

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT
Case Type: Personal Injury

Doe 27,

Plaintiff,

COMPLAINT

vs.

The Order of St. Benedict a/k/a and d/b/a
St. John's Abbey, Archdiocese of St. Paul
and Minneapolis, Saint Luke Institute,
and Reverend Francis Hoefgen, OSB,

Defendants.

Plaintiff, for his causes of action against Defendants, alleges that:

PARTIES

1. At all relevant times for this Complaint, Plaintiff Doe 27 resided in the State of Minnesota. The identity of Plaintiff Doe 27 has been disclosed under separate cover to Defendants.

2. Defendant Order of St. Benedict a/k/a and d/b/a St. John's Abbey (hereinafter "Order") is an organization or entity that includes, but is not limited to, civil corporations, decision making entities, officials, and employees, authorized to conduct business and conducting business in the State of Minnesota with its principal place of business located in Collegeville, Minnesota. The Abbot is the top official of the Order and is given authority over all matters dealing with the Order as a result of his position. The Order functions as a business by engaging in numerous revenue producing activities and soliciting money in exchange for its services. Agents of the Order participate in programs and activities involving children. The

Order can appoint, supervise, monitor, and fire each person working with children in those programs.

3. Defendant Order is also known as, does business as and owns and operates St. John's Abbey which is a Benedictine religious community located in Collegeville, Minnesota.

4. At all times material, Defendant Archdiocese of St. Paul and Minneapolis (hereinafter "Archdiocese") was and continues to be an organization or entity, which includes, but is not limited to, civil corporations, decision making entities, officials, and employees, authorized to conduct business and conducting business in the State of Minnesota with its principal place of business at 226 Summit Avenue, St. Paul, Minnesota. The Archbishop is the top official of the Archdiocese and is given authority over all matters within the Archdiocese as a result of his position. The Archdiocese functions as a business by engaging in numerous revenue producing activities and soliciting money from its members in exchange for its services. The Archdiocese has several programs which seek out the participation of children in the Archdiocese's activities. The Archdiocese, through its officials, has control over those activities involving children. The Archdiocese has the power to appoint, supervise, monitor, and fire each person working with children within the Archdiocese.

5. At all times material, Defendant Saint Luke Institute (hereinafter "St. Luke's") was and continues to be a civil corporation authorized to conduct business and conducting business in the State of Maryland with its principal place of business at 8901 New Hampshire Avenue, Silver Spring, Maryland 20903. St. Luke's is a facility that held itself out as experts in diagnosing and treating Roman Catholic religious and clergy. Officials from St. Luke's recruit and solicit clergy and men and women religious from Minnesota for its programs. Officials from St. Luke's also correspond with officials from each diocese in Minnesota as part of its

recruitment efforts and programs. Several entities in Minnesota have paid money to St. Luke for its services. On information and belief, a number of priests from Defendant Archdiocese and Defendant Order have been sent to St. Luke's.

6. At all times material, Defendant Reverend Francis Hoefgen, OSB (hereinafter "Hoefgen") was an adult male resident of the State of Minnesota. Defendant Hoefgen was a Catholic priest and member of Defendant Order. Hoefgen was educated and trained by Defendant Order. On information and belief, Hoefgen pledged obedience to the Order. At all times material, Hoefgen answered to both Defendant Order and Defendant Archdiocese.

FACTS

7. Hoefgen became a monk with Defendant order in 1973.

8. Hoefgen was ordained as a priest in 1979.

9. From June 1979 to March 1984 Hoefgen was assigned to St. Boniface in Cold Spring, Minnesota.

10. From July 1985 to October 1992 Hoefgen was assigned to St. Boniface in Hastings, Minnesota, which merged with Guardian Angeles parish in 1987 to become St. Elizabeth Ann Seton.

11. In approximately March of 1984, while Hoefgen was at St. Boniface in Cold Spring, Abbot Jerome Theisen of Defendant Order learned that Hoefgen had sexually abused a boy in 1983.

12. Upon receiving a report about Hoefgen's sexual abuse of the boy, the Order sent Hoefgen for an evaluation at St. Luke's at the urging of St. Luke's director at the time, Rev. Michael Peterson.

