

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT
Case Type: Personal Injury

Steven M. Cantrell,

FILE NO.:

Plaintiff,

vs.

SUMMONS

Canons Regular of the Order of the Holy Cross,
Province of St. Odilia a/k/a Crosier Fathers and
Brothers Province, Inc., and
Fr. Gerald Funcheon,

Defendants.

THIS SUMMONS IS DIRECTED TO DEFENDANTS.

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this Summons.

2. **YOU MUST REPLY WITHIN 20 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this Summons a **written response** called an Answer within 20 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this Summons located at Jeff Anderson & Associates, P.A., 366 Jackson Street, Suite 100, St. Paul, MN 55101.

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.


4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 20 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the Complaint. If you do not want to contest the claims stated in the Complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the Complaint.

5. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

6. **ALTERNATIVE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

Dated: 5/10/12

JEFF ANDERSON & ASSOCIATES, P.A.


 By: Jeffrey R. Anderson, #2057
 Michael Finnegan #033649X
 366 Jackson Street, Suite 100
 St. Paul, Minnesota 55101
 (651) 227-9990

Michael T. Pfau, WSBA No. 24649
 Jason P. Amala, WSBA No. 37054
 PFAU COCHRAN VERTETIS AMALA PLLC
 403 Columbia Street, Suite 500
 Seattle, WA 98104
 (206) 462-4334
 Attorneys for Plaintiff

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT
Case Type: Personal Injury

Steven M. Cantrell,

FILE NO.:

Plaintiff,

vs.

COMPLAINT

Canons Regular of the Order of the Holy Cross,
Province of St. Odilia a/k/a Crosier Fathers and
Brothers Province, Inc., and
Fr. Gerald Funcheon,

Defendants.

NOW COMES Plaintiff Steven Cantrell, by and through his attorneys, Jeffrey R. Anderson and Michael G. Finnegan of Jeff Anderson & Associates, and Michael T. Pfau and Jason P. Amala of Pfau Cochran Vertetis Amala PLLC, for his causes of action against Defendants, states as follows:

PARTIES

1. Plaintiff Steven Cantrell (“Plaintiff”) is an adult male who resides outside of Minnesota. Plaintiff was a minor at the time of the sexual abuse alleged herein.

2. At all times material to the Complaint, Defendant Canons Regular of the Order of the Holy Cross, Province of St. Odilia, who also does business in Minnesota as Crosier Fathers and Brothers Province, Inc. (collectively referred to as the “Crosiers”), were and continue to be a Roman Catholic religious order of priests and brothers affiliated with the Roman Catholic Church. The Crosiers’ principle place of business is located at 104 North Crosier Drive, Onamia, Minnesota 56359.

3. At all times material, Defendant Father Gerald Funcheon (hereinafter referred to as “Fr. Funcheon” or “Funcheon”) was a Roman Catholic Priest and a member of, educated by, and under the direct supervision, authority, employ, and control of the Crosiers.

FACTS

4. When he was a boy, Plaintiff converted to the Roman Catholic Church (“Church”). Shortly after he was baptized into the Church, and while he was attending Palma High School, a Catholic high school, Plaintiff was introduced to a Catholic priest, Fr. Gerald Funcheon (“Fr. Funcheon”). Plaintiff and his parents, including his mother who was also Catholic, had a great amount of admiration, trust, and respect for Catholic priests, including Fr. Funcheon.

5. Fr. Funcheon was a Catholic priest and a member of the Crosiers. He was educated and trained as a Crosier priest, and after he was ordained as a Crosier and took a vow of obedience to the Crosiers, Fr. Funcheon was assigned by the Crosiers to various assignments, including Palma High School in Salinas, California (“Palma”). During those assignments the Crosiers actively supervised Fr. Funcheon, were at least partly responsible for his work, and remained ultimately responsible for his conduct.

6. In approximately 1984, the Crosiers assigned Fr. Funcheon to work as a chaplain, counselor, and teacher at Palma, where the Crosiers knew that Fr. Funcheon would be working with children and knew that he would be entrusted with their care.

7. By placing Fr. Funcheon at Palma, the Crosiers affirmatively represented to Plaintiff and his family that Fr. Funcheon did not have a history of molesting children, that the Crosiers did not know that Fr. Funcheon had a history of molesting children, and that the Crosiers did not know that Fr. Funcheon was a danger to children.

8. Plaintiff was a student at Palma during the time that Fr. Funcheon was assigned to the school. When Plaintiff was approximately thirteen years old and a Palma student, he was introduced to Fr. Funcheon. Given his position as a Crosier priest at the school, Plaintiff and his parents admired, trusted, and respected Fr. Funcheon.

