensive sexual contact with the Plaintiff on the physical premises of and around St. Mary's. Fr. Hatch sexually assaulted Plaintiff John Doe 121 when Plaintiff was a minor without Plaintiff's consent.

7. Upon information and belief, before Plaintiff was sexually abused by Fr. Hatch, Defendant Diocese had actual or constructive knowledge of material facts regarding Fr. Hatch's sexual misconduct, impulses, and behavior, but failed to act on that knowledge and exposed Plaintiff as a child to Fr. Hatch thereby increasing the likelihood that Plaintiff would be harmed.

8. Defendants allowed Fr. Hatch to have unsupervised and unlimited access to young children, including teenagers, at St. Mary, located at the time within the Diocese. At all times

material, Fr. Hatch was employed by Defendants. At all times material, Fr. Hatch remained under the direct supervision, employ, and control of the Defendants.

9. In a July 13, 1961 letter, the Bishop of the Diocese wrote a letter confirming that Fr. Hatch had taken teenagers with him on a trip to Florida. In that same letter, the Bishop admitted that the Bishop had previously advised Fr. Hatch to not take teenagers with him on trips.

10. In a May 28, 1964 letter from Msgr. Emmett F. Tighs, Chancellor of the Diocese, stated that “Fr. Hatch was a problem here in our Diocese during the years of his service.” In that same letter, Msgr. Tighs also confirmed that Fr. Hatch “was accused of many indiscretions and much imprudence” and Msgr. Tighs also described Fr. Hatch as “a very disturbed man.”

11. Despite clear indications of danger, Defendants’ took no steps to discover the specific nature of Fr. Hatch’s problems or to determine whether he was fit to work with children or to protect children from him, thereby increasing the likelihood that Plaintiff John Doe 121 would be harmed.

12. Plaintiff was raised in a devout Roman Catholic family, regularly celebrated mass, received the sacraments, and participated in church-related activities. Plaintiff, therefore, developed great admiration, trust, reverence, and respect for the Roman Catholic Church and its agents, St. Mary’s, the Diocese and its agents, including the Bishop and Fr. Hatch.

13. Defendants’ held Fr. Hatch out as a qualified Roman Catholic priest, and undertook the education, religious instruction, and spiritual and emotional guidance of Plaintiff John Doe 121. The Bishop of the Diocese and St. Mary’s exercised a direct role over Plaintiff. Accordingly, Plaintiff placed trust in Defendants so that Defendants’ and their agents gained superiority and influence over Plaintiff. Defendants entered into a special relationship with the Plaintiff and his family.

14. By holding Fr. Hatch out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, Defendants entered into a special relationship with the minor Plaintiff. As a result of Plaintiff being a minor, and by Defendants' undertaking the care and guidance of the then vulnerable Plaintiff, Defendants held a position of empowerment over Plaintiff.

15. Furthermore, Defendants, by holding themselves out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented the Plaintiff from effectively protecting himself, and Defendants thus entered into a special relationship with Plaintiff. By holding themselves out as a safe, moral, and trusted institutions to Plaintiff's parents, Defendants' induced Plaintiff's parents to entrust their child to Defendants' and thereby deprived Plaintiff of the protection of his family.

16. Defendants owed Plaintiff a duty of reasonable care, because they assumed duties owed to Plaintiff and had superior knowledge about the risk that Fr. Hatch posed to Plaintiff, the risk of abuse in general in their programs, and/or the risks that their facilities posed to minor children. Defendants had the duty to protect the moral purity of Plaintiff and other Roman Catholic children within the Diocese.

17. Defendants owed Plaintiff a duty of reasonable care because they assumed that duty and because they solicited youth and parents for participation in their youth programs; encouraged youth and parents to have youth participate in their programs; undertook custody of minor children, including Plaintiff; promoted their facilities and programs as being safe for children; held out their agents including Fr. Hatch as safe to work with children; encouraged parents and children to spend time with their agents; and/or encouraged their agents, including Fr. Hatch, to spend time with, interact with, and recruit children.

18. Defendants' had a duty to Plaintiff to protect him from harm because Defendants' actions created a foreseeable risk of harm to Plaintiff.

19. Defendants breach of their duties include but are not limited to: exposing Plaintiff to a known pedophile; exposing Plaintiff to a priest Defendants' should have known was a pedophile; recruiting, hiring, and maintaining Fr. Hatch in a position of authority over children; exposing Fr. Hatch to children; leaving Fr. Hatch alone with children unsupervised; inducing Plaintiff and his parents to entrust Plaintiff to Fr. Hatch; failing to follow policies and procedures designed to prevent child sex abuse and/or failing to implement sufficient policies and procedures to prevent child sex abuse; failing to take reasonable measures to make sure that policies and procedures to prevent child sex abuse were working; failing to adequately inform families and children of the known risks of child sex abuse within the Diocese and St. Mary's; holding out their employees and agents, including Fr. Hatch, as safe and wholesome for children to be with; failing to investigate risks of child molestation; failing to properly train the workers at institutions and programs within Defendants' geographical confines; failing to have any outside agency test their safety procedures; failing to protect the children in their programs from child sex abuse; failing to adhere to the applicable standard of care for child safety; failing to investigate the amount and type of information necessary to represent the institutions, programs, and leaders and people as safe; failing to respond to and/or investigate information of improper conduct of employee or agent with children, including Fr. Hatch; and failing to properly train their employees to identify signs of child molestation by fellow employees.