13. Hoefgen resided at St. Luke's for approximately six months.

14. In July 1985, Defendant Order and Defendant Archdiocese were jointly responsible for Hoefgen's placement at St. Boniface parish in Hastings, Minnesota.

15. St. Boniface, now St. Elizabeth Ann Seton, is located in the Archdiocese of St. Paul and Minneapolis.

16. From approximately 1989 through 1992, Hoefgen engaged in unpermitted sexual contact with Plaintiff Doe 27 when he was approximately 10 to 13 years old.

17. The Order, the Archdiocese, and St. Luke's each knew or should have known that Hoefgen was a child molester and/or knew or should have known that Hoefgen was a danger to children before Hoefgen molested Plaintiff.

18. The Order and the Archdiocese each negligently or recklessly believed that Hoefgen was fit to work with children and/or that any previous problems he had were fixed and cured; that Hoefgen would not sexually molest children; and/or that Hoefgen would not hurt children.

19. Hoefgen had unlimited access to children at St. Boniface. Children, including Plaintiff, and their families were not told what the Order, the Archdiocese, and St. Luke's each knew or should have known - that Hoefgen had sexually molested children previously and that Hoefgen was a danger to them.

20. Plaintiff Doe 27 was raised in a devout Roman Catholic family and attended St. Boniface parish and school. Plaintiff, therefore, developed great admiration, trust, reverence and respect for the Roman Catholic Church, including the Order and its agents and the Archdiocese and its agents.

21. By holding Hoefgen out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, the Order and the Archdiocese each

entered into a fiduciary relationship with the minor Plaintiff. As a result of Plaintiff being a minor, and by the Order and the Archdiocese undertaking the care and guidance of the then vulnerable minor Plaintiff, the Order and the Archdiocese each held a position of empowerment over Plaintiff.

22. Further, the Order and the Archdiocese, by holding themselves out as being able to provide a safe environment for children, each solicited and/or accepted this position of empowerment. This empowerment prevented the then minor Plaintiff from effectively protecting himself and the Order and the Archdiocese both entered into a fiduciary relationship with Plaintiff.

23. The Order and the Archdiocese each had a special relationship with Plaintiff.

24. The Order, the Archdiocese, and St. Luke's each owed Plaintiff a duty of reasonable care because they had superior knowledge about the risk that Hoefgen posed to Plaintiff, the risk of abuse in general in each of their programs, and/or the risks that their facilities posed to minor children.

25. The Order and the Archdiocese each owed Plaintiff a duty of reasonable care because they solicited youth and parents for participation in their youth programs; encouraged youth and parents to have the youth participate in their programs; undertook custody of minor children, including Plaintiff; promoted their facilities and programs as being safe for children; held their agents, including Hoefgen, out as safe to work with children; encouraged parents and children to spend time with their agents; and/or encouraged their agents, including Hoefgen, to spend time with, interact with, and recruit families and children.

26. The Order, the Archdiocese, and St. Luke's each had a duty to Plaintiff to protect him from harm because their actions created a foreseeable risk of harm to Plaintiff.

27. The Order, the Archdiocese, and St. Luke's each breached duties including, but not limited to: failure to have sufficient policies and procedures to prevent child sex abuse, failure to properly implement the policies and procedures to prevent child sex abuse, failure to take reasonable measures to make sure that the policies and procedures to prevent child sex abuse were working, failure to adequately inform families and children of the risks of child sex abuse, failure to investigate risks of child molestation, failure to properly train the workers at institutions and programs within each Defendant's geographical confines, failure to have any outside agency test its safety procedures, failure to protect the children in their programs from child sex abuse, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, and leaders and people as safe, failure to train its employees properly to identify signs of child molestation by fellow employees, failure by relying upon mental health professionals, and/or failure by relying on people who claimed that they could treat child molesters.

28. The Archdiocese failed to use ordinary care in determining whether its facilities were safe and/or to determine whether it had sufficient information to represent its facilities as safe. The Archdiocese's failures include, but are not limited to: failure to have sufficient policies and procedures to prevent abuse at its facilities, failure to investigate risks at its facilities, failure to properly train the workers at its facilities, failure to have any outside agency test its safety procedures, failure to investigate the amount and type of information necessary to represent its facilities as safe, failure to train their employees properly to identify signs of child molestation by fellow employees, failure by relying upon mental health professionals, failure by relying upon people who claimed that they could treat child molesters.