9. After meeting Plaintiff, Fr. Funcheon used his position of authority as a Crosier priest, chaplain, counselor, and teacher at Palma to groom Plaintiff and his family. After gaining their trust and respect, which was easy for him to do given the Crosiers' representation that he was a safe and trustworthy person, Fr. Funcheon isolated Plaintiff and other boys and sexually abused them.

10. For example, Fr. Funcheon used his position as a Crosier priest and Palma authority figure to lure Plaintiff on a camping trip. Plaintiff agreed to go on the trip, and Plaintiff's parents allowed him to go on the trip, because they believed that Fr. Funcheon was safe and trustworthy. During the trip Fr. Funcheon sodomized and sexually abused Plaintiff, who was approximately fourteen years old at the time.

11. Unlike Plaintiff and his parents, the Crosiers knew that Fr. Funcheon would use his position as a Crosier priest at Palma High School to sexually abuse Plaintiff and other children. They knew as much because they had previously received several reports of Fr. Funcheon sexually abusing other children, and they knew or should have known that Fr. Funcheon used alcohol and prescription drugs to take advantage of those children.

12. The fact that the Crosiers knew that Fr. Funcheon posed a danger to Plaintiff and other children at Palma is reflected in the fact that they had repeatedly moved him from place to place because of complaints and concerns that he had acted inappropriately and sexually abused children. By the time the Crosiers transfer Fr. Funcheon to Palma High School, they had

already transferred him between several different locations in Minnesota, Indiana, Florida, Germany, and Hawaii.

13. Despite knowing with near certainty that Fr. Funcheon would continue to sexually abuse children, including Plaintiff and the other children at Palma, the Crosiers transferred Fr. Funcheon to Palma and allowed him to have unsupervised and unlimited access to children, including Plaintiff. And although the Crosiers were well aware of the danger Fr. Funcheon posed to Plaintiff and the other Palma children, the Crosiers failed to warn Plaintiff or his parents that Fr. Funcheon was a known child molester.

14. Instead of doing anything to protect Plaintiff and the other children at Palma, the Crosiers actively and fraudulently concealed his prior misconduct and abuse of children in order to protect their name and reputation, to profit from his vows of obedience and poverty, and to avoid civil liability for their failure to protect children.

15. By assigning Fr. Funcheon to work with Plaintiff and other children at Palma, and by holding out Fr. Funcheon as a priest, chaplain, counselor, and teacher who was fit to hold those positions and who could be trusted with the custody and care of Plaintiff and other children at Palma, the Crosiers entered into a special relationship with Plaintiff. The Crosiers knew Fr. Funcheon would use his position at Palma to take *in loco parentis* custody and control of Plaintiff and other children. Their actions and knowledge created a duty to take reasonable steps to protect Plaintiff from the danger posed by Fr. Funcheon, and that duty included warning Plaintiff and his parents that Fr. Funcheon was a serial sexual predator who posed a danger to children.

16. The Crosiers also created a special, fiduciary relationship with Plaintiff by holding themselves and Fr. Funcheon out as counselors and instructors on matters that were

spiritual, moral, and ethical. Based on their representations, Plaintiff and his parents trusted the Crosiers and Fr. Funcheon and allowed them to gain superiority and influence over them. This fiduciary relationship denied Plaintiff and his parents the ability to effectively protect Plaintiff from Fr. Funcheon.

17. This fiduciary relationship also created a duty of good faith and fair dealing, and a duty to act with the highest degree of trust and confidence. The Crosiers were obligated to warn Plaintiff and his parents of the danger posed by Fr. Funcheon, particularly where the Crosiers knew that Plaintiff and his parents were justifiably relying on their representations that Fr. Funcheon was safe and could be trusted with children, and the Crosiers knew that they had superior knowledge about Fr. Funcheon's danger to children.

18. The Crosiers breached their duty to protect Plaintiff from foreseeable harm by failing to warn him or his parents that Fr. Funcheon posed a danger to Plaintiff and other children, and by failing to otherwise ensure that Fr. Funcheon could not use his position at Palma to groom and sexually abuse Plaintiff.

19. Plaintiff was harmed as a direct and proximate result of the Crosiers failing to take reasonable steps to protect him from Fr. Funcheon because their acts and omissions allowed Fr. Funcheon to groom and sexually abuse Plaintiff. The abuse caused Plaintiff to suffer severe emotional distress; psychological injuries; feelings of shame, embarrassment, and powerlessness; loss of enjoyment of life; and, most likely, lost wages and future medical costs.

20. The sexual abuse of Plaintiff and the circumstances under which it occurred caused Plaintiff to repress all memories of the abuse until very recently. As a result of Plaintiff's repressed memory, and as a result of the Crosiers' fraudulent conduct, Plaintiff was until recently unable to perceive or know that: 1) Fr. Funcheon had sexually abused him, 2) the conduct of Fr.

