

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

In re:) Chapter 11
ARCHDIOCESE OF MILWAUKEE,) Case No. 11-20059-SVK
Debtor,) Honorable Susan V. Kelley

UNDER SEAL/CONFIDENTIAL

VIDEO DEPOSITION OF
BARBARA ANNE CUSACK
Milwaukee, Wisconsin
January 29, 2013
10:26 a.m. to 1:24 p.m.

Kathy A. Halma
Registered Professional Reporter

1 A P P E A R A N C E S

2 JEFF ANDERSON & ASSOCIATES, PA, 366
3 Jackson Street, Suite 100, St. Paul, Minnesota, 55101,
4 by MR. MICHAEL G. FINNEGAN, appeared on behalf of the
5 Certain Personal Injury Claimants.

6 WHYTE HIRSCHBOECK DUDEK, S.C., 555 East
7 Wells Street, Suite 1900, Milwaukee, Wisconsin, 53202,
8 by MR. FRANCIS H. LOCOCO, appeared on behalf of the
9 Debtor.

10 I N D E X

11 BARBARA ANNE CUSACK

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17 E X H I B I T S

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19 ADOM055863 to 55867.....51

20 No. 2 ADOM056315 to 56318.....53

21 No. 3 Listing of Priests; ADOM055913 to 55914.....54

22 No. 4 Assignment Chart; ADOM056213 to 56219.....60

23 No. 5 Strategies for Emergency Action/Intervention;

24 ADOM039068 to 39071.....63

25 No. 6 Cusack Memo to Emergency Intervention

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2 No. 7 Weakland Letter to Lesniewski, 6-21-95;

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4 No. 8 Weakland Letter to Budzynski, 5-7-01;

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11 No. 13 Handwritten Note re Hanser; ADOM012045.....84

12 No. 14 Notes re Budzynski; ADOM027678, 023672,

13 027677 AND 023671.....91

14 (The original transcript was sent to Attorney
15 Finnegan.)

16

17 (The original exhibits were retained by the court
18 reporter and attached to the original transcript.
19 Copies were attached to all ordered copies.)

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1 TRANSCRIPT OF PROCEEDINGS

2 MR. LO COCO: All these depositions are
3 all under seal pursuant to the protective order
4 that's in place.

5 VIDEOTAPE TECHNICIAN: My name is Steve
6 Peters, CVLS, associated with Halma-Jilek
7 Reporting, Inc., Milwaukee, Wisconsin. This is
8 the beginning of the video deposition of Barbara
9 Anne Cusack, JCD, on January 29, 2013; the time
10 10:26 a.m. This is re the Archdiocese of
11 Milwaukee, Debtor, Bankruptcy Court, and this is
12 pending in the United States Bankruptcy Court for
13 the Eastern District of Wisconsin, Case
14 No. 11-20059-SVK. Will counsel now please state
15 their appearances.

16 THE WITNESS: Mike Finnegan for the
17 Claimants.

18 MR. LO COCO: Frank LoCoco on behalf on
19 the Debtor and on behalf of the witness.

20 THE COURT: The court reporter, Kathy
21 Halma, will swear in the witness.

22 BARBARA ANNE CUSACK, called as a witness
23 herein by the Claimants, after having
24 been first duly sworn, was examined and testified
25 as follows:

1 EXAMINATION

2 BY MR. FINNEGAN:

3 Q Dr. Cusack, could you state your full name and
4 spell your last name for the record, please.

5 A Barbara Anne, ANNE, Cusack, C-U-S-A-C-K.

6 Q In the records often times there's a reference to
7 a BAC, the initials BAC. If that's in the
8 records, that's presumably you?

9 A Presumably me, yes.

10 Q I know you have had your deposition taken before.
11 I have taken your deposition before. But just to
12 get us back on the same page for a couple ground
13 rules, you understand that you are under oath
14 today?

15 A Yes.

16 Q You understand that what's said today can be used
17 in a court of law?

18 A Yes.

19 Q The next three rules, and maybe you remember me
20 telling you these before, but they are for the
21 court reporter's benefit. One of the things we
22 do all the time is we shake our heads like this
23 (indicating) and don't say anything verbally. If
24 do you that, I will say, "Was that a yes; was
25 that a no." It's not meant to badger you at all,

1 it's for Kathy's benefit so she can get it down.
2 It inevitably happens in every deposition.

3 The other one we do a lot in normal
4 conversation is "um-hum," "unh-unh." Again,
5 hard for her to get down. I will say, "Was that
6 a yes or no."

7 The third one we do in normal
8 conversation is we talk over each other all the
9 time. For this process, though, that doesn't
10 work for Kathy, and if that does happen, I will
11 try to tell you, just remind you to wait until
12 the question is done, and I will do the same
13 thing and do my best on the answers. Does that
14 make sense?

15 A Yes, it does.

16 Q The last one is -- Or, actually, there's two
17 more, but another one is if you don't understand
18 a question, I want you to stop me and tell me you
19 don't understand that, clarify that, I don't
20 understand what you mean by this term. Does that
21 make sense?

22 A That's fine.

23 Q All right. And then the last one, for your
24 benefit, any breaks that you need to take at all,
25 be it five minutes from now, half an hour,

1 whatever it is, we will take as many as you need,
2 so you just let us know.

3 A All right. Thank you.

4 Q All right. Background wise, it's correct that
5 you have a doctorate in Canon Law?

6 A That's correct.

7 Q And you got that in 1987?

8 A Yes.

9 Q From Catholic University?

10 A Yes.

11 Q And from 1987 until 1994 you were the Associate
12 Chancellor here in the Archdiocese of Milwaukee?

13 A Yes.

14 Q And from 1994 to the present you have been the
15 Chancellor of the Archdiocese of Milwaukee?

16 A Yes.

17 Q Any other positions that you have held within the
18 Archdiocese of Milwaukee since arriving here in
19 1987?

20 A For a period of time under one of the
21 reorganization of the offices I was the Director
22 of the Department for Administration and
23 Services.

24 Q Do you know when that was or under who the
25 Archbishop was or Administrator was at that time?

1 A That would have been Archbishop Dolan.

2 Q How long did you have that position?

3 A I'm going to say three years. I'm not certain of
4 that time frame.

5 Q Do you know the approximate dates?

6 A 2005, perhaps, was the start of that. I haven't
7 thought about it in so long.

8 Q What were the responsibilities with that job?

9 A Basically to coordinate and oversee the
10 management of a number of smaller entities, so
11 IT, Finance, Development, Human Resources,
12 Communication. That's probably it. All of the
13 administrative-type offices. It was basically
14 facilitating the communication among them to make
15 sure that we were doing things without
16 interfering with one another. It was an
17 oversight role.

18 Q Does the Archdiocese still have someone in that
19 position today?

20 A No.

21 Q Did that end in approximately 2008?

22 A I think around that time, but, again, I'm not
23 certain of those dates.

24 Q And during that same time period you maintained
25 your role as Chancellor?

1 A Yes.

2 Q Any other positions that you have held in the
3 Archdiocese between -- since 1987 besides the
4 ones we have talked about?

5 A Yes, I am an appellate court judge.

6 Q How long have you been an appellate court judge?

7 A Probably since '88, not long after I came to the
8 Archdiocese.

9 Q Do you handle all different types of cases or a
10 particular type of case?

11 A Primarily marriage nullity cases.

12 Q Have you handled any child sex abuse cases as an
13 appellate court judge here?

14 A No.

15 Q Any other titles or positions that you have held
16 in the Archdiocese?

17 A Promoter of justice in the Court of Equity.

18 Q How long have you held that position?

19 A Probably since '95.

20 Q What does that position entail?

21 A The Court of Equity is an administrative type of
22 tribunal, and they would primarily handle
23 disputes about rights. They convene rarely.
24 It's almost defunct at this point. Most
25 conflicts of rights are resolved prior to --

1 that's the last court you would go to, so you
2 would try mediation, arbitration and then the
3 Court of Equity.

4 Q And the promoter of justice, is that -- in civil
5 law is that similar to a judge or an advocate for
6 one side?

7 A The closest would probably be prosecutor.

8 Q Any other position that you have held here in the
9 Archdiocese?

10 A It doesn't really have a title, but since January
11 of 2003 I served a coordinating role in the
12 Diocesan response to sexual abuse.

13 Q Who appointed you to that role?

14 A Archbishop Dolan.

15 Q What are the responsibilities of that role?

16 A Again, it's a coordinating role, so to make sure
17 that the Safe Environment Coordinator, the Victim
18 Assistance Coordinator and everybody is
19 communicating properly with one another. For a
20 period of time in 2000 -- beginning in 2003 it
21 also entailed preparing cases to go to the
22 Congregation for the Doctrine of the Faith.

23 Q I have that on my list. I was curious about that
24 with the cases that went to the CDF. My
25 assumption was in reading those that there was

1 somebody that had to do a whole lot of work to
2 get all the documents together, and my assumption
3 was that you were probably the one that had to do
4 the lion's share of that?

5 A I was primarily responsible.

6 Q In preparing those, did you -- was one of the
7 sources of information to review the personnel
8 files and any other documents you had on the
9 alleged perpetrator?

10 A Yes.

11 Q Have you reviewed the files on each of the
12 priests that are on the list of those with
13 substantiated claims of child sex abuse?

14 A To the best of my recollection, yes.

15 Q I didn't ask before, but as Chancellor what are
16 your duties and responsibilities?

17 A Canonically the Chancellor is in charge of all of
18 the records, so it's the chief archivist,
19 although I have a professional archivist who does
20 the real archival work. My actual role is to
21 serve as the administrative Canon lawyer for the
22 Archdiocese.

23 Q I guess I didn't close this one. Besides the
24 position that we have talked about, the last one
25 being the coordinating role over the child sex

1 abuse, any other position that you have held that
2 we haven't talked about, to the best of your --

3 A Not that I can recall.

4 Q Since we -- Since I last took your deposition in
5 2008, have there been any changes in the way that
6 the priests' files have been maintained in this
7 Archdiocese?

8 A Not that I'm aware of.

9 Q So at that time there was -- there was a
10 personnel file in the Chancery?

11 A Correct.

12 Q And that's contained in the vault?

13 A Correct.

14 Q And there was a Vicar for Clergy, they had a
15 similar file, but maybe not as expansive as the
16 personnel file, and also a log that they
17 generally kept?

18 A Sometimes the Vicar file would actually be more
19 expansive than the Chancery file, because that's
20 where medical records and reports would have been
21 kept that would not have been in the personnel
22 file in the vault.

23 Q Where are the Vicar for Clergy -- were those
24 files kept?

25 A In the Vicar for Clergy's administrative

1 assistant's office.

2 Q And then there are also files or documents
3 maintained by the Priest Personnel Board?

4 A Correct.

5 Q And then there's also secret archives?

6 A There's basically not much in our secret
7 archives. It's really old wills of bishops and
8 things like that. We don't maintain it as a
9 canonical secret archives, at least not as long
10 as I have been here.

11 Q Any other categories or places where files or
12 documents on individual priests are located that
13 you are aware of?

