

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF STEARNS

SEVENTH JUDICIAL DISTRICT
Case Type: Personal Injury

Doe 104,

Plaintiff,

COMPLAINT

vs.

The Diocese of St. Cloud a/k/a Diocese
of Saint Cloud, The Order of St. Benedict
a/k/a and d/b/a St. John's Abbey, and The Church
of St. Joseph of St. Joseph a/k/a The Church of
Saint Joseph,

Defendants.

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

PARTIES

1. At all times material, Plaintiff Doe 104 resided in the State of Minnesota. The identity of Plaintiff Doe 104 has been disclosed under separate cover to Defendants.

2. At all times material, Defendant Diocese of St. Cloud a/k/a Diocese of Saint Cloud (hereinafter "Diocese" or "Diocese of St. Cloud") 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 214 Third Avenue South, St. Cloud, Minnesota. The Diocese of St. Cloud was created in approximately 1889. Later, the Diocese created a corporation called the Diocese of St. Cloud to conduct some of its affairs. The Diocese operates its affairs as both a corporate entity and as an organization named the Diocese of St. Cloud, with the Bishop as the top official. Both of these entities and all other corporations and entities controlled by the Bishop are

included in this Complaint as being the Diocese. The Bishop is the top official of the Diocese and is given authority over all matters within the Diocese as a result of his position. The Diocese functions as a business by engaging in numerous revenue producing activities and soliciting money from its members in exchange for its services. The Diocese has several programs which seek out the participation of children in the Diocese's activities, including but not limited to schools and other educational programs. The Diocese, through its officials, has control over those activities involving children. The Diocese has the power to appoint, supervise, monitor, and fire each person working with children within the Diocese.

3. The Order of St. Benedict a/k/a and d/b/a St. John's Abbey (hereinafter "Defendant Order" or "Order") is 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 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. The Order has several programs which seek out the participation of children in the Order's activities. The Order, through its officials, has control over those activities involving children. The Order has the power to appoint, supervise, monitor, and fire each person working with children within the Order.

4. 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.

5. At all times material, The Church of St. Joseph of St. Joseph a/k/a The Church of Saint Joseph (hereinafter "St. Joseph's" or "Parish") was and continues to be an organization

authorized to conduct business and conducting business in the State of Minnesota, with its principal place of business at 12 West Minnesota Street, St. Joseph, MN. St. Joseph's includes but is not limited to the parish corporation and any other organizations and/or entities operating under the same or similar name with the same or similar principal place of business. St. Joseph's also includes St. Joseph Laboratory School, a private Catholic school owned and operated by Defendant St. Joseph's. At all times material, Defendant St. Joseph's was and continues to be under the direct authority, control and province of Defendant Diocese and the Bishop of the Diocese of St. Cloud. At all times material, St. Joseph's was under the direct authority, control and province of Defendant Parish and the Bishop of the Diocese of St. Cloud. At all times material, St. Joseph's Laboratory School was under the direct authority, control, and province of Defendant Parish and the Bishop of the Diocese of St. Cloud. At all times material, Defendant St. Joseph's owned, operated, and controlled St. Joseph's Laboratory School.

FACTS

6. At all times material, Father Cosmas Dahlheimer, OSB (hereinafter "Dahlheimer") was a Roman Catholic priest employed by Defendants. Dahlheimer remained under the direct supervision, employ and control of Defendants. Defendants placed Dahlheimer in positions where he had access to and worked with children as an integral part of his work.

7. Plaintiff was raised in a devout Roman Catholic family and attended St. Joseph's Parish in St. Joseph, in the Diocese of St. Cloud. Plaintiff and Plaintiff's family came in contact with Dahlheimer as an agent and representative of Defendants at St. Joseph.

8. Plaintiff participated in youth activities and church activities at St. Joseph's. Plaintiff, therefore, developed great admiration, trust, reverence and respect for the Roman Catholic Church, including Defendants and their agents, including Dahlheimer.

9. During and through these activities, Plaintiff, as a student, minor and vulnerable child, was dependent on Defendants and Dahlheimer. Defendants had custody of Plaintiff and accepted the entrustment of Plaintiff. Defendants had responsibility for Plaintiff and authority over him.