Funcheon was wrongful or abusive; 3) the Crosiers knew or had reason to know that Fr. Funcheon was a pedophile prior to his abuse; 4) the Crosiers were responsible for the abuse; and 5) the injuries Plaintiff suffered were the result of the abuse.

21. Furthermore, because Plaintiff's emotional and psychological injuries manifested themselves in ways seemingly unconnected to the sexual abuse by Fr. Funcheon, Plaintiff was unable to perceive or know the existence or nature of his psychological and emotional injuries and their causal connection to the sexual abuse. Only recently has Plaintiff begun to know or have reason to know that the Crosiers engaged in wrongful or abusive acts, and/or that those acts were connected to his injuries.

COUNT ONE:
SEXUAL ASSAULT AND BATTERY AGAINST FUNCHEON

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

23. In approximately 1985, while Plaintiff was a minor boy, Fr. Funcheon intentionally engaged in harmful and offensive touching and manipulation of Plaintiff and his genitals. This contact included sexual assault.

24. Fr. Funcheon knew or should have known that Plaintiff would find such conduct offensive.

25. As a direct and proximate result of these acts, Plaintiff has suffered the injuries and damages described herein.

COUNT TWO:
VICARIOUS LIABILITY

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

27. The Crosiers hired, trained, and educated Fr. Funcheon for his employment and service as a Crosier priest, chaplain, counselor, and teacher, including for his service in those roles at Palma High School.

28. At all times material, including his time at Palma, the Crosiers authorized, empowered, and relied upon Fr. Funcheon to work and serve as a Crosier priest, chaplain, counselor, and teacher, and to do so while working with children.

29. Although the Crosiers assigned Fr. Funcheon to work and serve at places such as Palma, they maintained at least partial authority and control over him and they had the ability to prevent him from abusing Plaintiff and other children.

30. During his assignment at Palma, the Crosiers represented to Plaintiff and his parents that Fr. Funcheon was a fit and competent agent of the Crosiers who could be trusted with the care and custody of Plaintiff and other children.

31. As explained above, in approximately 1985, Fr. Funcheon engaged in unpermitted, harmful and offensive sexual contact with Plaintiff, and he did so while he was an employee and/or agent of the Crosiers and while in the course and scope of his employment and/or agency with the Crosiers. Fr. Funcheon was able to sexually abuse Plaintiff by virtue of his job-created authority with the Crosiers.

32. The Crosiers also ratified Fr. Funcheon's sexual abuse of Plaintiff because they knew he had a long history of using his positions of authority in order to sexually abuse children, and despite that knowledge, they did nothing to remove him from those positions. Instead, they continued to give him new assignments, including his position at Palma, he continued to abuse children, including Plaintiff, and they continued to repeat the benefits of his cheap labor, including his labor at Palma. The Crosiers maintained a financial motive to keep giving Fr.

Funcheon new assignments: for one, they profited by keeping him quiet and moving him away from potential lawsuits; and two, they profited from the cheap labor he provided under his “vow of poverty” to the Crosiers. Given these circumstances, the Crosiers should be held vicariously liable for ratifying Fr. Funcheon’s abuse of children, including Plaintiff.

33. Upon information and belief, at all times material, Fr. Funcheon was under the direct supervision and control of the Crosiers when he negligently, grossly negligently and/or intentionally performed his duties and committed the wrongful acts described herein, including the sexual abuse of Plaintiff.

34. Fr. Funcheon was acting at least in part to serve the interests of the Crosiers when he sexually abused Plaintiff. Specifically, Fr. Funcheon was acting as a Crosier priest, chaplain, counselor, and/or teacher, and was using the trust, power, and authority of those positions, when he was with Plaintiff. Simultaneously, Fr. Funcheon used the same power and authority to gain Plaintiff’s confidence and trust in order to sexually abuse him.

35. By using his position as a Crosier priest, chaplain, counselor, and/or teacher, and the trust, power, and authority those positions conferred upon him, Fr. Funcheon purported and appeared to act and/or speak on behalf of the Crosiers when he groomed and sexually abused Plaintiff. Plaintiff and his parents further relied up on Fr. Funcheon’s actual and/or apparent authority to act on behalf of the Crosiers when they allowed Fr. Funcheon to take custody and control of Plaintiff.

36. Fr. Funcheon would not have been able to groom and sexually abuse Plaintiff if the Crosiers had not given him the apparent and/or actual authority and ability to act as a religious leader of the Crosiers who was under their direct supervision and control.