14 A The head of Deacon Services may have some files,
15 but I have never received any copies of those.

16 Q Is that Deacon Dave Zimprich?

17 A Yes.

18 Q For the let's start with the -- I guess we can
19 say overall, and if there's distinctions between
20 the various files between these four categories
21 of personnel file in the Chancery, the Vicar for
22 Clergy, Priest Personnel Board and secret
23 archives, the broad question is who in the
24 Archdiocese has access to those documents.

25 A Obviously, if the Archbishop wanted a file, he

1 certainly would have access to it, Vicar General,
2 myself and the Vicar for Clergy. Access in terms
3 of filing, my secretaries would have access for
4 the purposes of putting files in there, and one
5 secretary at the time of death would go through
6 the file to write up the necrology, the obituary,
7 basically just looking at the assignment letters.

8 Q Anyone else besides the Archbishop, Vicar
9 General, Chancellor, Vicar for Clergy and then
10 secretaries for you or any of those other three
11 people that has access to those files?

12 A Not to the full file.

13 Q When you say "not to the full file," does
14 somebody have --

15 A For example, the Director of Communications might
16 say, you know, I'm getting questioned about a
17 document, an appointment letter. I might give
18 him a copy of a single document out of the file,
19 but he would not have the freedom to come into
20 the Chancery office, walk into the vault and pull
21 a file.

22 Q Is there anyone else besides the Archbishop,
23 Vicar General, Chancellor, Vicar for Clergy and
24 any of the designated secretaries for those four
25 positions that has the freedom to walk in to --

1 any of those four categories -- and get a file?

2 A I need to clarify.

3 Q Sure.

4 A The Chancery secretaries would have access to the
5 Chancery file for filing purposes, as well as use
6 for death notices. None of the support staff of
7 those other offices could come into the Chancery
8 office and pull a file. The administrative
9 assistant in the Vicar for Clergy office would be
10 responsible for keeping the Vicar's files. She
11 could not come in and take a Chancery file.

12 Q So all the secretaries that have access to those
13 individual files for -- generally for purposes of
14 filing materials? That's all done at that
15 particular official's permission?

16 A Yes.

17 Q Then you mentioned Director of Communication.
18 The Director of Communication or other officials
19 of the Archdiocese, if they wanted access to any
20 of the documents in those four categories, they
21 would have to request that from either the
22 Archbishop, Vicar General, Chancellor or Vicar
23 for Clergy for that particular file?

24 A Yes.

25 Q What about members of the public? Do they have

1 any access to any of the four categories of files
2 on priests?

3 A No. May I expand on that answer?

4 Q Sure.

5 A The only exception would be for civil officials.
6 So, for example, at one point the District
7 Attorney for Milwaukee came in and reviewed files
8 of priests with allegations to determine if there
9 was any criminal prosecution possible, and he was
10 given full access. If there's an investigation
11 underway due to a claim that's filed or an
12 allegation, the independent investigators are
13 given the files to assist them in their
14 investigation.

15 Q And those people, the civil officials or the
16 independent investigators, they are given access
17 to those files with the permission of either the
18 Archbishop, Vicar General, Chancellor or Vicar
19 for Clergy?

20 A Correct.

21 Q What about survivors of child sex abuse by
22 priests in the Archdiocese? Do they have access
23 to these files?

24 A No.

25 Q Has any of this -- Strike that question.

1 Has the information in those files, in
2 the four different files on the priests that have
3 been accused of sexually molesting minors, ever
4 been released to the public?

5 MR. LO COCO: Object to form. You mean
6 by the Archdiocese?

7 MR. FINNEGAN: Yes.

8 MR. LO COCO: Well, I think it's
9 compound. It's pretty broad as to, you know,
10 every person on the list.

11 MR. FINNEGAN: Can you answer it as
12 framed?

13 THE WITNESS: Repeat it.

14 MR. FINNEGAN: It's probably been a long
15 time since -- I will give you the same objection,
16 if I ask it. I'm trying to ask it better, but --

17 MR. LO COCO: Well, I'm not sure you and
18 I are communicating, and I'm trying not to put,
19 you know, I'm trying not to interfere with your
20 questioning.

21 MR. FINNEGAN: No, I understand that,
22 and I appreciate that. So I will ask it again.

23 MR. LO COCO: I just don't know whether
24 we should go off the record so I can explain to
25 you what my concern with the question with

1 Dr. Cusack not here so we don't poison her answer
2 with what I have to say.

3 MR. FINNEGAN: Sure, we can go off.

4 MR. LO COCO: Why don't we do that.

5 Wait, wait, wait. You've got your mic. He's got
6 to take us off the record.

7 VIDEOTAPE TECHNICIAN: We're going off
8 the record at 10:46 a.m.

9 (A discussion was had off the record.)

10 VIDEOTAPE TECHNICIAN: We're back on the
11 record at 10:47 a.m.

12 BY MR. FINNEGAN:

13 Q Has the Archdiocese ever voluntarily released any
14 of the documents from any of the four files on
15 the priests with substantiated allegations of
16 child sex abuse to the public?

17 A I don't know how documents got to be public, but
18 there are documents that are public.

19 Q So maybe I can break it down into a little bit of
20 the question, but the documents that are public
21 on some of the perpetrators, those were released
22 and got produced through civil litigation, is
23 that correct?

24 A That's my understanding.

25 Q Besides the ones that were released, those files

1 that were released through civil litigation, on
2 any of the other perpetrators on the list of
3 those with substantiated allegations of child sex
4 abuse, has the Archdiocese ever voluntarily
5 released any of those files to the public?

6 A No.

7 Q Have there been discussions about whether or not
8 to release those files amongst -- within the
9 Archdiocese outside of the presence of your
10 attorneys or outside of the direction of your
11 attorneys?

12 MR. LO COCO: I mean, Mike is making it
13 clear, but I object to the extent it calls for
14 attorney-client privilege. So if that's been
15 discussed with counsel, don't talk about that,
16 but if it's been otherwise discussed internally,
17 he's entitled to know that.

18 THE WITNESS: There was discussion with
19 regard to information to be provided after the
20 California litigation.

21 BY MR. FINNEGAN:

22 Q Was that one discussion? Was it a meeting? What
23 do you have in mind there?

24 A Probably, to the best of my recollection, it
25 would have been over a couple of meetings.

1 Q What were the documents or categories of
2 documents that were being discussed as far as
3 being released?

4 A All of them.

5 Q Do you remember when in time this was discussed?

6 A 2006, around that time.

7 Q Do you remember who was at any of those meetings,
8 who you had the discussions with?

9 A It would have been Jerry Topczewski. Probably in
10 2006 it would have been Kathryn Hohl and Father
11 Curt Frederick probably as Vicar for Clergy.

12 Q Anyone else present at any of those meetings
13 where the discussion about release of the files
14 for all the documents on all the priest
15 perpetrators was discussed?

16 A I really don't recall.

17 Q Was Archbishop Dolan aware of these discussions?
18 Did you inform him?

19 A I did not inform him that I recall, but Jerry
20 Topczewski would have been the liaison from a lot
21 of staff conversations, discussions, weighing of
22 pros and cons, figuring out strategies.

23 Q Do you remember how many meetings you had with
24 those -- that group of people or subgroups?

25 A I don't recall.

1 Q Can you say --

2 A Two or three.

3 Q Were any of those meetings -- During any of those
4 meetings do you remember anyone taking notes?

5 A I don't recall.

6 Q Do you remember if there was a memorandum or any
7 other type of document summarizing those meetings
8 that was created?

9 A Not that I recall.

10 Q Do you remember if there were any emails or other
11 types of written communication that were
12 pertinent to those meetings?

13 A Not that I recall.

14 Q Any other types of documents or any other ways
15 that those meetings may have been documented than
16 the ones I have talked about?

17 A Not that I recall.

18 Q Did that group form some type of collective
19 opinion about whether or not to recommend the
20 release of those documents?

21 A My recollection is that a full summary of the
22 documents was prepared, not the actual documents
23 produced.

24 Q And what happened with those summaries?

25 A They were posted to the website.

1 Q Those summaries that were prepared and posted to
2 the website, those dealt with individual specific
3 priests that were involved in civil litigation at
4 that time?

5 A That's my recollection.

6 Q Were summaries of the documents prepared on any
7 of the other priests that were not involved in
8 civil litigation, but were on the Archdiocese
9 list of substantiated abusers?

10 A I don't understand your question.

11 Q Sure. My memory of what summaries were posted
12 were like Franklyn Becker, Widera, some of the
13 ones that were involved in -- that were the
14 alleged perpetrators in those civil cases.

15 A Yes.

16 Q And my question is were any of the alleged
17 perpetrators that weren't involved in civil
18 litigation, so like take a Father John O'Brien or
19 one of the Wagners or Father Budzynski, any of
20 those ones at that time that weren't involved in
21 civil litigation, were summaries prepared on
22 those priests, as well?

23 A In a different fashion. I needed to, if they
24 were alive, I needed to do summaries for the
25 Congregation for the Doctrine of Faith cases, but

1 that was not for the same purpose as the
2 summaries of the individuals you mentioned.

3 Q So the only ones that were posted, the only
4 summaries of documents that were posted publicly
5 were the ones that were involved in civil
6 litigation at that time?

7 A That's my recollection.

8 Q Was there a discussion within those meetings at
9 that time about the release of the documents on
10 all the perpetrators? At that time there may
11 have been 46.

12 A I don't recall that that was a topic of
13 conversation.

14 Q I may have -- The question may have been poor
15 before, but these meetings that you are talking
16 about with Jerry Topczewski, Kathleen Hohl and
17 Father Curt Frederick, those were all in
18 reference to what to release out of the files of
19 the priests that were involved in the civil
20 litigation cases?

21 A It was how to do these summaries, how to
22 communicate them and timing on posting them.

23 Q The meetings themselves, though, focused on those
24 individual perpetrators that were involved in the
25 civil litigation?

1 A That's my recollection.

2 Q Outside of discussions with your attorneys in
3 this bankruptcy case or prior to the bankruptcy
4 with anyone from Quarles & Brady, outside of
5 those conversations, have you ever been involved
6 with any conversations with other officials in
7 the Archdiocese of Milwaukee about releasing all
8 the documents on all the perpetrators, so all 46
9 or so, roughly, perpetrators?

10 A Not that I recall.

11 Q The cases that you prepared for the Congregation
12 for the Doctrine of Faith, which I will kind of
13 abbreviate that to the CDF, were you following a
14 form that they had provided to the Archdiocese?

15 A Initially I did not have the template that they
16 wanted, so some early cases went over without
17 using the format in providing the information,
18 but not in the template that they asked for. I
19 simply didn't have access to that. The later
20 cases all have followed the template, so the
21 elements of what's in the template were in the
22 early ones, they just weren't in the format.

23 Q And when you are talking the earlier ones versus
24 the later ones, is there a general time frame?

25 A Probably the 2003 cases. The cases that went

1 over in 2003 were before I had access to a
2 template. Some of those were redone in the
3 template format when we would send a second
4 request or a reminder that the case was still
5 pending, and then once I had access to the
6 template, that would be what I would have
7 consistently used. It would probably be the
8 cases starting in '04.

9 Q Where did you get access to the template?

10 A The Congregation sent the template and made it
11 available as an online document that I could
12 download.

13 Q Before 2003 were you involved in any of the cases
14 that were investigated and information gathered
15 that went to either the Congregation for the
16 Doctrine of Faith or any of the other
17 Congregations regarding people that had been --
18 priests that had been accused of molesting
19 children?