29. The Order, the Archdiocese, and St. Luke's also breached their duties to Plaintiff by failing to warn him and his family of the risk that Hoefgen posed and the risks of child sexual abuse by clerics. Defendant Order, Defendant Archdiocese, and Defendant St. Luke's all failed to warn him about any of the knowledge that each Defendant had about child sex abuse.

30. The Order, the Archdiocese, and St. Luke's each knew or should have known that some of the leaders and people working within the Order and the Archdiocese were not safe.

31. The Order, the Archdiocese, and St. Luke's each knew or should have known that they did not have sufficient information about whether or not leaders and people working within the Order and the Archdiocese were safe.

32. The Order, the Archdiocese, and St. Luke's each knew or should have known that there was a risk of child sex abuse for children participating in Catholic programs and activities within the Order and the Archdiocese.

33. The Order, the Archdiocese, and St. Luke's each knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in Catholic programs and activities within the Order and the Archdiocese.

34. The Order, the Archdiocese, and St. Luke's each knew or should have known that the Order and the Archdiocese each had numerous agents who had sexually molested children. They knew or should have known that child molesters have a high rate of recidivism. The Order, the Archdiocese, and St. Luke's each knew or should have known that there was a specific danger of child sex abuse for children participating in the Archdiocese's youth programs.

35. The Order and the Archdiocese each held their leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders

and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and families to their programs, marketing to youth and families, recruiting youth and families, and holding out the people that worked in the programs as safe.

36. The Order and the Archdiocese each was negligent and/or made representations to Plaintiff and his family during each and every year of his minority.

37. In 2004, Defendant Archdiocese publically admitted that there were 33 priests who worked in the Archdiocese who had been credibly accused of sexually molesting minors. The Archdiocese has not released those names to the public. As a result children are at risk of being sexually molested.

38. In 2011, Defendant Order released the names of 17 clerics who worked at the Order who had been credibly accused of sexual molestation in a letter and through a statement on its website. Since then, the list has been removed from the website and is no longer publicly available. As a result children are at risk of being sexually molested.

39. As a direct result of Defendants' conduct described herein, Plaintiff has suffered, and will continue to suffer, great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation, physical, personal and psychological injuries. Plaintiff was prevented, and will continue to be prevented, from performing his normal daily activities and obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and, on information and belief, has and/or will incur loss of income and/or loss of earning capacity.

**COUNT I: DEFENDANT REVEREND FRANCIS HOEFGEN, OSB -
SEXUAL BATTERY**

40. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count and further alleges:

41. In approximately 1989 to 1992, Defendant Hoefgen inflicted unpermitted, harmful, and offensive sexual contact several times upon the person of Plaintiff.

42. As a direct result of Defendant Hoefgen's wrongful conduct, Plaintiff has suffered the injuries alleged herein.

**COUNT II: DEFENDANT ORDER –
NUISANCE (COMMON LAW AND MINN. STAT. § 561.01)**

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

44. Defendant Order continues to conspire and engage and/or has conspired and engaged in efforts to 1) conceal from the general public the sexual assaults committed by, the identities of, and the pedophilic/ephebophilic tendencies of Hoefgen and Defendant's other agents on its list of credibly accused clerics; 2) attack the credibility of the victims of Defendant's agents; and/or 3) protect Defendant's agents from criminal prosecution for their sexual assaults against children.

45. The negligence and/or deception and concealment by Defendant was and is injurious to the health and/or indecent or offensive to the senses and/or an obstruction to the free use of property by the general public, including but not limited to, residents in Collegeville, Minnesota and all other members of the general public who live in communities where Defendant's credibly accused molesters worked and live. It was and is indecent and offensive to the senses, so as to interfere with the general public's comfortable enjoyment of life in that the

general public cannot trust Defendant to warn parents of the presence of the current and/or former credibly accused molesters, nor to identify their current and/or former credibly accused molesters, nor to disclose said credibly accused molesters' assignment histories, nor to disclose their patterns of conduct in grooming and sexually assaulting children, all of which create an impairment of the safety of children in the neighborhoods in Minnesota and throughout the Midwest United States where Defendant conducted, and continues to conduct, its business.