37. Therefore, the Crosiers are liable for the negligent and wrongful conduct of Fr.

Funcheon under the law of vicarious liability, including the doctrines of *respondeat superior* and ratification.

38. As a direct and proximate result of these acts and omissions, Plaintiff has suffered the injuries and damages described herein.

COUNT THREE:
NEGLIGENCE

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

40. The Crosiers had a duty to protect Plaintiff from foreseeable harm by Fr. Funcheon because they assigned him to Palma High School and employed him at the school as a Crosier priest, chaplain, counselor, and/or teacher. Upon information and belief, the Crosiers materially benefited from assigning Fr. Funcheon to Palma, including payment for his services and payment for his living expenses. This special relationship between the Crosiers and Fr. Funcheon created a duty on their part to protect his foreseeable sexual abuse victims, including Plaintiff, from being sexually abused by him.

41. The Crosiers also had a duty to protect Plaintiff from foreseeable harm by Fr. Funcheon because they held Fr. Funcheon out to the public, including Plaintiff and his parents, as a competent, safe, and trustworthy employee, agent, representative, priest, chaplain, counselor, and/or teacher who could be trusted with the care and custody of Plaintiff. This special relationship between the Crosiers and Fr. Funcheon created a duty on their part to protect his foreseeable sexual abuse victims, including Plaintiff, from being sexually abused by him.

42. The Crosiers also had a duty to protect Plaintiff from foreseeable harm by Fr. Funcheon because they assigned Fr. Funcheon to serve as a priest, chaplain, counselor, and/or teacher at Palma and they knew that those positions would allow Fr. Funcheon to take custody

and control of Palma students, including Plaintiff. This special relationship between the Crosiers and Plaintiff created a duty on their part to protect Plaintiff from foreseeable harm, including sexual abuse by Fr. Funcheon.

43. Before and during the time the Crosiers had a duty to protect Plaintiff from Fr. Funcheon, the Crosiers knew, or certainly should have known, that Fr. Funcheon possessed an uncontrollable urge to sexually molest young boys, and they knew the only way to protect children, including Plaintiff, from Fr. Funcheon was to keep him away from them and to inform Plaintiff and his parents that he was dangerous and could not be trusted with the custody and care of Plaintiff.

44. Moreover, at all times material, Fr. Funcheon was an employee and agent of the Crosiers, and he was under the direct supervision and control of the Crosiers when he negligently performed his duties and committed the wrongful acts described herein. Fr. Funcheon engaged in the wrongful conduct while acting in the course and scope of his employment and agency with the Crosiers and/or accomplished the sexual abuse by virtue of his job-created authority.

45. The Crosiers breached the above duties to protect Plaintiff because they did nothing to keep Fr. Funcheon away from Plaintiff or to warn Plaintiff or his parents that he was dangerous and could not be trusted with the custody and care of Plaintiff.

46. The Crosiers also knew, or certainly should have known, that their attempts to cover-up Fr. Funcheon's sexual abuse of children, including Plaintiff, would, if discovered, likely cause increased emotional suffering to his victims and their families, including Plaintiff.

47. The Crosiers breached the above duties by their successful efforts to cover-up Fr. Funcheon's sexual abuse of children, including Plaintiff, and Plaintiff has endured additional emotional suffering because of those efforts.

48. As a direct and proximate result of the above-described acts and omissions, Plaintiff has suffered the injuries and damages described herein.

COUNT FOUR:
NEGLIGENT RETENTION

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

50. The Crosiers had a duty to protect Plaintiff from foreseeable harm by Fr. Funcheon because they assigned him to Palma High School and employed him at the school as a Crosier priest, chaplain, counselor, and/or teacher. Upon information and belief, the Crosiers materially benefited from assigning Fr. Funcheon to Palma, including payment for his services and payment for his living expenses. This special relationship between the Crosiers and Fr. Funcheon created a duty on their part to protect his foreseeable sexual abuse victims, including Plaintiff, from being sexually abused by him.

51. The Crosiers also had a duty to protect Plaintiff from foreseeable harm by Fr. Funcheon because they held Fr. Funcheon out to the public, including Plaintiff and his parents, as a competent, safe, and trustworthy employee, agent, representative, priest, chaplain, counselor, and/or teacher who could be trusted with the care and custody of Plaintiff. This special relationship between the Crosiers and Fr. Funcheon created a duty on their part to protect his foreseeable sexual abuse victims, including Plaintiff, from being sexually abused by him.

52. The Crosiers also had a duty to protect Plaintiff from foreseeable harm by Fr. Funcheon because they assigned Fr. Funcheon to serve as a Crosier priest, chaplain, counselor, and/or teacher at Palma and they knew that those positions would allow Fr. Funcheon to take custody and control of Palma students, including Plaintiff. This special relationship between the Crosiers and Plaintiff created a duty on their part to protect Plaintiff from foreseeable harm,

including sexual abuse by Fr. Funcheon.