20 A Not that I can recall. My real involvement came
21 in 2002. I knew that there were cases that were
22 being handled by the Tribunal and voluntary
23 laicization requests. I had had some earlier
24 involvement in the mid '90s when there were fewer
25 canonical options available, and I would have

1 worked with an advocate for an individual priest,
2 but the actual paperwork I would not have
3 processed.

4 Q Were there ever any discussions, from the time
5 that you were involved or had knowledge of it,
6 within the Archdiocese of Milwaukee -- were there
7 frustrations expressed about the amount of time
8 that the cases that were sent to the Vatican were
9 taking?

10 A Yes.

11 Q Who expressed that frustration?

12 A Most everybody that was involved in it.

13 Q Archbishop Dolan?

14 A Yes.

15 Q Archbishop Weakland?

16 A He was not involved post 2002.

17 Q Before the --

18 A I know he -- I have knowledge about his
19 frustration. He would not have expressed that to
20 me personally.

21 Q Archbishop ListECKI?

22 A Yes.

23 Q How did Archbishop Dolan express that frustration
24 to you?

25 A Verbally by his willingness to visit with Vatican

1 officials when he was in Rome to encourage them
2 to expedite cases, by his willingness to resubmit
3 cases as new information became available.

4 Q What about Archbishop ListECKI? How did he
5 express that frustration to you?

6 A Orally. He also met with Vatican officials when
7 he was in Rome on the ad limina visit.

8 Q Having reviewed the files on either all or the
9 majority of priests that are on the Archdiocese
10 list and looking at those, have you noticed any
11 distinctions between Archbishops in the way that
12 allegations, reports of child sex abuse, was
13 documented throughout the years?

14 MR. LO COCO: Documented internally?

15 MR. FINNEGAN: Internally within the
16 files.

17 THE WITNESS: Yes, there is a
18 difference.

19 BY MR. FINNEGAN:

20 Q What have you noticed?

21 A That very often you didn't actually have
22 something from the Archbishop in the file, you
23 had it from other people. There were different
24 structures over the years, so for many years
25 there was no Vicar for Clergy, so you wouldn't

1 have had logs and recordings of conversation,
2 memorializing of conversations. Appointment
3 letters would have been done differently.
4 Archbishop Cousins in particular frequently did
5 not retain an incoming letter, all you would have
6 would be his response, and you'd have to draw a
7 conclusion from the response about what the
8 incoming correspondence had been. There were a
9 lot more smaller pieces of paper with handwritten
10 notes on them than we would find today where most
11 everything is generated on a keyboard. The fact
12 that internally you had a different kind of
13 administrative structure, especially when it came
14 to clergy matters. You can actually see the
15 distinction as leadership changed.

16 Q Would you say it's a fair characterization to say
17 that there was much less written documentation
18 regarding reports of child sex abuse by priests
19 during Archbishops Cousins' time as compared to
20 Archbishop Weakland's time?

21 MR. LO COCO: Objection to form. You
22 can answer.

23 THE WITNESS: Say it again.

24 BY MR. FINNEGAN:

25 Q Sure. Would you say that it's a fair statement

1 to say that there was far less documentation
2 regarding reports of child sex abuse against
3 priests during Archbishop Cousins' time compared
4 to Archbishop Weakland's time?

5 MR. LO COCO: Object to the form, it's
6 ambiguous. You can answer, if you have one.

7 THE WITNESS: I'm not sure what you are
8 asking. Archbishop Cousins kept fewer files, and
9 I think Archbishop Weakland was in the era where
10 many more things would have -- that would have
11 been written would have been retained. Is that
12 what you are looking at?

13 BY MR. FINNEGAN:

14 Q Yes. What I at least had in mind was in
15 Archbishop Weakland's -- in his book he made a
16 statement to the effect in there that, you know,
17 that Archbishop Cousins and a lot of the
18 Archbishops around that time didn't document the
19 reports on child sex abuse that were coming in
20 the same that he did and some of the people that
21 were his contemporaries.

22 A I couldn't comment on that statement. I don't
23 know on what he based that statement.

24 Q Have you found at all in your review of the files
25 that the priests that were accused of molesting

1 children here in Milwaukee, that often times
2 somebody that reports -- that's reported since
3 2002, so there's an intake report and there might
4 be a notation that their family reported it to
5 the Archdiocese or the parish priest, and then
6 you look back and there's no notation, nothing to
7 find in the files? Has that happened?

8 A Yes, or what was -- if there is a document,
9 what's reported originally differs from the
10 contemporary reporting.

11 Q All right. Let's switch topics here to the
12 release of the list of perpetrators with
13 substantiated allegations of child sex abuse.
14 What was your involvement in that process at the
15 beginning?

16 A The context in which that disclosures of names
17 first came up was through the Eisenberg
18 Commission. Do you need me to explain anything
19 on the Eisenberg Commission?

20 Q No.

21 A Okay. They were looking at the files of six
22 priests against whom there had been some
23 accusation of sexual abuse, and they were in
24 ministry. The preliminary report from the
25 Eisenberg Commission was issued in May of 2002.

1 At that time they said -- they recommended that
2 by September that the Archdiocese should identify
3 publicly who these six priests were. They wanted
4 that time period to allow them the opportunity to
5 review all of the documents.

6 They had a two-fold purpose, one of
7 which was to review the policies, procedures and
8 protocols that the Archdiocese used to respond to
9 sexual abuse of minors, and to look at these six
10 individuals and make a recommendation of whether
11 or not they should continue in ministry. In June
12 of 2002 when the Bishops Conference met in Dallas
13 they made the determination that no priests,
14 regardless of what a psychologist had said,
15 regardless of anything, could remain in ministry.
16 So that portion of the Eisenberg Commission's
17 role changed, because now there was not going to
18 be any recommendation that someone remain in
19 ministry, but they continued the recommendation
20 that the names of those six be made public, which
21 would have happened anyway, since if you are
22 removing somebody from a parish, you have to
23 identify why you are removing them.

24 From that initial conversation about
25 identifying the six, the discussion moved to if

1 those six, then why not others about whom we have
2 substantiated allegations, because that was the
3 context of the initial conversation. During the
4 summer of 2002 we were in between archbishops, so
5 no substantive decisions can be made when you are
6 vacant. Archbishop Dolan came at the end of
7 October and was immediately immersed in a wide
8 variety of issues and conversations, one of which
9 was the disclosure of names.

10 Q And he ultimately made the decision that the
11 names of those with substantiated allegations of
12 child sex abuse should be released to the public?

13 A Correct.

14 Q And that was in --

15 A June of 2004. Other names having been released
16 along the way, but the comprehensive list, June
17 of 2004.

18 Q Throughout that time from the initial
19 conversations and thoughts about releasing some
20 of the names or all of the names until they were
21 released in June 2004, were there discussions
22 about what information to release about those
23 priests?

24 A Yes.

25 Q We will start with the ultimate final decision on

1 what was released, and then we can go backwards
2 and talk about what was discussed.

3 What information about those priests
4 with substantiated allegations of child sex abuse
5 was released in June of 2004?

6 A Their names.

7 Q Nothing else?

8 A A statement that -- explaining who they were,
9 that they are priests who are fully restricted
10 from ministry, would not be permitted to exercise
11 any ministry because of substantiated allegations
12 of sexual abuse of minors, or if they were still
13 alive, would be similarly removed from ministry.
14 So it was an explanatory paragraph and then the
15 list of names.

16 Q Any other information?

17 A No.

18 Q All right. Let's back up now and we will discuss
19 the discussions that you had before that about
20 what information to release. Was there a
21 discussion at any point before the release of
22 those names in June of 2004 regarding whether or
23 not the various reports that were made to the
24 Archdiocese on those perpetrators, whether that
25 information should be released?

1 A Do you mean the intake reports?

2 Q Or some summary like the one you did for Becker
3 or Widera.

4 A There was discussion about what to put on the
5 website, what to include, and we looked at do we
6 list all of their assignments and the years.
7 Ultimately we decided we would simply list the
8 names, or the Archbishop decided we would list
9 the names.

10 Q Was there ever any discussion about creating a
11 summary or a timeline of the documents in each of
12 those priest's files and releasing that at that
13 same time?

14 A Not that I recall.

15 Q Were there any other types of information besides
16 the list of assignments that were discussed to
17 include with the names?

18 A Not that I recall.

19 Q Now outside of discussions, again, with your
20 attorneys here or with those that preceded this
21 firm, since 2004 have there been any internal
22 discussions in the Archdiocese about releasing
23 summaries of the documents in each of the
24 perpetrators' files or releasing the documents
25 themselves in the perpetrators' files?

1 A I'm not sure you are asking a different question
2 as before or is it the same question.

3 Q Different. So now it's since -- The first one
4 was before 2004. Now I'm asking you since 2004.
5 I want to make it clear that any conversations
6 you have had with any attorneys at this law firm
7 or any former law firm, that those are -- I don't
8 want you to talk about any of those.

9 Outside of those conversations, have
10 there been discussions between yourself and any
11 of the other officials of the Archdiocese about
12 releasing either the documents themselves on all
13 the perpetrators or some summary of those
14 documents?

15 A I thought that's what I was responding to
16 earlier, so I will say again not that I recall.
17 I didn't know before you were making a time
18 distinction.

19 Q In order to release that list of perpetrators,
20 did the Archdiocese have to get permission from
21 the Vatican to do that?

22 A No, not that I'm aware of. We didn't.

23 Q What's the Archbishop of Milwaukee, what's his --
24 what are his duties to the parishioners, to the
25 flock, within the Archdiocese of Milwaukee?

1 A We refer to it as a three-fold office; to teach,
2 to sanctify, to govern.

3 Q And those responsibilities and duties go to each
4 person within the Archdiocese?

5 A We talk about the faithful being entrusted to his
6 care. To shepherd.

7 Q A shepherd to the flock?

8 MR. LO COCO: Sorry. I just want to put
9 an objection on the record to this area of
10 inquiry to the extent that you want to turn
11 Dr. Cusack into an expert on civil law, which
12 she's not, so subject to that, go ahead.

13 BY MR. FINNEGAN:

14 Q Does the Archbishop of the Archdiocese of
15 Milwaukee have any special responsibilities or
16 duties to the children, Catholic children, within
17 the Archdiocese that are different than the ones
18 that you mentioned?

19 MR. LO COCO: Object to the form.

20 THE WITNESS: His broad role to teach,
21 to sanctify, to govern, under each of those
22 offices he'd have multiple duties to multiple
23 people, including to children and youth.

24 BY MR. FINNEGAN:

25 Q What about the Catholic faithful within the

1 Archdiocese? Did they have any duties or
2 responsibilities to their pastors at their
3 individual churches, parishes?

4 A There's a section of the code of Canon Law that
5 deals with the rights and responsibilities of the
6 lay Christian faithful, if that's who you are
7 talking about. Everybody is considered -- All
8 Catholics are considered the faithful.

9 We then talk about the lay Christian
10 faithful, so they have certain rights and
11 responsibilities that are enumerated in the Code
12 of Canon Law. Some of them have personal
13 responsibilities, some of them could be exercised
14 in relation to their local parish priest, others
15 are to the church in general.