46. The negligence and/or deception and concealment by Defendant were specially injurious to Plaintiff's health as he was sexually assaulted by Defendant's agent, Hoefgen.

47. The negligence and/or deception and concealment by Defendant also was specially injurious to Plaintiff's health in that when Plaintiff finally discovered the negligence and/or deception and concealment of Defendant, Plaintiff experienced mental and emotional distress that Plaintiff had been the victim of the Defendant's negligence and/or deception and concealment; that Plaintiff had not been able to help other minors being molested because of the negligence and/or deception and concealment; and that Plaintiff had not been able because of the negligence and/or deception and concealment to receive timely medical treatment needed to deal with the problems Plaintiff had suffered and continues to suffer as a result of the molestation.

48. Plaintiff also suffered special, particular and peculiar harm after he learned of the Order's concealment of the list of clerics credibly accused of sexually molesting minors, which continues as long as the list remains concealed. As a result of the concealment, Plaintiff has suffered and continues to suffer lessened enjoyment of his life, impaired health, emotional distress, and/or physical symptoms of emotional distress. He has also experienced depression, anxiety, and anger.

49. The continuing public nuisance created by Defendant was, and continues to be, the proximate cause of the injuries and damages to the general public and of Plaintiff's special injuries and damages as alleged.

50. In doing the aforementioned acts, Defendant acted negligently and/or intentionally, maliciously and with conscious disregard for Plaintiff's rights.

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

**COUNT III: DEFENDANT ORDER -
NEGLIGENCE**

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

53. Defendant Order owed Plaintiff a duty of reasonable care.

54. Defendant Order breached the duty of reasonable care it owed Plaintiff.

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

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

**COUNT IV: DEFENDANT ORDER -
NEGLIGENT SUPERVISION**

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

58. At all times material, Hoefgen was employed by Defendant Order and was under Defendant Order's direct supervision, employ and control when he committed the wrongful acts alleged herein. Hoefgen engaged in the wrongful conduct while acting in the course and scope of his employment with Defendant Order and/or accomplished the sexual abuse by virtue of his

job-created authority. Defendant Order failed to exercise ordinary care in supervising Hoefgen in his parish assignment within the Archdiocese and failed to prevent the foreseeable misconduct of Hoefgen from causing harm to others, including the Plaintiff herein.

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

**COUNT V: DEFENDANT ORDER –
NEGLIGENT RETENTION**

60. Plaintiff incorporates all consistent paragraphs of this complaint as if fully set forth under this count.

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

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

**COUNT VI: DEFENDANT ARCHDIOCESE –
NUISANCE (COMMON LAW AND MINN. STAT. § 561.01)**

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

64. Defendant Archdiocese continues to conspire and engage and/or has conspired and engaged in efforts to 1) conceal from the general public the sexual assaults committed by, the identities of, and the pedophilic/ephebophilic tendencies of Hoefgen and Defendant's other agents on its list of credibly accused priests; 2) attack the credibility of the victims of

Defendant's agents; and/or 3) protect Defendant's agents from criminal prosecution for their sexual assaults against children.

65. The negligence and/or deception and concealment by Defendant was and is injurious to the health and/or indecent or offensive to the senses and/or an obstruction to the free use of property by the general public, including but not limited to, residents in the Archdiocese of St. Paul and Minneapolis and all other members of the general public who live in communities where Defendant's credibly accused molesters live. It was and is indecent and offensive to the senses, so as to interfere with the general public's comfortable enjoyment of life in that the general public cannot trust Defendant to warn parents of the presence of the current and/or former credibly accused molesters, nor to identify their current and/or former credibly accused molesters, nor to disclose said credibly accused molesters' assignment histories, nor to disclose their patterns of conduct in grooming and sexually assaulting children, all of which create an impairment of the safety of children in the neighborhoods in Minnesota and throughout the Midwest United States where Defendant conducted, and continues to conduct, its business.

66. The negligence and/or deception and concealment by Defendant were specially injurious to Plaintiff's health as he was sexually assaulted by Defendant's agent, Hoefgen.