53. Before and during the time the Crosiers had a duty to protect Plaintiff from Fr. Funcheon, the Crosiers knew, or certainly should have known, that Fr. Funcheon possessed an uncontrollable urge to sexually molest young boys, and they knew the only way to protect children, including Plaintiff, from Fr. Funcheon was to keep him away from them and to inform Plaintiff and his parents that he was dangerous and could not be trusted with the custody and care of Plaintiff.

54. Moreover, at all times material, Fr. Funcheon was an employee and agent of the Crosiers, and he was under the direct supervision and control of the Crosiers when he negligently performed his duties and committed the wrongful acts described herein. Fr. Funcheon engaged in the wrongful conduct while acting in the course and scope of his employment and agency with the Crosiers and/or accomplished the sexual abuse by virtue of his job-created authority.

55. The Crosiers breached the above duties to protect Plaintiff because, despite their knowledge that he was a sexual predator, they continued to place Fr. Funcheon in a position of trust and authority over the children at Palma, including Plaintiff, as a priest, counselor, and teacher without proper or adequate supervision. As a result, the Crosiers provided Fr. Funcheon with the opportunity to commit the wrongful acts against Plaintiff that are described herein.

56. The Crosiers further breached the above duties to protect Plaintiff because, despite their knowledge that he was a sexual predator, the Crosiers did nothing to prevent Fr. Funcheon from using his positions at Palma to sexually abuse Plaintiff, and upon information and belief, they did nothing to remove Fr. Funcheon from Palma when they knew or should have known that he was sexually abusing children. As a result, the Crosiers provided Fr. Funcheon with the opportunity to commit the wrongful acts against Plaintiff that are described herein.

57. The Crosiers further breached the above duties to protect Plaintiff because, despite their knowledge that he was a sexual predator, the Crosiers held Fr. Funcheon out as someone who was fit and qualified to be a Crosier priest, chaplain, counselor, and/or teacher at Palma, and they continued to employ him in a position of trust and authority over Plaintiff and other children at Palma without proper or adequate supervision. As a result, the Crosiers provided Fr. Funcheon with the opportunity to commit the wrongful acts against Plaintiff that are described herein.

58. As a direct and proximate result of the above-described acts and omissions, Plaintiff has suffered the injuries and damages described herein.

COUNT FIVE:
NEGLIGENT SUPERVISION

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

60. The Crosiers had a duty to protect Plaintiff from foreseeable harm by Fr. Funcheon because they assigned him to Palma High School and employed him at the school as a Crosier priest, chaplain, counselor, and/or teacher. Upon information and belief, the Crosiers materially benefited from assigning Fr. Funcheon to Palma, including payment for his services and payment for his living expenses. This special relationship between the Crosiers and Fr. Funcheon created a duty on their part to protect his foreseeable sexual abuse victims, including Plaintiff, from being sexually abused by him.

61. The Crosiers also had a duty to protect Plaintiff from foreseeable harm by Fr. Funcheon because they held Fr. Funcheon out to the public, including Plaintiff and his parents, as a competent, safe, and trustworthy employee, agent, representative, priest, chaplain, counselor, and/or teacher who could be trusted with the care and custody of Plaintiff. This

special relationship between the Crosiers and Fr. Funcheon created a duty on their part to protect his foreseeable sexual abuse victims, including Plaintiff, from being sexually abused by him.

62. The Crosiers also had a duty to protect Plaintiff from foreseeable harm by Fr. Funcheon because they assigned Fr. Funcheon to serve as a Crosier priest, chaplain, counselor, and/or teacher at Palma and they knew that those positions would allow Fr. Funcheon to take custody and control of Palma students, including Plaintiff. This special relationship between the Crosiers and Plaintiff created a duty on their part to protect Plaintiff from foreseeable harm, including sexual abuse by Fr. Funcheon.

63. Before and during the time the Crosiers had a duty to protect Plaintiff from Fr. Funcheon, the Crosiers knew, or certainly should have known, that Fr. Funcheon possessed an uncontrollable urge to sexually molest young boys, and they knew the only way to protect children, including Plaintiff, from Fr. Funcheon was to keep him away from them and to inform Plaintiff and his parents that he was dangerous and could not be trusted with the custody and care of Plaintiff.

64. Moreover, at all times material, Fr. Funcheon was an employee and agent of the Crosiers, and he was under the direct supervision and control of the Crosiers when he negligently performed his duties and committed the wrongful acts described herein. Fr. Funcheon engaged in the wrongful conduct while acting in the course and scope of his employment and agency with the Crosiers and/or accomplished the sexual abuse by virtue of his job-created authority.