16 Q What are their duties to the church in general?

17 A They have a responsibility to observe the laws of
18 the church. They have a responsibility when it
19 comes to marriage to observe a certain form for
20 marriage. They have a responsibility not to
21 unduly harm the good name and reputation of
22 others. They have a responsibility of supporting
23 the work of the church.

24 Q And what about the duties and obligations to the
25 individual pastor?

1 A They have a right and obligation to make known
2 their spiritual and pastoral needs. They have
3 the right and obligation to make known their
4 opinions, especially in matters on which they
5 have a special expertise. If they hold some
6 special position, for example, a member of a
7 finance council has a responsibility to oversee
8 the work of the pastor as the administrator of
9 the parish goods. I am just giving you examples.
10 There's a number of canons I don't have in front
11 of me.

12 Q Do they have the responsibility or duty to obey
13 the pastor?

14 A No.

15 Q Do they have the responsibility or duty to show
16 reverence to the pastor?

17 A Yes.

18 Q What's the Archbishop of Milwaukee's, what's his
19 relationship with the Catholic schools within the
20 Archdiocese of Milwaukee in general, or if you
21 need to spread it out on different types of
22 schools.

23 MR. LO COCO: Same objection regarding
24 the issue of civil law. I mean, that's not Dr.
25 Cusack's expertise.

1 THE WITNESS: I will only talk about
2 Canon Law, and the Code of Canon Law is a
3 universal code, and so it doesn't make the same
4 distinctions we might make in each country about
5 the types of schools. So he has a responsibility
6 to see that schools which can imbue the Catholic
7 spirit are available, even by founding them, if
8 necessary. He has some direct responsibilities
9 and he has some supervisory responsibilities.
10 Directly he can determine whether a particular
11 school is Catholic or not. He can issue general
12 policies regarding Catholic education. He has a
13 supervisory function in relation to the teachers
14 in Catholic schools, and when I say
15 "supervisory," I mean he can issue policies and
16 procedures. He can't intervene in the direct
17 hiring and firing of them, unless it is a matter
18 of morals and doctrine. But even there he's just
19 to see that if a person needs to be removed, the
20 person responsible has done that. He cannot
21 interfere in the internal governance of religious
22 schools, religious order schools.

23 BY MR. FINNEGAN:

24 Q What about over the music programs at the various
25 parishes within the Archdiocese? Is there any

1 oversight by the Archdiocese regarding the
2 activities that go on in -- at the parish level
3 as far as music that's used at the parish level
4 or how they structure their --

5 A Other than general guidelines like sacred music
6 should be used in sacred ceremonies, but as far
7 as individual music programs, that's handled at
8 the parish level.

9 Q Any other areas that involve music at the parish
10 level that you are aware of besides the general
11 guidelines of the Archbishop or other Bishops of
12 the Archdiocese are involved in?

13 A It's not my area of responsibility liturgically
14 or musically, but as far as I know, music matters
15 are handled at the parish level, decisions about
16 what instruments to use, what type of music.

17 Q Is there any office of the Archdiocese that has
18 oversight for the music departments or the music
19 that's done at the parish level?

20 A Not oversight. Again, advice. If a new piece of
21 music, church music, comes out that is considered
22 by experts to be particularly fine, they might
23 make a recommendation or at least advise people
24 that this new piece of music is available. But
25 as far as saying, "You have to use this piece of

1 music," or "You have to have that music program,"
2 no, no one has that responsibility at the
3 Archdiocese.

4 Q Who would make the decision about the new music
5 that came out? Is there a particular person or a
6 particular office within the Archdiocese?

7 A Probably the Liturgy Office would just make a
8 notification that something is available.

9 MR. LO COCO: Is this a good time for a
10 break?

11 MR. FINNEGAN: Sure.

12 VIDEOTAPE TECHNICIAN: We're going off
13 the record at 11:28 a.m.

14 (A recess was taken.)

15 VIDEOTAPE TECHNICIAN: We're back on the
16 record at 11:35 a.m.

17 BY MR. FINNEGAN:

18 Q Dr. Cusack, have you been at all involved with
19 the payments that have gone to any of the priests
20 that have been accused of sexually molesting
21 minors either for voluntary laicization, the
22 payments of money surrounding that, or for some
23 type of settlement with those people?

24 MR. LO COCO: Object to the form. You
25 can answer.

1 THE WITNESS: Involved? I know about
2 them, I was part of conversations about how to
3 handle certain cases.

4 BY MR. FINNEGAN:

5 Q Besides the conversations, what involvement, if
6 any, did you have in that?

7 A No direct decision making ability. I'm not even
8 sure I would have requisitioned the checks. That
9 probably would have been out of the Vicar of
10 Clergy Office, and various practices have been in
11 place over the years.

12 Q What are the practices that you are aware of?

13 A I'm aware that there was one advocate -- Before
14 we had the current procedures with CDF, you were
15 pretty much limited to their seeking voluntary
16 laicization, and one advocate was promoting
17 voluntary laicization, that he would encourage
18 that, but that the greatest fear that he had was
19 that individuals are going to be left in the
20 lurch, and so if they had no transition
21 assistance, they would be fair less inclined to
22 sign the petition. And so he arranged a plan
23 whereby they would get some initial transition
24 funding when they were fully removed from
25 ministry, and then once they were laicized, they

1 would get additional assistance in moving into a
2 new form of life. That would have been in the
3 late '90s probably.

4 Q Who was that individual that you are talking
5 about? Father Dan Ward?

6 A Yes.

7 MR. LO COCO: I'm sorry. Father Dan?

8 MR. FINNEGAN: Ward.

9 THE WITNESS: Yes.

10 BY MR. FINNEGAN:

11 Q Do you know where the money came from to make
12 those payments to the priests?

13 A I don't know.

14 Q Ultimately the decision to make those payments
15 within the Archdiocese, that ultimate decision
16 was made by the then Archbishop?

17 A Correct.

18 Q So time frame wise, we had a limited discussion
19 of this before, but with regard to the police
20 investigation into Father Jerome Wagner, time
21 frame wise I wanted to ask you a question about
22 your knowledge before we filed the motion to
23 modify the protective order.

24 A Yes, I can answer.

25 Q Before we filed the motion to modify the

1 protective order, were you aware from any source
2 that there was an ongoing police investigation
3 into father -- former Father Jerome Wagner?

4 A No, I was not.

5 Q Before we filed the motion for the -- to modify
6 the protective order, are you aware of anyone
7 else within the Archdiocese knowing that there
8 was an ongoing police investigation into the
9 Jerome Wagner besides Sister Susan and Deacon
10 Zimprich?

11 A Repeat the first part of your question again.

12 Q So are you aware of anyone else besides Sister
13 Susan and Deacon Zimprich that knew about there
14 being an ongoing police investigation into Jerome
15 Wagner before we filed the motion to modify?

16 A They are the only two that I know who were aware
17 of it.

18 MR. LO COCO: But you weren't aware of
19 it until the motion was filed?

20 THE WITNESS: Correct. That's what I
21 thought he prefaced it with. That's why I
22 requested for the preface again.

23 MR. LO COCO: Right. I was confused by
24 the premise of the question.

25 MR. FINNEGAN: It's complicated with all

1 the time frames, but I got what I thought was the
2 answer.

3 BY MR. FINNEGAN:

4 Q Is there within the Archdiocese a group or a
5 committee that's in charge of a response before
6 education within the Archdiocese?

7 A Is there a?

8 Q A group or a committee, anything, any office
9 within the Archdiocesan, you know, the hierarchy
10 that deals with education within the Archdiocese?

11 A There an Office for Schools and there's an Office
12 for Catechesis. If it's broad education, there's
13 also a Continuing Formation for Clergy, and the
14 newly formed Continuing Formation Commission.

15 Q Does the Office for Schools, do they have -- are
16 they headquartered within the Chancery or the
17 Cousins Center in general?

18 A Yes.

19 Q Is it a separate person that's in charge of the
20 Office for Catechism?

21 A Catechesis, yes.

22 Q Okay. Is that person also headquartered in the
23 Cousins Center?

24 A Yes.

25 Q Do you know what the responsibilities and duties

1 are in the Office for Schools?

2 A It is a general service to Catholic schools
3 within -- located within the Archdiocese of
4 Milwaukee, and so they will provide continuing
5 formation, continuing education. They will
6 facilitate the gathering of teachers,
7 administrators. They will assist in setting up
8 mentoring groups for new principals. They will
9 assist teachers who want to move into serving
10 more in administration, again bring them together
11 in a group setting for mentoring. They issue
12 general policies for schools that wish to
13 consider themselves Catholic.

14 In the way they are structured, there's
15 a superintendent -- I'm talking about the current
16 structure -- superintendent and three associate
17 superintendents. The superintendent would
18 basically be available for assistance, principals
19 to deal with teacher conventions, making sure
20 that we are updated on state requirements,
21 setting up ways of evaluating schools. So there
22 is a process by which schools are evaluated and
23 credentialed, and Dr. Cepelka would be in charge
24 of that as superintendent. The associate
25 superintendents have both subject matter and

1 geographic responsibilities.

2 Q Are all of those positions within the Office of
3 Schools, are those all appointed by the
4 Archbishop?

5 A The superintendent is appointed by the
6 Archbishop. The superintendent would in turn
7 make hiring decisions about everybody else in the
8 office.

9 Q And the head of the other offices that you
10 mentioned that deal with education, the heads of
11 all those would be appointed by the Archbishop?

12 A The Office for Catechesis relates to the John
13 Paul II, and so that would be the head of the
14 John Paul II would have done that hiring.

15 Q Do you know when the first child sex abuse policy
16 or policy to prevent child sex abuse was
17 implemented in this Archdiocese either in a broad
18 scale or sometimes it was -- in some Archdiocese
19 it was the schools that first had a policy.

20 A I could not speak to what the policies of the
21 schools were. We began in the '90s to have a
22 code of ethical standards that applied to all
23 church employees. I'd have to check. I can
24 follow up, if it was the current policy, the
25 current code of ethical standards lists each year

1 that it was updated or revised, so I just have to
2 go back and see what was that first year to give
3 you that date if you need follow up.

4 Q Are you aware of before that time the schools or
5 the Office for Schools having any policies
6 related to child sex abuse here in the
7 Archdiocese?

8 A Obviously, they would follow the state law which
9 would govern all teachers, and so however the
10 teachers over the years would have been schooled
11 in -- I'm not doing a play on words there --
12 however they would have been informed about the
13 state law, that would have varied over the years.
14 Now we have a regular process that is used in
15 training that is consistent across the board, not
16 only for schools, but for all church employees
17 and all volunteers.

18 Q I want to talk about the mediation program a
19 little bit next. With the mediation program were
20 you aware of anyone expressing any concerns about
21 having any of the deaf survivors from St. John's
22 participate in that process because of their
23 general lack of understanding of English?

24 MR. LO COCO: Before you go there, I
25 would like to go off the record and chat with you

1 about this area.

2 MR. FINNEGAN: Sure.

3 VIDEOTAPE TECHNICIAN: We're going off
4 the record at 11:49 a.m.

5 (A discussion was had off the record.)

