

**** 2010 Complaint brought in South Dakota involving abuse by Father J. Vincent Fitzgerald****

STATE OF SOUTH DAKOTA) IN CIRCUIT COURT
)
) :SS
 COUNTY OF MINNEHAHA) SECOND JUDICIAL CIRCUIT

M.W.D.; L.A.; R.W.T.; J.A.; J.W.; H.W.;)
 W.L.; C.B.; G.K.; P.W.; F.K.; L.L.;) CIV. NO. _____
 F.M.K.; H.R.; M.S.; C.C.A.; L.D.; M.A.;)
 C.S.J.; G.H.; F.W.; A.H.; U.A.; R.S.J.; ,)
) COMPLAINT
)

Plaintiffs,)

vs.)

THE CATHOLIC DIOCESE OF SIOUX)
 FALLS; TEKAKWITHA INDIAN)
 MISSION OF SISSETON, SOUTH)
 DAKOTA; U.S. PROVINCE OF THE)
 MISSIONARY OBLATES OF MARY)
 IMMACULATE, INC.; OBLATES OF)
 MARY IMMACULATE; SISTERS OF)
 THE DIVINE SAVIOR; BROTHER)
 HENRY BUSMAN; SISTER THERESA;)
 SISTER LAGENDA; SISTER JOHN;)
 FATHER FITZGERALD; FATHER)
 JOHN POHLEN, O.M.I.; BROTHER)
 TIM; SISTER BOGANINA; SISTER)
 LUCY MARIE; BROTHER LEROY;)
 SISTER KATHERINE; FATHER)
 EDWARD HESS, O.M.I.; SISTER)
 GABRINI; FATHER BALDEN; AND)
 FATHER GREGORY CHOLEWA,)
 O.M.I.,)

Defendants.)

COMPLAINT

COMES NOW Plaintiffs M.W.D.; L.A.; R.W.T.; J.A.; J.W.; H.W.; W.L.; C.B.; G.K.;
 P.W.; F.K.; L.L.; F.M.K.; H.R.; M.S.; C.C.A.; L.D.; M.A.; C.S.J.; G.H.; F.W.; A.H.; U.A.; and
 R.S.J. and for causes of action against Defendants THE CATHOLIC DIOCESE OF SIOUX
 FALLS; TEKAKWITHA INDIAN MISSION OF SISSETON, SOUTH DAKOTA; U.S.

PROVINCE OF THE MISSIONARY OBLATES OF MARY IMMACULATE, INC.; OBLATES OF MARY IMMACULATE; SISTERS OF THE DIVINE SAVIOR; BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I., and DOES 1 through 50, inclusive, alleges the following:

1. The above-named Plaintiffs are individuals.
2. Plaintiffs are members of a recognized Native American tribe.
3. As children, Plaintiffs were boarders/residents at the Tekakwitha Orphanage, located within the Tekakwitha Indian Mission in Sisseton, South Dakota on the Lake Traverse Indian Reservation (“TEKAKWITHA”).
4. At all relevant times, the TEKAKWITHA Orphanage was operated under the auspices of the Defendant CATHOLIC DIOCESE OF SIOUX FALLS (“DIOCESE”).
5. The DIOCESE operates and controls Catholic institutions located in South Dakota east of the Missouri River.
6. At all relevant times mentioned herein, Defendant TEKAKWITHA INDIAN MISSION OF SISSETON, SOUTH DAKOTA (“MISSION”), located on the Lake Traverse Reservation in South Dakota, was a Roman Catholic non-profit organization, organized and existing under and by virtue of the laws of South Dakota.
7. Defendant the U.S. PROVINCE OF THE MISSIONARY OBLATES OF MARY IMMACULATE, INC. (“OMII”) is a religious non-profit incorporated organization of Catholic brothers and priests affiliated with Defendant OBLATES OF MARY IMMACULATE.

that was kept in the Mother Superior's office. The nuns would rub lotion on Plaintiff and force Plaintiff to lay on the doll and move in a sexual way on the doll, simulating intercourse.

57. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 11, and during or about the years 1947 to 1954, SISTER THERESA also routinely physically abused Plaintiff. Plaintiff recalls one particular occasion when SISTER THERESA, along with two other nuns, beat her with an iron shovel in the basement of the Orphanage.

58. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff R.W.T. has experienced significant harm and injury.

59. Plaintiff R.W.T. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

60. WHEREFORE, Plaintiff R.W.T. demands judgment against Defendants, OMII; OMI; SDS; MISSION; SISTER THERESA; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF J.A.

61. Plaintiff J.A. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52 and 55 through 59.

62. While a resident at the TEKAKWITHA Orphanage, Plaintiff J.A. was sexually abused by SISTER JOHN, SISTER LAGENDA, BROTHER HENRY AND FATHER FITZGERALD.

63. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 13, and during or about the years 1960 to 1970, SISTER

JOHN sexually abused Plaintiff on numerous occasions by penetrating Plaintiff's vagina with her fingers.

64. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 13, and during or about the years 1960 to 1970, SISTER LAGENDA sexually abused Plaintiff on numerous occasions by penetrating Plaintiff's vagina with her fingers. While SISTER LAGENDA was penetrating Plaintiff's vagina with her fingers, she would tell Plaintiff that Plaintiff "was nasty" and that Plaintiff "had the devil in her." SISTER LAGENDA also forced Plaintiff and another minor child to touch each other sexually while SISTER LAGENDA watched them.

65. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 13, and during or about the years 1960 to 1970, FATHER FITZGERALD sexually abused Plaintiff on numerous occasions. FATHER FITZGERALD came to Plaintiff's bed at night and penetrated Plaintiff's vagina to the point that she was bleeding vaginally and FATHER FITZGERALD told her that it was okay because "girls bleed sometimes." On numerous occasions FATHER FITZGERALD unzipped his pants and rubbed his penis on Plaintiff's vagina, as well as trying to penetrate Plaintiff's vagina with his penis. FATHER FITZGERALD would rub his penis on Plaintiff's vagina until he ejaculated. FATHER FITZGERALD also forced Plaintiff to masturbate him until he ejaculated.

66. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 13, and during or about the years 1960 to 1970, BROTHER HENRY sexually abused Plaintiff by on multiple occasions by fondling and rubbing her breasts and genitals.

67. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 13, and during or about the years 1960 to 1970, MOTHER SUPERIOR would call Plaintiff into her office and force Plaintiff to simulate sexual acts with a doll that MOTHER SUPERIOR kept in her office. MOTHER SUPERIOR would sit behind her desk and watch as Plaintiff was forced to fondle the dolls breasts and touch the doll between its legs.

68. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 13, and during or about the years 1960 to 1970, she was physically abused by multiple priests, brothers and nuns. Plaintiff was routinely beaten with a leather belt, forced to kneel for hours at a time, and woken up in the middle of the night for beatings.

69. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 13, and during or about the years 1960 to 1970, BROTHER HENRY sexually abused Plaintiff on numerous occasions by penetrating Plaintiff's vagina with her fingers.

70. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff J.A. has experienced significant harm and injury.

71. Plaintiff J.A. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

72. WHEREFORE, Plaintiff J.A. demands judgment against Defendants, OMII; OMI; SDS; MISSION; BROTHER HENRY; FATHER FITZGERALD; SISTER JOHN; SISTER

99. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff C.B. has experienced significant harm and injury.

100. Plaintiff C.B. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

101. WHEREFORE, Plaintiff C.B. demands judgment against Defendants, OMII; OMI; SDS; MISSION; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF G.K.

102. Plaintiff G.K. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92 and 95 through 100.

103. While a resident at the TEKAKWITHA Orphanage, Plaintiff G.K. was sexually abused by BROTHER HENRY BUSMAN AND FATHER FITZGERALD.

104. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 10 and 11 and during or about the years 1965 to 1966, FATHER FITZGERALD would rub lotion on Plaintiff's penis and testicles on multiple occasions.

105. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 13 and 15, and during or about the years 1968 to 1970, Plaintiff was sexually abused by BROTHER HENRY BUSMAN on numerous occasions. BROTHER BUSMAN would grope and fondle Plaintiff's penis, masturbating him. BROTHER BUSMAN also forced Plaintiff to grope and fondle BROTHER BUSMAN'S penis. BROTHER HENRY

would masturbate Plaintiff and force Plaintiff to masturbate BROTHER HENRY while BROTHER HENRY watched other minor children engaging in sexual activity.

106. Plaintiff was also severely physically abused while he was a minor child residing at TEKAKWITHA Orphanage. A nun once broke a broom stick over his back and he was regularly beaten and whipped by the priests, brothers and nuns that worked at TEKAKWITHA.

107. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff G.K. has experienced significant harm and injury.

108. Plaintiff G.K. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

109. WHEREFORE, Plaintiff G.K. demands judgment against Defendants, OMII; OMI; SDS; MISSION; BROTHER HENRY BUSMAN; FATHER FITZGERALD; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF P.W.

110. Plaintiff P.W. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100 and 103 through 108.

111. While a resident at the TEKAKWITHA Orphanage, Plaintiff P.W. was sexually abused by FATHER JOHN POHLEN, O.M.I. AND SISTER LUCY MARIE (known to the children as MOTHER SUPERIOR).

112. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 9, and during or about the years 1955 to 1959, FATHER

262. Defendants engaged in extreme and outrageous conduct as identified in this Complaint with the intent to cause, or with reckless disregard of the probability of causing, Plaintiffs emotional distress.

263. Plaintiffs suffered resulting severe emotional distress from Defendants' conduct. Defendants' conduct was the actual and proximate cause of Plaintiffs' emotional distress.

264. As a result of Defendants' conduct, Plaintiffs have suffered and continue to suffer mental and emotional injuries, which include distress, anxiety, anguish, fright, shock, shame, humiliation, embarrassment, indignity, as well as other undesirable mental and emotional responses and other non-economic damages.

265. As a further result of Defendants' conduct, Plaintiffs have suffered other incidental and consequential damages.

266. Defendants and each of them acted for the purpose of causing Plaintiffs to suffer severe emotional distress and are guilty of oppression and malice, justifying an award of exemplary and punitive damages.

PRAYER

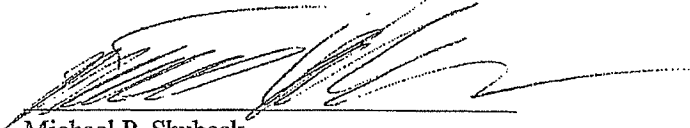
267. WHEREFORE, Plaintiffs demand judgment against Defendants, THE CATHOLIC DIOCESE OF SIOUX FALLS; TEKAKWITHA INDIAN MISSION OF SISSETON, SOUTH DAKOTA; U.S. PROVINCE OF THE MISSIONARY OBLATES OF MARY IMMACULATE, INC.; OBLATES OF MARY IMMACULATE; SISTERS OF THE DIVINE SAVIOR; BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER

GREGORY CHOLEWA, O.M.L., jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial in this action.

Dated this 19th day of July, 2010.



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