65. The Crosiers breached the above duties to protect Plaintiff because, despite their knowledge that he was a sexual predator, they failed to supervise Fr. Funcheon. The Crosiers did nothing to prevent Fr. Funcheon from using his positions at Palma to sexually abuse Plaintiff, and upon information and belief, they did nothing to protect Plaintiff from Fr. Funcheon after

they knew or should have known that he was sexually abusing children at Palma. As a result, the Crosiers provided Fr. Funcheon with the opportunity to commit the wrongful acts against Plaintiff that are described herein.

66. As a direct and proximate result of the above-described acts and omissions, Plaintiff has suffered the injuries and damages described herein.

67. As a result of the Crosiers' inadequate supervision of Fr. Funcheon, Plaintiff was sexually abused by Fr. Funcheon when Plaintiff was approximately fourteen years old.

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

COUNT SIX:
FRAUD (INTENTIONAL MISREPRESENTATION)

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

70. The Crosiers are liable for fraud because they affirmatively represented to Plaintiff and his parents that Fr. Funcheon did not have a history of molesting children, that the Crosiers did not know that Fr. Funcheon had a history of molesting children, that the Crosiers did not know that Fr. Funcheon could not be trusted with the care and custody of Plaintiff, and/or that the Crosiers did not know that Fr. Funcheon was a danger to Plaintiff.

71. These representations were made to Plaintiff and his parents both verbally and in writing. For example, the Crosiers authorized and encouraged Palma to announce verbally and in writing to Plaintiff and his parents that Fr. Funcheon had joined the Palma staff, was fit to serve as a priest, priest, chaplain, counselor, and/or teacher, and could be trusted with the custody and care of Plaintiff.

72. At no point did the Crosiers warn Plaintiff or his parents that Fr. Funcheon had a

history of molesting children, that the Crosiers knew that Fr. Funcheon had a history of molesting children, that the Crosiers knew that Fr. Funcheon could not be trusted with the care and custody of Plaintiff, and/or that the Crosiers knew that Fr. Funcheon was a danger to Plaintiff.

73. Plaintiff and his parents relied upon these representations of the Crosiers when they decided that it was safe for Plaintiff to spend time with Fr. Funcheon, including the time when he sexually abused Plaintiff.

74. These representations were material, false, and misleading because Plaintiff would not have spent time with Fr. Funcheon if Plaintiff and his parents knew that Fr. Funcheon had a history of sexually abusing children and that he could not be trusted with the care and custody of Plaintiff.

75. The Crosiers knew these representations were false and misleading because they knew that Fr. Funcheon had a history of molesting children, they knew that Fr. Funcheon could not be trusted with the care and custody of Plaintiff, and they knew that Fr. Funcheon was a danger to Plaintiff.

76. The Crosiers made these representations with the intent of inducing Plaintiff and his parents to rely on the representations so they would continue to trust Fr. Funcheon, so the Crosiers could continue to materially benefit from Fr. Funcheon's services as a Crosier priest, and so the Crosiers could avoid civil liability for his sexual abuse of Plaintiff and other children. Moreover, the Crosiers knew that if they revealed the truth about Fr. Funcheon, Plaintiff and his parents would not allow Fr. Funcheon to remain at Palma High School and they knew Plaintiff and his parents would not allow Fr. Funcheon to take custody and control of Plaintiff.

77. Plaintiff and his parents reasonably relied on these representations because they

allowed Fr. Funcheon to have custody and control of Plaintiff and they allowed Plaintiff to spend unsupervised time with Fr. Funcheon. If Plaintiff and his parents knew these representations were false, Fr. Funcheon would not have been allowed to have custody and control of Plaintiff and Plaintiff would not have been allowed to spend unsupervised time with Fr. Funcheon.

78. The reliance of Plaintiff and his parents was reasonable and justified because they did not know, nor could they have known, that Fr. Funcheon had a history of molesting children, that the Crosiers knew that Fr. Funcheon had a history of molesting children, that the Crosiers knew that Fr. Funcheon could not be trusted with the care and custody of Plaintiff, and/or that the Crosiers knew that Fr. Funcheon was a danger to Plaintiff. Given the superior and unique knowledge possessed and exclusively held by the Crosiers about Fr. Funcheon, Plaintiff and his parents reasonably and rightfully relied upon these representations by the Crosiers, including their representation that he could be trusted with custody and control of Plaintiff.

79. Plaintiff and his parents acted to their detriment in relying upon these representations by the Crosiers because they allowed Fr. Funcheon to take custody and control of Plaintiff and they allowed Plaintiff to spend time with Fr. Funcheon.