6 VIDEOTAPE TECHNICIAN: We're back on the
7 record at 11:50 a.m.

8 MR. LO COCO: We had an off-the-record
9 discussion, and as I understand it this area you
10 were about to go into and one other area that you
11 mentioned off the record deal with the claim of
12 A-49. That claim is currently on appeal at the
13 Seventh Circuit. It's a claim that's been
14 disallowed. If you prevail on your -- So I'm not
15 going to permit the witness to be questioned
16 regarding those matters. This is a disallowed
17 claim.

18 On the other hand, if you prevail with
19 the Seventh Circuit and we start to have to
20 litigate A-49, I will produce Dr. Cusack again
21 for a subsequent deposition.

22 MR. FINNEGAN: All right.

23 BY MR. FINNEGAN:

24 Q When is the first time, Doctor, that you reviewed
25 any of the priest files within the Archdiocese of

1 Milwaukee, if you remember?

2 A As soon as I started working for the Archdiocese
3 some of my work would have involved priest files.

4 Q Do you remember when the first time was that you
5 reviewed a file specific to whether or not there
6 were allegations of child sex abuse against a
7 priest?

8 A Probably the mid '90s.

9 Q Do you remember how that came about?

10 A By that time there was more of a structured
11 approach to dealing with allegations of sexual
12 abuse of minors. There were a number of priests
13 who had been removed from ministry, both retired
14 and under retirement age, and the decision was
15 made to review all of their situations and see if
16 adequate restrictions were in place, if those
17 restrictions were memorialized in any way,
18 whether or not any oversight should be done and
19 whether or not any of them should be advised to
20 seek laicization. So I would have begun
21 reviewing files for that purpose and preparing
22 some of the canonical documentation relating to
23 memorializing their restrictions.

24 Q Who else was involved in that process in the mid
25 1990's that you just discussed?

1 A Bishop Sklba would have been involved, and
2 ultimate decision making would have been with
3 Archbishop Weakland.

4 MR. FINNEGAN: I mainly want to know
5 about the handwriting on these. This will be
6 Exhibit 1.

7 THE WITNESS: This is Father Jim
8 Connell.

9 MR. FINNEGAN: That was my question, but
10 we will put some stuff on the record.

11 MR. LO COCO: I know, but you should
12 wait for a question.

13 THE WITNESS: Oh, I thought he said I
14 want to know whose handwriting this is.

15 MR. LO COCO: We have to put a little
16 foundation on the record.

17 MR. FINNEGAN: What I have just showed
18 you we are going to mark as Exhibit 1. The Bates
19 number is 055 --

20 MR. LO COCO: Hang on. She's not
21 typing.

22 (Exhibit 1 was marked.)

23 BY MR. FINNEGAN:

24 Q What I have just handed you is marked as
25 Exhibit 1, and it's Bates labeled 055863 to 67.

1 And these are handwritten notes that are
2 handwritten notes that are, if I'm reading the
3 date correctly, say 5/18/95 on the top of the
4 first page.

5 The question which I think you already
6 told us, but I will ask it again, is whose
7 handwriting is this?

8 A It looks like Father Jim Connell's handwriting.

9 Q What was his role in this process?

10 A I don't recall why he would have these notes. He
11 was Vice Chancellor. I don't know.

12 Q Glancing at the notes here, does this look like
13 it's part of the process which you just described
14 in the mid '90s where there was a review of some
15 of the alleged perpetrators and a discussion
16 about what restrictions were imposed on them?

17 A Yes, and at this period of time Father Connell
18 would have been responsible for preparing the
19 canonical paperwork for voluntarily laicizations.

20 MR. LO COCO: And I know this
21 deposition, we agreed on the paper record that
22 this is under seal, but as I look at these notes,
23 there are names on here of people who aren't on
24 the published list, as well as at least a couple
25 of names I see of people who were not -- against

1 whom allegations of child sexual abuse were not
2 made. So we just have to take extra care with
3 this record. I mean, they are all covered right
4 now, but I wanted to put that on the record.

5 MR. FINNEGAN: I'm going to give you
6 another one that looks like it's from the same
7 time and, Kathy, if you could mark that
8 Exhibit 2.

9 (Exhibit 2 was marked.)

10 BY MR. FINNEGAN:

11 Q And Exhibit 2 is Bates labeled 56315 to 318.
12 Looking over this document, Dr. Cusack, did you
13 have anything -- any involvement in preparing
14 this document?

15 A No.

16 Q Do you know who did?

17 A Dr. Piasecki, P-I-A-S-E-C-K-I.

18 Q Is that -- Are you looking at the three initials
19 there on the last page?

20 A Yes.

21 Q Where it says ECP?

22 A Yes.

23 Q Do you know whose handwriting that is on the
24 second page of this Bates labeled 316?

25 A I can't determine whose that is. I don't know.

1 Q It looks like, if I'm reading this correctly, the
2 first piece of it says, "How monitor in hospital
3 setting." Do you remember any discussion around
4 this time about how the monitoring would be done
5 with somebody like David Hanser that was working
6 in a hospital?

7 A I was not involved in the monitoring process.
8 Can I confer with counsel?

9 MR. LO COCO: Sure.

10 VIDEOTAPE TECHNICIAN: We're going off
11 the record at 11:59 a.m.

12 (A recess was taken.)

13 VIDEOTAPE TECHNICIAN: We're back on the
14 record at 12:00 o'clock p.m.

15 (Exhibit 3 was marked.)

16 BY MR. FINNEGAN:

17 Q The next one that we can mark as Exhibit 3 is a
18 two-page document Bates labeled 55913 to 14 which
19 appears to be the same list, one with
20 handwriting, one without. Did you have any
21 involvement in the preparation of Exhibit 3?

22 A Yes.

23 Q Did you type this?

24 A Yes.

25 Q What did you do to come up with the information

1 that's in Exhibit 3?

2 A I don't recall. I don't recall why I prepared
3 this.

4 Q On the second page there's only one thing that's
5 handwritten and then a couple other notations.
6 Do you know whose writing is on the second page,
7 914?

8 A That's mine.

9 Q Next to the people that have the M next to their
10 name, what does that stand for?

11 A I'm going to say monitored, only because I
12 recognize the names as individuals who were
13 monitored.

14 Q Do you remember why some of these individuals had
15 either a checkmark or a small dot by their name?

16 A I don't know.

17 Q Do you remember why you added the name at the
18 bottom of the second page?

19 A I don't remember why, but he would eventually be
20 someone who was added to the list.

21 Q What did you do with this list after you created
22 it?

23 A I don't recall.

24 Q On here it talks about some of the various
25 restrictions or whether there are restrictions or

1 not on some of these priests. The ultimate
2 decision on whether or not these priests were
3 restricted was with the then presiding
4 Archbishop?

5 A Yes.

6 Q Did you review any documents before you
7 deposition today, Doctor?

8 A Yes.

9 Q What did you review?

10 A It was awhile ago. I'm trying to remember what I
11 even looked at. I looked at the criteria for
12 saying something -- an allegation was
13 substantiated. I reviewed the policies,
14 procedures and protocols to make sure I had the
15 most current ideation of them. I looked at the
16 folder, the computer folder in my computer just
17 to double-check that I had produced everything
18 that was asked for. I didn't open every single
19 document, basically looked at the listing of
20 documents and checked when they had last been
21 accessed to make sure that I had complied with
22 the discovery to the best of my ability.

23 Q Go ahead.

24 A I don't recall looking at -- I mean, for other
25 work, but not for this deposition I have been in

1 files.

2 Q You mentioned that you have a computer folder?

3 A Um-hum.

4 Q What's in that or what's the -- what is that?

5 A The way I organize my Word documents is primarily
6 by folder, and so within the folder are a series
7 of documents. When we first received the
8 discovery order, I went to various folders in my
9 computer, saw which documents within each folder
10 were responsive and copied them into yet another
11 folder.

12 MR. LO COCO: You are talking about the
13 recent discovery requests that Mr. Finnegan sent
14 us?

15 THE WITNESS: I'm talking about the
16 discovery that came in 2011 when we first had to
17 produce.

18 MR. LO COCO: Oh, the initial. Got it.

19 THE WITNESS: When we had to produce all
20 those electronic documents and they had to be
21 redacted, so they were provided with initials.
22 So it was getting into then just, so I wouldn't
23 have to go back through because the file -- The
24 folder I put it in always makes sense when I put
25 it there, it doesn't make sense when I'm trying

1 to find it. So I began migrating documents over
2 into a single folder called discovery.

3 BY MR. FINNEGAN:

4 Q And are the documents that you have in your
5 computer folders, are those primarily Word
6 documents or are there some .pdf documents in
7 there, as well?

8 A Primarily Word documents. If there's a .pdf -- I
9 have a hard time opening .pdf documents, so --

10 Q What about emails, email communication back and
11 forth? How are those archived within the
12 Archdiocese?

13 A They are supposed -- We are supposed to have
14 always access, so that even if you put them in
15 your deleted folder, they are not deleted. There
16 at some point in time was a glitch in our
17 computer system, and so search as I may, have IT
18 search as they may, email correspondence that I
19 thought was saved was not saved, but all other
20 email that was responsive to discovery motions,
21 they have been produced.

22 Q Does the Archdiocese for archived emails have
23 some sort of web-based system that archives those
24 emails automatically, if you know, or do you know
25 what happens to them?

1 A I have no idea.

2 Q Do you have a specific email or series of emails
3 or topic that you have in mind that you thought
4 would be in there responsive to the request that
5 wasn't there?

6 A I just knew by date there should be some emails,
7 especially as I was scheduling through the
8 mediation system. There are simply holes that
9 are there.

10 Q And then some of the later document productions,
11 like the four different files that we talked
12 about on priests that were accused of sexualizing
13 minors, you don't have those on your computer, do
14 you?

15 A I would have a computer version of some of what's
16 in the file, but I did not scan the whole file
17 and put it on my computer. But I would have
18 created some of the documents that eventually
19 found their way into the file. So, for example,
20 the CDF materials. I produced them at my
21 computer, they are in my computer, they were
22 produced through the file.

23 MR. FINNEGAN: I'm going to show you
24 another list that we can mark as Exhibit 4. It's
25 Bate stamped 56213 to 56219, and it's dated

1 10/31/02.

2 (Exhibit 4 was marked.)

3 BY MR. FINNEGAN:

4 Q Dr. Cusack, did you have any role or any
5 involvement in putting this document together?

6 A Yes.

7 Q What was your involvement?

8 A I prepared this document.

9 Q For what purpose?

10 A As we were doing that process of if we are going
11 to name the six, should we name everybody, we
12 threw out as broad a net as possible to say who
13 could possibly ever have had any kind of
14 allegation against them and make some
15 determination whether they met the criteria for
16 substantiation and what their current status was.
17 And so I would have used the existing files to
18 put this chart together early on in the process
19 of conversation.

20 Q What was the criteria that you used for someone
21 to get on this chart?

22 A Individuals that we knew about that had been
23 accused of some impropriety, whether it was
24 sexual abuse of a minor or some other
25 questionable behavior. So, as I said, we threw

1 out as broad a net as possible and then began
2 looking at whether they met the criteria for
3 being publicly identified as substantiated claims
4 of sexual abuse of minors. So each person would
5 have been screened against those criteria.

6 Q Did this list include both those that have been
7 accused of molesting minors and those that were
8 accused of some sexual involvement with adults?