20. Defendants' breached their duty to use ordinary care in determining whether their facilities were safe and/or to determine whether it had sufficient information to represent their facilities as safe. Defendants' breaches of duty include but are not limited to: recruiting, hiring,

and maintaining Fr. Hatch at their facilities; maintaining a dangerous condition on the premises of their facilities (i.e., a priest Defendants' knew or should have known posed a risk of pedophilic harm to children); holding out their facilities as a safe and moral place for children, which they were not; failing to have sufficient policies and procedures to prevent abuse at their facilities; failing to investigate risks at their facilities; failing to properly train the workers at their facilities; failing to have any outside agency test their safety procedures; failing to investigate the amount and type of information necessary to represent their facilities as safe; and failing to train employees properly to identify signs of child molestation by fellow employees.

21. Defendants also breached their duties to Plaintiff by holding out clerics, including Fr. Hatch, as safe, moral, and trustworthy people and by failing to warn Plaintiff and his family of the risk that Fr. Hatch posed and the known risks of child sexual abuse by clerics in general. Defendants also failed to warn Plaintiff about any of the knowledge that the Defendants' had about child sex abuse perpetrated by clerics or Fr. Hatch.

22. Defendants also breached their duties to Plaintiff by failing to report Fr. Hatch's abuse of children to the police and law enforcement. Defendants further breached their duties by hiding a pedophile and engaging in a cover-up of abuse perpetrated by Fr. Hatch.

23. Defendants knew or should have known that some of the leaders and people working at Catholic institutions within the Diocese were not safe for children.

24. Defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at Catholic institutions within the Diocese were safe around children.

25. Defendants 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.

26. Defendants knew or should have known that they 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.

27. Defendants knew or should have known that they had other agents who had sexually molested children.

28. Defendants knew or should have known that child molesters have a high rate of recidivism.

29. Defendants knew or should have known that there was a specific danger of child sex abuse for children participating in Defendants' youth programs.

30. Defendants held their 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 their programs, schools, marketing to youth and families, recruiting youth and families, and holding out the people that worked in the programs as safe for children/youth.

31. Defendants made negligent representations to Plaintiff and his family during each and every year of his minority. Plaintiff and/or his family relied upon these representations, which resulted in Plaintiff being put in a vulnerable situation with Fr. Hatch who harmed him.

32. As a direct result of Defendants' breached duties, the sexual abuse, sexual exploitation, and Defendants' conduct, 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 and psychological injuries, 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.

COUNT I: NEGLIGENCE - DIOCESE

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

34. Defendant Diocese owed Plaintiff a duty to protect Plaintiff based upon a special relationship between the Defendant Diocese and Plaintiff.

35. It was foreseeable to the Defendant Diocese that Fr. Hatch could sexually abuse a child.

36. Defendant Diocese breached the duty to protect Plaintiff.

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

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

COUNT II: NEGLIGENT SUPERVISION - DIOCESE

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

40. At all times material hereto, Fr. Hatch was employed by Defendant Diocese and was under Defendant Diocese's direct supervision, employ, and control when he committed the wrongful acts alleged herein. Fr. Hatch 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. Most of the sexually abusive acts committed by Fr. Hatch

against Plaintiff were committed on the premises of the St. Mary's and were committed within the working hours of a priest.

41. Defendant Diocese failed to exercise ordinary care in supervising Fr. Hatch in his parish assignments, and Defendant Diocese further failed to prevent the foreseeable misconduct of Fr. Hatch from causing harm to others, including the Plaintiff herein.

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

COUNT III: NEGLIGENT RETENTION - DIOCESE

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

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

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

COUNT IV: NEGLIGENCE – ST. MARY'S

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

47. Defendant St. Mary's owed Plaintiff a duty to protect Plaintiff based upon a special relationship between the Defendant St. Mary's and Plaintiff.

48. It was foreseeable to the Defendant St. Mary's that Fr. Hatch could sexually abuse a child.

49. Defendant St. Mary's breached the duty to protect Plaintiff.

50. Defendant St. Mary's breach of its duty was the proximate cause of Plaintiff's injuries.

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

COUNT V: NEGLIGENT SUPERVISION – ST. MARY'S

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

53. At all times material hereto, Fr. Hatch was employed by Defendant St. Mary's and was under Defendant St. Mary's direct supervision, employ, and control when he committed the wrongful acts alleged herein. Fr. Hatch engaged in the wrongful conduct while acting in the course and scope of his employment with Defendant St. Mary's and/or accomplished the sexual abuse by virtue of his job-created authority. Most of the sexually abusive acts committed by Fr. Hatch against Plaintiff were committed on the premises of the St. Mary's and were committed within the working hours of a priest.

54. Defendant St. Mary's failed to exercise ordinary care in supervising Fr. Hatch in his parish assignments, and Defendant St. Mary's further failed to prevent the foreseeable misconduct of Fr. Hatch from causing harm to others, including the Plaintiff herein.

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

COUNT VI: NEGLIGENT RETENTION

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

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

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

JURY TRIAL REQUEST

59. Plaintiff John Doe 121 requests a jury trial on all counts of this Complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff John Doe 121 demands judgment against Defendants individually, jointly, and severally in an amount in excess of \$50,000 plus costs, disbursements, reasonable attorney's fees, interest, and whatever other relief the Court deems just and equitable.

Dated: November 24, 2015

NOAKER LAW FIRM LLC



By: Patrick Noaker MN Bar # 274951
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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 Section 549.211 to a party against whom the allegations in this pleading are asserted.



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