80. As a direct and proximate result of these fraudulent representations by the Crosiers, Plaintiff suffered the abuse and damages as described more fully herein.

81. However, Plaintiff did not discover, and could not have reasonably discovered, that the Crosiers' representations were a causal factor in his abuse until recently, when he learned that Fr. Funcheon had a history of molesting children, that the Crosiers knew that Fr. Funcheon had a history of molesting children, that the Crosiers knew that Fr. Funcheon could not be trusted with the care and custody of Plaintiff, and/or that the Crosiers knew that Fr. Funcheon was a danger to Plaintiff.

COUNT SEVEN:
FRAUD (NEGLIGENT MISREPRESENTATION)

82. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth in this count.

83. The Crosiers had a duty to protect Plaintiff from foreseeable harm by Fr. Funcheon because they assigned him to Palma High School and employed him at the school as a Crosier priest, chaplain, counselor, and/or teacher. Upon information and belief, the Crosiers materially benefited from assigning Fr. Funcheon to Palma, including payment for his services and payment for his living expenses. This special relationship between the Crosiers and Fr. Funcheon created a duty on their part to protect his foreseeable sexual abuse victims, including Plaintiff, from being sexually abused by him.

84. The Crosiers also had a duty to protect Plaintiff from foreseeable harm by Fr. Funcheon because they held Fr. Funcheon out to the public, including Plaintiff and his parents, as a competent, safe, and trustworthy employee, agent, representative, priest, chaplain, counselor, and/or teacher who could be trusted with the care and custody of Plaintiff. This special relationship between the Crosiers and Fr. Funcheon created a duty on their part to protect his foreseeable sexual abuse victims, including Plaintiff, from being sexually abused by him.

85. The Crosiers also had a duty to protect Plaintiff from foreseeable harm by Fr. Funcheon because they assigned Fr. Funcheon to serve as a priest, chaplain, counselor, and/or teacher at Palma and they knew that those positions would allow Fr. Funcheon to take custody and control of Palma students, including Plaintiff. This special relationship between the Crosiers and Plaintiff created a duty on their part to protect Plaintiff from foreseeable harm, including sexual abuse by Fr. Funcheon.

86. Moreover, the Crosiers had a duty to disclose material facts about Fr. Funcheon to

Plaintiff and his parents, including his prior abuse of children and the danger he posed to Plaintiff, because the Crosiers encouraged, authorized, and approved Fr. Funcheon to work closely with Plaintiff and other young boys at Palma as a priest, chaplain, counselor, and/or teacher; the Crosiers knew or should have known that Fr. Funcheon would have access to children, including Plaintiff, and would take them into his custody and control; the Crosiers knew or should have known that Fr. Funcheon was a danger to children, including Plaintiff; and, the Crosiers knew or should have known that Plaintiff and his parents would place the utmost trust in Fr. Funcheon, particularly when Fr. Funcheon was allowed to take custody and control of Plaintiff.

87. The Crosiers affirmatively represented to Plaintiff and his parents that Fr. Funcheon did not have a history of molesting children, and that Fr. Funcheon could be trusted with the care and custody of Plaintiff. For example, the Crosiers authorized and encouraged Palma to announce verbally and in writing to Plaintiff and his parents that Fr. Funcheon had joined the Palma staff, was fit to serve as a priest, priest, chaplain, counselor, and/or teacher, and could be trusted with the custody and care of Plaintiff.

88. As discussed above, by the time he started sexually abusing Plaintiff, Fr. Funcheon did have a history of molesting children, and Fr. Funcheon could not be trusted with the care and custody of Plaintiff.

89. The Crosiers, in acts separate from and before their representations, failed to use ordinary care in making the representations or in ascertaining facts related to Funcheon. The Crosiers reasonably should have foreseen that their representations would subject Plaintiff to an unreasonable risk of harm; namely, sexually abuse by Fr. Funcheon.

90. Plaintiff and his parents believed and justifiably relied upon the Crosiers

representations which caused him to be sexually molested by Fr. Funcheon.

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

COUNT EIGHT:
FRAUD (INTENTIONAL NON-DISCLOSURE)

92. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth in this count.

93. Plaintiff was prevented from effectively protecting himself from Fr. Funcheon because he was a minor at the time the Crosiers assigned Fr. Funcheon to Palma, and as described above, Plaintiff and his parents relied upon the Crosiers to assign priests who were qualified and fit for that assignment and who could be trusted with the custody and care of Plaintiff.