9 A It was both.

10 Q Any other types of improprieties besides sexual
11 matters that were included in this list that you
12 remember?

13 A Not that I'm aware of.

14 Q Do you know whose handwriting this is on the
15 right-hand side on the first page?

16 A I don't know. I don't recognize it. It is not
17 mine.

18 Q What did you do with this document, Exhibit 4,
19 after you created it?

20 A It would have been used at those discussions
21 about who -- First of all, we would have to agree
22 on the criteria that we use, and then we have to
23 screen each name for substantiation and then
24 develop strategies for naming publicly.

25 Q What about the handwriting on the first page. I

1 don't want to you say their names within this,
2 but the second individual down, there's
3 handwriting for assignment and then current
4 status. Do you know whose handwriting that is?

5 A I don't recognize the handwriting.

6 Q And do you know why on some of these individuals
7 there are Xs next to either the year start or the
8 assignment?

9 A As I look at it with current knowledge, it would
10 seem to indicate that one of the reports, one of
11 the allegations would have occurred during the
12 time period they were at that location. I don't
13 know if I made those Xs, so I'm reading into the
14 mind of whomever.

15 MR. FINNEGAN: I'm going to look through
16 these. I don't know if we will use all of them.
17 Some of them have been discussed already. Mark
18 this one as Exhibit -- are we on 5?

19 COURT REPORTER: Yes.

20 (Exhibit 5 was marked.)

21 BY MR. FINNEGAN:

22 Q Exhibit 5 here is a document with Bates numbers
23 39068 to 39074. It probably should have been --

24 A I'm sorry. Was there a question?

25 Q Yes, I was looking over the stapling on this, and

1 the organization of this wasn't very good. I
2 want to take off the front four pages of this.

3 MR. LO COCO: And make that the exhibit?

4 MR. FINNEGAN: Yes, Exhibit 5.

5 MR. LO COCO: That's okay.

6 MR. FINNEGAN: Is that alright with you?

7 MR. LO COCO: And then you are going to
8 pull back --

9 MR. FINNEGAN: I'm going to pull back
10 these other pages and make the last two
11 Exhibit 6. I apologize about that.

12 MR. LO COCO: So it's three pages?

13 MR. FINNEGAN: The one page is coming
14 out, this (indicating).

15 MR. LO COCO: Oh, just the letter?

16 MR. FINNEGAN: Yes, the letter is coming
17 out and then this will be -- so I will give the
18 Bates numbers here.

19 (Exhibits 5 and 6 were marked.)

20 MR. LO COCO: So this is 6 (indicating)?

21 MR. FINNEGAN: Yes.

22 BY MR. FINNEGAN:

23 Q All right. So I have just put in front of you
24 now Exhibits 5 and 6. Just for the record, so we
25 have some clarity, Exhibit 5 is now 039068 to

1 9071, a four-page document, and Exhibit 6 is
2 Bates numbers 39073 to 74, a two-page document.

3 Dr. Cusack, both of these documents talk
4 about an emergency intervention team or
5 committee?

6 A Um-hum.

7 Q What involvement did you have, if any, with that?

8 A Along with the then Chancellor, I would have
9 helped convene the group.

10 Q Who is the Chancellor at that time?

11 A Father Ralph Gross, G-R-O-S-S.

12 Q When was the emergency intervention, did you call
13 it, team or committee? I see it's different on
14 these two things. Does it matter?

15 A It doesn't matter.

16 Q When was the intervention -- the emergency
17 intervention team formed?

18 A That's addressed in Roman numeral I, when
19 notification came in from a reliable source that
20 someone, a priest or someone connected with the
21 Archdiocese was going to be charged or that any
22 allegations were going to be made, were going to
23 be published, so we would have had an inquiry
24 from a news reporter about a breaking story, so
25 somebody is going to be arrested, whatever that

1 is, so other public attention regarding a case of
2 misconduct, it was the Chancery's responsibility
3 to bring together a team to respond and respond
4 quickly so that we could take -- make sure that
5 all the proper actions were taken and the people
6 were not working in isolation from one another.

7 Q And do you know when before this, when the idea
8 or the discussions were had about forming an
9 emergency intervention committee or team for
10 situations of this nature?

11 A This would have been very early, so I'm going to
12 say still probably just before the mid '90s.

13 Q Do you know whose idea it was?

14 A Probably it was a group decision.

15 Q On Exhibit 5 do you recognize the handwriting on
16 any of those documents?

17 A Yes.

18 Q Whose is that?

19 A Father Ralph Gross.

20 Q Is it his handwriting on the third page, as well,
21 070?

22 A Yes.

23 (Exhibit 7 was marked.)

24 MR. FINNEGAN: I'm going to show you

25 Exhibit 7.

1 THE WITNESS: So I can put away 6?

2 MR. FINNEGAN: You can.

3 (Exhibit 7 was marked.)

4 BY MR. FINNEGAN:

5 Q Looking at Exhibit 7, Doctor, you will see that
6 handwritten down here on the -- towards the
7 bottom left it says "copies to," and I believe
8 that says "Skiba, Carol S. and BAC." BAC is you?

9 A Yes.

10 Q The part I want to ask you a question about is in
11 the second paragraph where Archbishop Weakland
12 wrote, "Every time you appear in public this way
13 at the altar, Eldred, you risk stirring up people
14 who have brought allegations. The network of
15 such victims is enormous and very aggressive.
16 You risk much unfortunate bad publicity against
17 yourself, the priesthood and the diocese." Do
18 you remember having a conversations around this
19 time in the mid 1990's with Archbishop Weakland
20 about the risks of unfortunate bad publicity?

21 A I know he was concerned about publicity that was
22 negative against the church at that time.

23 Q Did Archbishop Weakland tell you that?

24 A In group meetings. Not me personally, but in
25 meetings he would make comments like that.

1 Q During that time did he take any actions
2 responsive to -- that you are aware of responsive
3 to the risk of publicity?

4 MR. LO COCO: Object to the form.

5 THE WITNESS: I don't understand.

6 MR. FINNEGAN: Probably a bad question.

7 BY MR. FINNEGAN:

8 Q Do you remember him, other than saying that he
9 was worried about the risk of publicity, did he
10 do anything in response to that concern in the
11 mid '90s?

12 A Not that I recall. It would have been around
13 this time that the formal restriction process
14 that I mentioned earlier was going on. Looking
15 at the timing of this letter, the opening
16 paragraph would indicate that this is immediately
17 after those restrictions were formalized into a
18 canonical document and communicated to the
19 priests.

20 Q Are those restrictions at this time in the 1990s,
21 were those disclosed to the public?

22 A In some instances they would have been, yes.

23 Q How so?

24 A If there was a newspaper story and we were asked
25 "What are you doing about this priest," I can't

1 name a specific one, but I know we did talk
2 about, you know, he's only able to exercise a
3 restricted form of ministry.

4 Q Outside of the people that were discussed in
5 newspapers or through media, the other priests
6 that were restricted, was there any publication
7 of the fact that they were under restriction?

8 A I don't recall how that was done.

9 Q How often did Archbishop Weakland express that
10 concern in group meetings about the threat of bad
11 publicity?

12 A I would only be conjecturing. I don't recall
13 that far back.

14 Q Did Archbishop Dolan ever express the same
15 concern to you?

16 A No.

17 Q Archbishop Listecky?

18 A No.

19 MR. FINNEGAN: I will show you another
20 one here. What are we on, Kathy?

21 COURT REPORTER: No. 8.

22 (Exhibit 8 was marked.)

23 BY MR. FINNEGAN:

24 Q The question I have on Exhibit 8, Doctor, is in
25 the bottom, left-hand corner it says, "cc

1 Chancery." Who does that go to. Is that you?

2 A Yes.

3 Q Do you remember around this time, 2001, any
4 discussion about Dan Budzynski, his history or
5 the difficulties of his past servicing in the
6 public?

7 A My recollection is that he was fully restricted
8 from ministry. I recall he objected to the broad
9 scope of the restrictions and was seeking some
10 modification that would allow him some public
11 ministry. I recall a discussion where concerns
12 were raised that he not have any of his
13 restrictions lifted, exceptions made or any
14 modifications. As I look at this letter, I
15 believe this would have been a letter that
16 Archbishop Weakland drafted to communicate.

17 Q When is the first time you reviewed Daniel
18 Budzynski's file?

19 A Probably in the mid '90s period when we were
20 looking at placing restrictions.

21 Q Were you involved at all in Daniel Budzynski or I
22 know Lawrence Murphy was involved in the process
23 where he was interviewed by some people from the
24 Archdiocese, both those men were. Were you
25 involved in that process at all?

1 A I was not involved in that.

2 Q Was that Dr. Piasecki that ran that?

3 A Yes.

4 MR. FINNEGAN: Why don't we go off the
5 record here.

6 VIDEOTAPE TECHNICIAN: This ends Disk
7 No. 1 of the video deposition of Barbara Anne
8 Cusack, JCD, on January 29, 2013; the time
9 2:30 p.m.

10 (A recess was taken.)

11 VIDEOTAPE TECHNICIAN: This is the
12 beginning of Disk No. 2 of the video deposition
13 of Barbara Anne Cusack, JCD, on January 29, 2013;
14 the time 12:38 p.m.

15 (Exhibits 9 and 10 were marked.)

16 BY MR. FINNEGAN:

17 Q We have now handed you two different exhibits --
18 can I see which ones were marked -- Exhibits 9
19 and 10. Let's take a look at Exhibit 10 first,
20 if we can. Do you know who drafted this or were
21 you involved in drafting Exhibit 10?

22 A It would have been the results of meetings
23 discussing the release of names. I believe that
24 Jerry Topczewski prepared this particular
25 document as a result of those discussions.

1 Q If you look at the second half of Exhibit 10,
2 there's some writing on that. It looks like it's
3 the same document, but with some handwritten
4 notes. Do you know whose handwriting that is?

5 MR. LO COCO: Which page?

6 MR. FINNEGAN: That's Bates number
7 starting at 121686 to 121688, Exhibit 10.

8 MR. LO COCO: Thank you.

9 BY MR. FINNEGAN:

10 Q Do you know whose handwritten that is?

11 A The top of the page is then Archbishop Dolan.
12 The middle of the page is Jerry Topczewski.

13 Q And that was on Page 86. What about 87 on the
14 top of that?

15 A Then Archbishop Dolan.

16 Q Then let's take a look at Exhibit 9. Did you
17 have any involvement in the preparation of
18 Exhibit 9?

19 A It would have resulted from discussions of which
20 I was a part.

21 Q Do you know who drafted this?

22 A I believe, again, it was Jerry Topczewski.

23 Q On the first two pages, which are Bates 121799 to
24 800, do you know whose handwriting and notes are
25 on that? Do I have it in the wrong order?