10. In approximately 1978, when Plaintiff was approximately 8 years old, Dahlheimer engaged in unpermitted sexual contact with Plaintiff.

11. Plaintiff's relationship to Defendants and Dahlheimer, as a vulnerable child, parishioner, and participant in Church activities, was one in which Plaintiff was subject to the ongoing influence of Defendants and Dahlheimer, Plaintiff's abuser. The culture of the Catholic Church over Plaintiff created pressure on Plaintiff not to report Dahlheimer's abuse of him.

12. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Dahlheimer was not fit to work with children.

13. Defendants knew or should have known that Dahlheimer was a danger to children before he sexually molested Plaintiff.

14. Defendants negligently or recklessly believed that Dahlheimer was fit to work with children and/or that any previous problems he had were fixed and cured; that Dahlheimer would not sexually molest children and that Dahlheimer would not injure children; and/or that Dahlheimer would not hurt children.

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

16. By accepting custody of the minor Plaintiff, Defendants established an *in loco parentis* relationship with Plaintiff and in so doing, owed Plaintiff a duty to protect Plaintiff from injury.

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

18. Defendants had a special relationship with Plaintiff.

19. Defendants owed Plaintiff a duty of reasonable care because they had superior knowledge about the risk that Dahlheimer posed to Plaintiff, the risk of abuse in general in their programs and/or the risks that their facilities posed to minor children.

20. Defendants 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 Dahlheimer, out as safe to work with children; encouraged parents and children to spend time with their agents; and/or encouraged their agents, including Dahlheimer, to spend time with, interact with, and recruit children.

21. Defendants owed a duty to Plaintiff to protect him from harm because Defendants' actions created a foreseeable risk of harm to Plaintiff. As a vulnerable child participating in the program/activities Defendants offered to minors, Plaintiff was a foreseeable victim. As a vulnerable child who Dahlheimer had access to through Defendants' facilities and programs, Plaintiff was a foreseeable victim.

22. Defendants' breach of their duties include, but are 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 Defendants' geographical confines, failure to have any outside agency test their 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, leaders and people as safe, failure to train their 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.

23. Defendants failed to use ordinary care in determining whether their facilities were safe and/or to determine whether they had sufficient information to represent their facilities as safe. Defendants' failures include, but are not limited to: failure to have sufficient policies and procedures to prevent abuse at their facilities, failure to investigate risks at their facilities, failure to properly train the workers at their facilities, failure to have any outside agency test their 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, and/or failure by relying upon people who claimed that they could treat child molesters.

24. Defendants also breached their duty to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Dahlheimer posed and the risks of child sexual abuse by clerics. They also failed to warn them about any of the knowledge that Defendants had about child sex abuse.

25. Defendants also violated a legal duty by failing to report known and/or suspected abuse of children by Dahlheimer and/or its other agents to the police and law enforcement.

26. Defendants also breached their duty to Plaintiff by actively maintaining and employing Dahlheimer in positions of power and authority through which Dahlheimer had access to children, including Plaintiff, and power and control over children, including Plaintiff.

27. Defendants knew or should have known that some of the leaders and people working at Catholic institutions within the Diocese of St. Cloud were not safe.

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

29. Defendants knew or should have known that there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese.

30. Defendants knew or should have known that it did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese.

31. Defendants knew or should have known that Defendants had numerous agents who had sexually molested children. Defendants knew or should have known that child molesters have a high rate of recidivism. They knew or should have known that there was a specific danger of child sex abuse for children participating in their youth programs.

32. Defendants held their leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and families to their programs, marketing to youth and families, recruiting youth and families, and holding out the people that worked in the programs as safe.

33. Defendants were negligent and/or made representations to Plaintiff and Plaintiff's family during each and every year of Plaintiff's minority.

34. In 2003, Defendant Diocese of St. Cloud publicly admitted that it knew there were 26 priests who worked in the Diocese who had been accused of sexually molesting minors. The Diocese of St. Cloud has since released more than 26 names of offenders to the public but continues to conceal important information about the priests on that list and the names and information about accused priests not on the list. Information has not been disclosed about the credibly accused priests' patterns of grooming and sexual abuse. As a result, children are at risk of being sexually molested.