94. Given that relationship, the Crosiers held a position of empowerment over Plaintiff to such an extent that Plaintiff was prevented from effectively protecting himself from Fr. Funcheon, absent the disclosure of the material facts described herein. This same relationship also gave rise to a duty on behalf of the Crosiers to disclose to Plaintiff the material facts described in this Complaint, including the fact that Fr. Funcheon had a history of sexually abusing children and could not be trusted with the custody and control of Plaintiff.

95. Moreover, the Crosiers had special knowledge of the material fact that priests regularly participated in sexual activity. The Crosiers also had special knowledge, or should have known, of the material facts that priests generally, and Fr. Funcheon in particular, participated in sexual activity with minors. Plaintiff did not have access to these material facts, which prevented Plaintiff from effectively protecting himself from Fr. Funcheon.

96. The Crosiers also had special knowledge, or should have known, of the material

fact that Fr. Funcheon participated in sexual activity with minors prior to Fr. Funcheon having sexual contact with Plaintiff. Plaintiff did not have access to these material facts, which prevented him from effectively protecting himself from Fr. Funcheon.

97. As discussed above, by the time the Crosiers assigned Fr. Funcheon to Palma, they knew that Fr. Funcheon had a history of molesting children, they knew that Fr. Funcheon could not be trusted with the care and custody of Plaintiff, and they knew that Fr. Funcheon was a danger to Plaintiff.

98. Despite that knowledge, the Crosiers continued to represent to Plaintiff and his parents that Fr. Funcheon did not have a history of molesting children, that the Crosiers did not know that Fr. Funcheon had a history of molesting children, that the Crosiers did not know that Fr. Funcheon could not be trusted with the care and custody of Plaintiff, and/or that the Crosiers did not know that Fr. Funcheon was a danger to Plaintiff.

99. These representations were made to Plaintiff and his parents both verbally and in writing. For example, the Crosiers authorized and encouraged Palma to announce verbally and in writing to Plaintiff and his parents that Fr. Funcheon had joined the Palma staff, was fit to serve as a priest, priest, chaplain, counselor, and/or teacher, and could be trusted with the custody and care of Plaintiff.

100. By doing so, the Crosiers ensured that a material fact and risk regarding Fr. Funcheon remained hidden and concealed from Plaintiff and his parents; namely, that Fr. Funcheon could not be trusted with custody and control of Plaintiff because he would groom and sexually abuse him. That risk endangered boys like Plaintiff, but it was not apparent to Plaintiff or his parents because of the Crosiers' representations and because the Crosiers did nothing to warn Plaintiff or his parents about it.

101. Rather than disclose that vital and material risk to Plaintiff or his parents, the Crosiers concealed the risk in order to lure Plaintiff and his parents into a relationship with them so that they could continue to materially benefit from Fr. Funcheon's services as a Crosier priest, and so the Crosiers could avoid civil liability for his sexual abuse of Plaintiff and other children. Moreover, the Crosiers knew that if they revealed this material risk and fact about Fr. Funcheon, Plaintiff and his parents would not allow Fr. Funcheon to remain at Palma High School and they knew Plaintiff and his parents would not allow Fr. Funcheon to take custody and control of Plaintiff.

102. The representations of the Crosiers, the reliance of Plaintiff and his parents, and the superior and unique knowledge possessed by the Crosiers regarding Fr. Funcheon and the danger he posed to Plaintiff, created a fiduciary relationship wherein the Crosiers had a duty to disclose to Plaintiff and his parents the vital and material facts and risks described above.

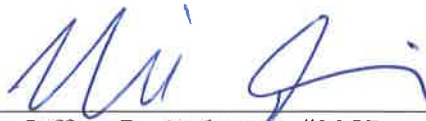
103. However, the Crosiers did not disclose those vital and material facts and risks to Plaintiff or his parents, including the fact that they knew that (1) Fr. Funcheon had a history of molesting children, (2) Fr. Funcheon could not be trusted with the care and custody of Plaintiff, and (3) Fr. Funcheon was a danger to Plaintiff.

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

WHEREFORE, Plaintiff demands judgment against each Defendant individually, jointly and severally in an amount in excess of \$50,000, plus costs, disbursements, reasonable attorneys' fees, interest, and such other relief as the court deems just and equitable.

Dated: 5/10/12

JEFF ANDERSON & ASSOCIATES, P.A.



By: Jeffrey R. Anderson, #2057
Michael G. Finnegan, #033649X
Attorneys for Plaintiff
366 Jackson Street, Suite 100
St. Paul, Minnesota 55101
(651) 227-9990

Michael T. Pfau, WSBA No. 24649
Jason P. Amala, WSBA No. 37054
PFAU COCHRAN VERTETIS AMALA PLLC
403 Columbia Street, Suite 500
Seattle, WA 98104
(206) 462-4334

Attorneys for Plaintiff

ACKNOWLEDGMENT

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