1 Sorry. What's the order you have it in.

2 MR. LO COCO: Why don't you give us
3 Bates, please.

4 MR. FINNEGAN: The Bates that I just
5 asked about is 121799 and the Bates ending in
6 800.

7 BY MR. FINNEGAN:

8 Q Do you know whose handwriting that is on
9 Exhibit 9?

10 A It looks like Jerry Topczewski's.

11 Q What about the other portion of Exhibit 9, which
12 is 121801 through 02. Do you know whose writing
13 that is?

14 A I believe it's Jerry Topczewski's.

15 Q Do you see on Exhibit 9, 121799, which I believe
16 is your first page of that exhibit at the back,
17 sorry, that there's Point No. 2. There's a
18 discussion here within this document about what
19 information to include with the posting of the
20 list; A, name; B, time frame of incidents,
21 example, mid 1970s; C, parishes served and dates;
22 D, when removed from ministry, maybe include this
23 question mark, and that has a line through it;
24 and E, current status. The list, ultimately the
25 decision was made not to include Point 2B, the

1 time frame of the incidents?

2 A Yes.

3 Q Ultimately the decision was made not to list
4 Point 2C, the parishes served and dates?

5 A Correct.

6 Q And it was also decided not to include 2D, when
7 removed from ministry?

8 A Correct.

9 Q All those decisions ultimately were made by
10 Archbishop Dolan?

11 A In consultation with this group.

12 Q He's the final one that has to okay the final
13 plan?

14 A Yes.

15 Q Do you remember any of the discussions that were
16 had about the points in 2 about what information
17 to disclose about the perpetrators?

18 A I do recall those.

19 Q And what were the -- what do you remember about
20 those discussions?

21 A We weighed seriously the pros and cons of what
22 information should be posted. Ultimately the
23 decision to post what we did was made because one
24 of the criteria we used to substantiate an
25 allegation was if the individual making the

1 allegation named a priest who was actually at
2 that parish around that time. If it was off by a
3 year or two, we weren't that concerned.

4 If we simply posted the name of the
5 parish and the years that they were there, we
6 could no longer rely on that element as part of
7 the substantiation process. And during this
8 time, during the time we were going through this
9 posting discussion, we were also in the midst of
10 intake reports through the independent mediation
11 system. So there was a concern that we do -- we
12 have ways of screening, and that was one of them.
13 So we would have lost that as an element that the
14 investigator would use to recommend moving the
15 case forward or not.

16 Q Were there any other reasons besides concerns
17 about the substantiation process that were raised
18 as reasons for not including any information in
19 Exhibit 9, Point 2?

20 A That is the one main reason I recall.

21 MR. FINNEGAN: I don't have anything
22 else.

23 MR. LO COCO: Let's go off the record.

24 VIDEOTAPE TECHNICIAN: We're going off
25 the record at 12:46 p.m.

1 (A recess was taken.)

2 VIDEOTAPE TECHNICIAN: We are back on
3 the record at 12:53 p.m.

4 EXAMINATION

5 BY MR. LO COCO:

6 Q Dr. Cusack, I just have a few clarification
7 questions. If you could, do you have Exhibit 9
8 in front of you?

9 A Yes.

10 Q The second paragraph on the first page of that
11 exhibit --

12 MR. FINNEGAN: Let me switch yours.
13 Sorry. I think hers was a different order. I
14 will switch those over.

15 THE WITNESS: Yes, it is 799.

16 MR. LO COCO: Oh, sorry.

17 MR. FINNEGAN: I did the same thing.

18 MR. LO COCO: Well, yeah, it's 799 is
19 what I want you to look at, which I guess is the
20 third page.

21 BY MR. LO COCO:

22 Q The second paragraph there starts, "The purpose."
23 Do you see that?

24 A Yes, I do.

25 Q Could you read that into the record for us,

1 please.

2 A "The purpose for making public the names of
3 priests with past substantiated incidents of
4 sexual abuse involving minors is to continue to
5 encourage any victims who have yet to come
6 forward and report their circumstances to do so."

7 Q Okay. Now I think you said to -- testified to
8 Mr. Finnegan's -- in response to one of
9 Mr. Finnegan's questions that you had this
10 additional coordinating role with respect to
11 sexual abuse of minors by priests of the
12 Archdiocese starting sometime in 2003.

13 A January of 2003.

14 Q And Archbishop -- then Archbishop Dolan appointed
15 you to that post?

16 A Yes, he did.

17 Q All right. In that role did you meet
18 periodically with abuse survivors that came
19 forward?

20 A Yes.

21 Q These are just general questions. In the context
22 of those meetings, did abuse survivors ask
23 questions about their abusers?

24 A Yes.

25 Q And did you respond to the questions that were

1 raised?

2 A Yes.

3 Q Did anyone at the Archdiocese, including the
4 Archbishop, either Archbishop Dolan or Archbishop
5 Listecky or even before them Archbishop Weakland,
6 ever instruct you not to tell the truth to these
7 abuse survivors when they came forward?

8 A No.

9 Q Did you ever to your knowledge not tell the truth
10 to an abuse survivor who came forward?

11 A No.

12 Q The last question I have is with respect to --
13 You were asked a couple questions about the
14 secret archives. Do those files include anything
15 regarding sexual abuse of minors, allegations of
16 sexual abuse of minors?

17 A Not to my knowledge.

18 MR. LO COCO: That's all I have. Thank
19 you.

20 MR. FINNEGAN: A couple follows-ups for
21 you.

22 EXAMINATION

23 BY MR. FINNEGAN:

24 Q On Exhibit 9, 1799, that purpose part that you
25 read into the record, was that purpose released

1 to the public? Was that statement released to
2 the public?

3 A I believe it was included in the supporting
4 documentation that we produced at the time the
5 names were put on the website. There was a Q and
6 A that was prepared, and I don't have it in front
7 of me, but my recollection is one of the -- We
8 posed the questions and then we answered them.
9 We posed questions we thought people would have,
10 and my recollection was one of those questions
11 was why are you doing this, and not -- perhaps
12 not in these exact words, because even as I read
13 it it was not the smoothest prose. So that would
14 have been disseminated widely.

15 Q And whatever the publicly stated purpose
16 presumably would have been on the website?

17 A Yes.

18 Q And then you were asked about abuse survivors
19 that you met with. Were there any abuse
20 survivors that you remember in particular that
21 asked you for the history on their perpetrators?
22 I don't want to know their names, just yes or no.

23 A Yes.

24 Q And what was -- Did you respond to them?

25 A Yes.

1 Q And what was the process that you went through to
2 respond?

3 A I'm only talking about the encounters I had that
4 were outside of mediation, because I'm respecting
5 the privilege of mediation. Depending on what
6 they asked for, I recall one individual asking
7 for an inventory of everything that was in the
8 priest's file, and I provided a list of all the
9 documents that were in there. I recall someone
10 else -- I was not part of the mediation, but
11 someone communicated with me wanting to know
12 could I look in the file and see, you know, was
13 there any report of her mother contacting the
14 Archdiocese, so I looked through the file, again
15 she gave me the time period, I told her what
16 documents were in the file from that time period
17 and that I did not see any memorializing of a
18 contact by her mother. So that would have been
19 the process. They would have said what they were
20 looking for, I would have checked the file and
21 provided them a response as best I could from the
22 file.

23 Q Any other examples that you can think of, without
24 using names, besides the one individual who asked
25 for an inventory and the woman that wanted to

1 know about her mother?

2 A Oh, there were, you know, where are the reports,
3 where did the reports come from, what year was
4 the first report, how many, were they all female,
5 were there any male victims.

6 Q Did anyone ask you to see the actual documents in
7 the file?

8 A I don't recall.

9 Q Would you have given them access to the file, the
10 actual documents that were in there?

11 MR. LO COCO: Object to the form, calls
12 for speculation, but you can answer.

13 THE WITNESS: If they asked for a
14 specific -- I believe in one instance there was a
15 specific document someone was looking for in the
16 file, and my recollection is I did show him that
17 document.

18 BY MR. FINNEGAN:

19 Q What about if they didn't know what documents
20 were in the file, if they wanted to see every
21 report that was made on a certain priest? Would
22 you have shown them those reports?

23 A No, I would not have risked presenting material
24 that would be inappropriate for them to see,
25 because other individuals could have been named.

1 I didn't trust myself to properly redact
2 everything. To the best of my ability, I
3 provided them with the information that was
4 available in the file without actually producing
5 the file.

6 Q Do you remember which file it was that an
7 inventory was asked for?

8 A Yes.

9 Q Which one?

10 MR. LO COCO: Which?

11 MR. FINNEGAN: Which priest.

12 MR. LO COCO: Not the abuse survivor.

13 BY MR. FINNEGAN:

14 Q Do you remember which priest it was?

15 A Nichols.

16 (Exhibit 11 was marked.)

17 BY MR. FINNEGAN:

18 Q Do you see what we have marked as Exhibit 11?

19 The name there at the top says "DH," and then it
20 lists various assignments here. Is this document
21 regarding David Hanser?

22 A Yes.

23 Q Is this something that you created?

24 A Yes.

25 Q What was the purpose of this?

1 A Looking at the content, I would say it was the
2 CDF process.

3 Q Did you use any of these sheets like this
4 background information when responding to
5 questions from abuse survivors?

6 A Mediation. I'm caught.

7 MR. LO COCO: Well, let's go off the
8 record for a second.

9 VIDEOTAPE TECHNICIAN: We're going off
10 the record at 1:02 p.m.

11 (A discussion was had off the record.)

12 VIDEOTAPE TECHNICIAN: We're back on the
13 record at 1:05 p.m.

14 MR. LO COCO: We had an off-the-record
15 conversation. I'm going to permit Dr. Cusack to
16 answer the pending question as long as we're
17 agreed, counsel are both agreed that answering
18 this question, and there may be a couple related
19 to that, is not a waiver of our respective
20 current positions regarding the mediation
21 process.

22 MR. FINNEGAN: Agreed.

23 MR. LO COCO: So, Kathy, if you could
24 read the question.

25 COURT REPORTER: "Did you use any of

1 these sheets like this background information
2 when responding to questions from abuse
3 survivors?"

4 THE WITNESS: I don't recall what I
5 would have used in each instance.

6 BY MR. FINNEGAN:

7 Q Looking over this document, would you agree that
8 if someone looked at this document, that the
9 first report here, according to this document to
10 the Archdiocese, was 1988?

11 MR. LO COCO: I'm sorry. Someone needs
12 to tell me what you guys are looking at.

13 MR. FINNEGAN: I think in the right-hand
14 corner (indicating).

15 MR. LO COCO: Oh, got it. Thank you.

16 BY MR. FINNEGAN:

17 Q Did you ever tell any abuse survivors that the
18 first report on David Hanser was 1988?

19 A I don't recall.

20 Q Do you recall at the mediation of A-49, [REDACTED]
21 [REDACTED], looking at this document to answer the
22 question of when the first report on David Hanser
23 came in?

24 MR. LO COCO: I'm going to object to the
25 question and instruct the witness not to answer

1 and relate that back to what I said earlier if
2 A-49's appeal is granted, I will produce
3 Dr. Cusack again for another deposition.

4 BY MR. FINNEGAN:

5 Q Dr. Cusack, do you, in looking at this, do you
6 know that there is, in reviewing David Hanser's
7 file, that there is a report that was made in
8 1975?

9 A It was made in 1975 or it's about 1975?

10 Q Made in 1975.

11 A I don't -- Again, I don't recall.

12 (Exhibits 12 and 13 were marked.)

13 BY MR. FINNEGAN:

14 Q Why don't we start with both these exhibits.

15 Dr. Cusack, have you seen Exhibit 12 before?

16 A I don't recall seeing this, but, again, I have
17 looked at thousands of documents. I don't have
18 all of them committed to memory.