35. Upon information and belief, prior to and since 2003, Defendant Diocese of St. Cloud failed to report multiple allegations of sexual abuse of children by its agents to the proper civil authorities. As a result, children are at risk of being sexually molested.

36. 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 normal daily activities and obtaining the full enjoyment of life; and/or

has incurred and will continue to incur expenses for psychological treatment, therapy, and counseling.

COUNT I: PUBLIC NUISANCE (COMMON LAW AND MINN. STAT. § 609.74)
AGAINST DEFENDANT DIOCESE OF ST. CLOUD

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

37. Defendant Diocese 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, Dahlheimer and Defendant's other accused agents; and/or 2) conceal from proper civil authorities sexual assaults and abuse committed by Dahlheimer and Defendant's other agents against minor children; and/or 3) attack the credibility of victims of Defendant's agents; and/or 4) protect Defendant's agents from criminal prosecution for their sexual assaults and abuse against children; and/or 5) allow known child molesters to live freely in the community without informing the public.

38. The negligence and/or deception and concealment by Defendant Diocese has maintained or permitted a condition which unreasonably endangers the safety and health of a considerable number of members of the public, including, but not limited to, children and residents in the Diocese and other members of the general public who live in communities where Defendant's agents who molested children live. Defendant's failure to report multiple allegations of sexual assault and abuse of children to proper authorities, as well as its failure to inform the public about sexual abuse, or priests accused of sexual abuse of minors has prevented the public from knowing of a real danger, and has thereby endangered the safety and health of a considerable number of the members of the public by allowing child molesters' to avoid prosecution and remain living freely in unsuspecting communities and working with and around children. These child

molesters, known to the Diocese but not to the public, pose a threat of additional abuse to a considerable number of members of the public.

39. The negligence and/or deception and concealment by Defendant Diocese was specially injurious to Plaintiff's health as Plaintiff was sexually assaulted by Defendant Diocese's agents, Dahlheimer.

40. The negligence and/or deception and concealment by Defendant Diocese of St. Cloud also was specially injurious to Plaintiff's health in that when Plaintiff finally discovered the negligence and/or deception and concealment of Defendant Diocese, Plaintiff experienced mental, emotional and/or physical distress that he had been the victim of Defendant Diocese's negligence and/or deception and concealment.

41. Plaintiff has suffered and/or continues to suffer special, particular, and peculiar psychological and emotional harm and/or peculiar pecuniary harm, different in kind from the general public, after learning of Defendant Diocese's concealment of names and information about priests accused of sexually molesting minors and as a result of the dangerous condition maintained and/or permitted by Defendant Diocese, which continues as long as decisions are made and actions are taken to keep the information about the abuse and/or the accused priests concealed. As a result of the negligence and/or deception and concealment, Plaintiff has suffered and continues to suffer lessened enjoyment of life, and/or impaired health, and/or emotional distress, and/or physical symptoms of emotional distress and/or pecuniary loss including medical expenses and/or wage loss.

42. Plaintiff's injuries are also particular to him and different from certain members of the public who have not been harmed by the nuisance. People who have not been harmed by the nuisance include those who have not suffered any injury at all, those who are unaware of the

nuisance, those who do not believe that the Defendant Diocese ever concealed anything about child sex abuse, and those who think that any concealment only occurred decades ago.

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

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

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

COUNT II: PRIVATE NUISANCE (MINN. STAT. § 561.01)
AGAINST DEFENDANT DIOCESE OF ST. CLOUD

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

46. Defendant Diocese 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, Dahlheimer and Defendant's other accused agents; and/or 2) conceal from proper civil authorities sexual assaults and abuse committed by Dahlheimer and Defendant's other agents against minor children; and/or 3) attack the credibility of victims of Defendant's agents; and/or 4) protect Defendant's agents from criminal prosecution for their sexual assaults and abuse against children; and/or 5) allow known child molesters to live freely in the community without informing the public.