67. The negligence and/or deception and concealment by Defendant also was specially injurious to Plaintiff's health in that when Plaintiff finally discovered the negligence and/or deception and concealment of Defendant, Plaintiff experienced mental and emotional distress that Plaintiff had been the victim of the Defendant's negligence and/or deception and concealment; that Plaintiff had not been able to help other minors being molested because of the negligence and/or deception and concealment; and that Plaintiff had not been able because of the

negligence and/or deception and concealment to receive timely medical treatment needed to deal with the problems Plaintiff had suffered and continues to suffer as a result of the molestation.

68. Plaintiff also suffered special, particular and peculiar harm after he learned of the Archdiocese's concealment of its list of priests credibly accused of sexually molesting minors, which continues as long as the list remains concealed. As a result of the concealment, Plaintiff has suffered and continues to suffer lessened enjoyment of his life, impaired health, emotional distress, and/or physical symptoms of emotional distress. He has also experienced depression, anxiety, and anger.

69. The continuing public nuisance created by Defendant was, and continues to be, the proximate cause of the injuries and damages to the general public and of Plaintiff's special injuries and damages as alleged.

70. In doing the aforementioned acts, Defendant acted negligently and/or intentionally, maliciously and with conscious disregard for Plaintiff's rights.

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

**COUNT VII: DEFENDANT ARCHDIOCESE -
NEGLIGENCE**

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

73. Defendant Archdiocese owed Plaintiff a duty of reasonable care.

74. Defendant Archdiocese breached the duty of reasonable care it owed Plaintiff.

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

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

**COUNT VIII: DEFENDANT ARCHDIOCESE –
NEGLIGENT SUPERVISION**

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

78. At all times material, Hoefgen was employed by Defendant Archdiocese and was under Defendant Archdiocese's direct supervision, employ and control when he committed the wrongful acts alleged herein. Hoefgen engaged in the wrongful conduct while acting in the course and scope of his employment with Defendant Archdiocese and/or accomplished the sexual abuse by virtue of his job-created authority. Defendant Archdiocese failed to exercise ordinary care in supervising Hoefgen in his parish assignment within the Archdiocese and failed to prevent the foreseeable misconduct of Hoefgen from causing harm to others, including the Plaintiff herein.

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

**COUNT IX: DEFENDANT ARCHDIOCESE –
NEGLIGENT RETENTION**

80. Plaintiff incorporates all consistent paragraphs of this complaint as if fully set forth under this count.

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

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

**COUNT X: DEFENDANT ST. LUKE INSTITUTE –
NEGLIGENCE**

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

84. Defendant St. Luke's owed Plaintiff a duty of reasonable care.

85. Defendant St. Luke's breached the duty of reasonable care it owed Plaintiff.

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

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

PRAYER FOR RELIEF

88. Plaintiff demands judgment against Defendants in an amount in excess of \$50,000.00, plus costs, disbursements, reasonable attorney's fees, interest, and such other and further relief as the court deems just and equitable.

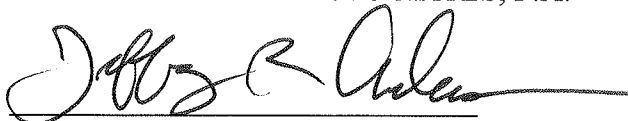
89. Plaintiff requests an order requiring that the Order publically release the names of all credibly accused child molesting clerics, each such clerics history of abuse, each such clerics pattern of grooming and sexual behavior, and his last known address. This includes the release of the Order's documents on the clerics.

90. Plaintiff requests an order requiring that the Archdiocese publically release the names of all credibly accused child molesting priests, each such priests history of abuse, each such priests pattern of grooming and sexual behavior, and his last known address. This includes the Archdiocese's documents on the priests.

DEMAND IS HEREBY MADE FOR A TRIAL BY JURY.

Dated: 4/18/13

JEFF ANDERSON & ASSOCIATES, P.A.



By: Jeffrey R. Anderson, #2057
Michael G. Finnegan, #033649X
Annie M. Kopplin, #0393198
Attorneys for Plaintiff
366 Jackson Street, Suite 100
St. Paul, MN 55101
(651) 227-9990

ACKNOWLEDGMENT

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