19 Q And Exhibit 13, have you seen that one before?

20 A I don't recall seeing this.

21 Q Do you recognize the handwriting in Exhibit 13?

22 A Possibly Father Joe Hornacek, but I'm not
23 100 percent sure of that.

24 Q You will see the date there, it says

25 November 1975 on Exhibit 13. Does that lead you

1 to believe that it probably wasn't Joe Hornacek?

2 A I have no idea.

3 Q When is the first time that you reviewed Dave
4 Hanser's file or the documents related to David
5 Hanser?

6 A Probably during that mid '90s period when we were
7 looking at formalizing restrictions.

8 Q Do you know why the matters that are listed in
9 Exhibit 13, this note and the date of that note,
10 why that information didn't get put down in
11 Exhibit 11?

12 A My presumption is that I did not see these
13 documents when I put together Exhibit 11.

14 Q In the mediation program when survivors or anyone
15 else is asking for information on individual
16 perpetrators, did you go back to the actual files
17 on the perpetrators to get information or did you
18 look at these background information sheets on
19 the perpetrators?

20 A Both. Either one. Not necessarily both in every
21 case.

22 Q Did you have these background information sheets
23 with you as a general matter at the mediations?

24 A This is -- This was prepared for the CDF case.

25 MR. LO COCO: "This" meaning Exhibit 11?

1 THE WITNESS: Exhibit 11 is for the CDF
2 case. I don't recall that I ever would have
3 taken the CDF case for purposes of mediation.

4 BY MR. FINNEGAN:

5 Q There were a number of documents that were
6 produced early in this case that were related to
7 the mediation program and that had similar
8 listings as this that just had the name as an
9 initial like that that were produced in relation
10 to the mediation program, that first production.

11 A Yes.

12 Q Were these documents like this used for the
13 mediation, do you remember?

14 A I would prepare some background information for
15 the other Diocesan reps who would have been
16 meeting with survivors in mediation, because they
17 would not have had any familiarity with the
18 history. I ordinarily for myself would rely on
19 my recollection of the files rather than taking
20 anything with me.

21 MR. FINNEGAN: I don't have anything
22 else.

23 EXAMINATION

24 BY MR. LO COCO:

25 Q Did you know Father Don Weber? Just so we have

1 got the context, the document Exhibit 12 is a
2 letter that doesn't have his signature, but it is
3 over the name of Father Don Weber, correct?

4 A Yes.

5 Q And do you -- Did you know him? Do you know him?

6 A I knew him when -- He was an elderly priest when
7 I first came to the Archdiocese.

8 Q Is he deceased?

9 A Yes.

10 Q It says he was Ombudsman to Priests. Is that the
11 same as Vicar?

12 A No.

13 Q Do you have an Ombudsman currently?

14 A No.

15 Q So what's the difference between an Ombudsman and
16 a Vicar?

17 A This time period was before the establishment of
18 an office called Vicar for Clergy or Vicar for
19 Priests. Just from hearing reports about what
20 had happened, it was determined that someone was
21 needed to sort out issues involving priests, and
22 I don't know who chose the name "ombudsman," and
23 I really do not know the role, but I do know that
24 in some instances Archbishop Cousins would rely
25 on Father Weber if there were any kinds of

1 complaints about a priest, and he would use
2 Father Weber to intervene and almost act as a
3 fact finder, and in some instances even an
4 adjudicator. This was a very short-lived
5 position, because the Vicar for Clergy position
6 came in existence within a year or so.

7 Q Of that?

8 A Of '75.

9 MR. LO COCO: That's all I have. Thank
10 you.

11 EXAMINATION

12 BY MR. FINNEGAN:

13 Q I do just have a couple follow-ups on that. I
14 wanted to ask about the Vicar Logs, the Vicar for
15 Clergy Logs that have been produced in these
16 cases.

17 A Yes.

18 Q The original document of those is -- that
19 contains entries for numerous different priests
20 that are -- they are all intermixed, is that
21 correct? Can you tell me?

22 A I can try to explain how the mystery of Vicar
23 Logs works. Every time a Vicar has any kind of
24 contact with or about a priest, he makes a note
25 of that. It then goes to his administrative

1 assistant who simply types them up in
2 chronological order. So on Monday received a
3 phone call that father so and so is going to the
4 hospital for surgery. Received information that
5 Father No. 2 is beginning to begin conversations
6 about asking for an associate. No. 3, Priest
7 No. 3. So these are chronological. That's the
8 way they are typed up and put into a log
9 register.

10 The administrative assistant then goes
11 through and copies everything or prints out
12 another copy of everything and actually cuts it
13 apart and places it in the Vicar for Clergy file
14 for that priest. So you actually have the same
15 log information, but compiled in two different
16 ways, one chronological, one priest by priest.
17 Does that make sense?

18 Q It does. How long has the practice been in place
19 where the administrative assistant cuts the Vicar
20 Logs and puts them into the individual priest's
21 file?

22 A My understanding is that that was done from the
23 outset of having a Vicar, but I can't speak to
24 that. That was long before I worked for the
25 Archdiocese.

1 Q And so the individual files that you have seen
2 that are in the Vicar for Clergy's office contain
3 a number of small, less than a full page entries
4 that are from the Vicar Logs on that individual
5 priest?

6 A Yes.

7 Q What was the process, if any, that you have gone
8 through in responding to the document requests
9 relative to the Vicar Logs?

10 MR. LO COCO: Can I hear that back.

11 COURT REPORTER: "What was the process,
12 if any, that you have gone through in responding
13 to the document requests relative to the Vicar
14 Logs?"

15 THE WITNESS: The inside cover of the
16 Vicar folders, I will call it a folder, is where
17 the logs are bracketed in place. So when I did
18 document production, I simply pulled the entire
19 folder on that priest and produced it. So when
20 it was produced, the Vicar Logs were on the
21 inside cover of that. Does that not comport to
22 your --

23 BY MR. FINNEGAN:

24 Q What's been produced to us is a full page that
25 has multiple small Vicar Log entries on it.

1 A Yes.

2 Q And is that how they look in the --

3 A Yes.

4 Q In the pages?

5 A Yes.

6 Q Okay. Do you know what happens within that
7 process to the notes which I presume are
8 handwritten notes that the Vicar takes that are
9 given to the administrative assistant?

10 A I have no idea how they do that.

11 Q And then --

12 A I take that back. In previous administrations in
13 the Vicar's Office some of the Vicars dictated
14 and their secretaries transcribed the log.

15 MR. FINNEGAN: And then I'm going to ask
16 you this just to not get the particulars, but to
17 identify what this type of log is.

18 (Exhibit 14 was marked.)

19 MR. LO COCO: So what is this document
20 is the question?

21 BY MR. FINNEGAN:

22 Q The question is, after you have had a chance to
23 look at it briefly, you don't have to -- I'm not
24 going to ask the particulars of it, but just as a
25 general matter do you know what this is a log of

1 or who keeps these type of logs?

2 A From the typewriter, it's not -- But from the
3 typewriter it looks like this would have been the
4 priest personnel file, and from the content it
5 looks like this would have been the Priest
6 Personnel Office. It looks like it's two pages
7 repeated, nine nine, ten ten.

8 Q Yes, it is. Do you know if a log like this, like
9 this exhibit, was kept for each priest by the
10 Priest Personnel Board?

11 A I don't know.

12 Q Then on the Vicar Logs how are they organized per
13 year in the overall big book that has all the
14 entries of the priests intermixed or are they
15 organized by year? Is there -- You described the
16 process of there's a copy made of that particular
17 day's entries and then the clips for each
18 individual priest are put in the individual
19 folders. What happens to the bigger log where
20 all the entries are intermixed?

21 A I think they are just put in a binder as backup,
22 as a duplicate.

23 Q In this process have you, in responding to any of
24 the discovery, looked through any of those
25 duplicates, the larger logs on any of the

1 priests?

2 A Not that I recall.

3 Q Is the Archdiocese still in possession of those?
4 Have you seen them?

5 A I thought we produced them, but I can
6 double-check. If we haven't, we can.

7 MR. LO COCO: I just don't remember as I
8 sit here. I mean, I have seen so many logs, I
9 don't know if we produced the chronological ones.

10 THE WITNESS: I haven't seen the
11 chronological ones. That is what I was
12 wondering, if that's still in existence.

13 MR. LO COCO: I mean, I remember you
14 having this -- Jeff having this conversation with
15 Bishop Sklba. He didn't do as good a job as
16 Dr. Cusack did in explaining how the things were
17 maintained, but we can check on that and we will
18 let you know.

19 MR. FINNEGAN: Thanks. I don't have
20 anything further.

21 MR. LO COCO: I have no questions.

22 VIDEOTAPE TECHNICIAN: This ends the
23 video deposition of Barbara Anne Cusack, JCD, on
24 January 29, 2013; the time 1:22 p.m.

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CERTIFICATE OF WITNESS

I, BARBARA ANNE CUSACK, have read the foregoing page and the corrections, if any, having been noted. The same is now a true and correct transcript of my testimony.

BARBARA ANNE CUSACK

STATE OF WISCONSIN)
_____ COUNTY)

Subscribed and sworn to before me this _____ day of _____, 2013.

Notary Public
In and for the State of Wisconsin
My commission expires _____, _____.

1 STATE OF WISCONSIN)

2 MILWAUKEE COUNTY)

3 I, KATHY A. HALMA, Registered

4 Professional Reporter and Notary Public in and for the

5 State of Wisconsin, do hereby certify that the video

6 deposition of BARBARA ANNE CUSACK, was taken before me

7 at the Law Offices of Whyte, Hirschboeck & Dudek, S.C.,

8 555 East Wells Street, Suite 1900, Milwaukee,

9 Wisconsin, on the 29th day of January, 2013, commencing

10 at 10:26 in the forenoon.

11 That it was taken at the instance of the
12 Debtor upon verbal interrogatories.

13 That said statement was taken to be used
14 in an action now pending in the UNITED STATES DISTRICT
15 COURT FOR THE EASTERN DISTRICT OF WISCONSIN BANKRUPTCY
16 COURT in which the ARCHDIOCESE OF MILWAUKEE is the
17 Debtor.

18 A P P E A R A N C E S

19 JEFF ANDERSON & ASSOCIATES, PA, 366
20 Jackson Street, Suite 100, St. Paul, Minnesota, 55101,
21 by MR. MICHAEL G. FINNEGAN, appeared on behalf of the
22 Certain Personal Injury Claimants.

23 WHYTE HIRSCHBOECK DUDEK, S.C., 555
24 East Wells Street, Suite 1900, Milwaukee, Wisconsin,
25 53202, by MR. FRANCIS H. LOCOCO, appeared on behalf of
the Debtor.

26 That said deponent, before examination,
27 was sworn to testify the truth, the whole truth, and

1 nothing but the truth relative to said cause.

2 That the foregoing is a full, true and
3 correct record of all the proceedings had in the matter
4 of the taking of said deposition, as reflected by my
5 original machine shorthand notes taken at said time and
6 place.

7

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Notary Public in and
11 for the State of Wisconsin

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Dated this 31st day of January, 2013,
14 Milwaukee, Wisconsin.

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