47. The negligence and/or deception and concealment by Defendant Diocese was and is injurious to the health and/or indecent or offensive to the senses of the general public, including, but not limited to, residents in the Diocese and other members of the general public who live in communities where Defendant's 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 many in the general public cannot trust Defendant to warn parents of the presence of the current and/or former accused molesters, nor to identify their current and/or former accused molesters, nor to disclose said credibly accused molesters' and other 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.

48. The negligence and/or deception and concealment by Defendant Diocese was injurious to Plaintiff's health and/or Plaintiff's personal enjoyment of life as Plaintiff was sexually assaulted by Defendant's agents, Dahlheimer.

49. The negligence and/or deception and concealment by Defendant Diocese also was injurious to Plaintiff's health and/or personal enjoyment of life in that when Plaintiff discovered the negligence and/or deception and concealment of Defendant that led to Plaintiff's sexual assault, Plaintiff experienced mental, emotional, and/or physical distress that Plaintiff had been the victim of the Defendant's negligence and/or deception and concealment.

50. The continuing nuisance created by Defendant Diocese was, and continues to be, a proximate cause of Plaintiff's injuries and damages as alleged.

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

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

COUNT III: NEGLIGENCE
AGAINST ALL DEFENDANTS

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

this count.

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

54. Each Defendant owed Plaintiff a duty of care because each Defendant had a special relationship with Plaintiff.

55. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm because each Defendant had a special relationship with Dahlheimer.

56. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm because each Defendant's active misfeasance created a foreseeable risk of harm.

57. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm because Defendants invited Plaintiff onto their property and Dahlheimer posed a dangerous condition on Defendants' property.

58. By establishing and operating the Diocese of St. Cloud, Order of St. Benedict and St. Joseph's, accepting minor Plaintiff as a parishioner and/or participant in church activities and/or student, and holding Defendant Diocese, Order and St. Joseph's out to be a safe environment for Plaintiff to participate and/or study and/or learn, accepting custody of the minor Plaintiff *in loco parentis*, and by establishing a fiduciary relationship with Plaintiff, Defendants entered into an express and/or implied duty to properly supervise Plaintiff and provide a reasonably safe learning and spiritual environment.

59. By establishing and operating the Diocese of St. Cloud, the Order of St. Benedict, and St. Joseph's Church, which offered educational programs to children, which may have included a school, and by accepting the enrollment and participation of minor Plaintiff as a participant and/or student in those educational programs, Defendants owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from generally foreseeable dangers.

60. Each Defendant breached its duties to Plaintiff. Each Defendant's failures include but are not limited to failing to properly supervise Dahlheimer, failing to properly supervise Plaintiff and failing to protect Plaintiff from a known danger.

61. Each Defendant's breach of its duties was the proximate cause of Plaintiff's injuries.

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

COUNT IV: NEGLIGENT SUPERVISION
AGAINST ALL DEFENDANTS

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

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

64. As a direct result of Defendants' negligent conduct, Plaintiff has suffered the injuries and damages described herein.

COUNT V: NEGLIGENT RETENTION
AGAINST ALL DEFENDANTS

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

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

66. As a direct result of Defendants' negligent conduct, Plaintiff has suffered the injuries and damages described herein.

PRAYER FOR RELIEF

67. Plaintiff demands judgment against Defendants, individually, jointly and severally 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.

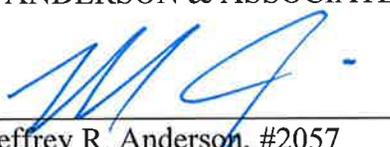
68. Plaintiff requests an order requiring that the Defendant Diocese of St. Cloud publicly release the names of all agents, including priests, accused of child molestation, each agent's history of abuse, each such agent's pattern of grooming and sexual behavior, and his last known address. This includes the release of Defendant Diocese of St. Cloud's documents on the agents.

DEMAND IS HEREBY MADE FOR A TRIAL BY JURY.

Dated: _____

4/28/16

JEFF ANDERSON & ASSOCIATES, P.A.


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ACKNOWLEDGMENT

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

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be the initials 'MJ' followed by a small mark.