

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR BROWARD
COUNTY, FLORIDA

CASE NO. 05-013361

JOHN DOE NO. 22, JOHN DOE's MOTHER,
and JOHN DOE's FATHER,

Plaintiffs,

vs.

ARCHDIOCESE OF MIAMI, INC., ARCHDIOCESE
OF MIAMI, A CORPORATION SOLE and
ARCHBISHOP FAVALORA AS CORPORATE SOLE
OF THE ARCHDIOCESE OF MIAMI,

Defendants.

COMPLAINT

Plaintiffs, JOHN DOE NO. 22, JOHN DOE's MOTHER and JOHN DOE's FATHER,
brings this Complaint against Defendants, ARCHDIOCESE OF MIAMI, INC., ARCHDIOCESE
OF MIAMI, A CORPORATION SOLE and ARCHBISHOP FAVALORA AS CORPORATE
SOLE OF THE ARCHDIOCESE OF MIAMI, as follows:

PARTIES AND JURISDICTION

1. This is an action for damages arising from the sexual abuse of a child by a known serial pedophile priest with the ARCHDIOCESE OF MIAMI. The abuse was committed by Father Neil Doherty while he was pastor at St. Vincent Catholic Church in Margate, Florida.

2. This action seeks compensation in excess of \$25 million.

3. Plaintiff JOHN DOE is sui juris. Because this Complaint concerns sexual abuse upon a minor, Plaintiff brings this Complaint under a fictitious name to protect his identity.

4. Defendant ARCHDIOCESE OF MIAMI, INC. is a non-profit Florida Corporation. Defendants ARCHDIOCESE OF MIAMI, INC., ARCHDIOCESE OF MIAMI, A

COPORATION SOLE and ARCHBISHOP FAVALORA AS CORPORATE SOLE OF THE ARCHDIOCESE OF MIAMI (collectively the “ARCHDIOCESE” or the “ARCHDIOCESE OF MIAMI”) are responsible for the interests of the Roman Catholic Church in Broward and Miami-Dade Counties. The ARCHDIOCESE OF MIAMI owns and operates St. Vincent Catholic Church in Margate, Florida.

SEXUAL ABUSE OF JOHN DOE

5. JOHN DOE was born in 1986. When he was approximately 8 or 9 years old, JOHN played football with friends on the field at St. Vincent Catholic Church. St. Vincent was located very close to the house where JOHN lived as a boy. While with his friends on Church property, one of the boys lit up a cigarette and began smoking. Father Neil Doherty, the Pastor at St. Vincent, saw the boys and went over to talk with them. Father Doherty introduced himself to JOHN and told him that he was “cool”, so it was alright to smoke in front of him.

6. Father Doherty took an immediate interest in JOHN and began to establish a relationship of trust and confidence with him. He invited JOHN to attend mass on Sunday, which JOHN did. JOHN’s parents were pleased to see JOHN attend mass and encouraged him to accept Father Doherty’s mentorship.

7. At mass Father Doherty gave JOHN special attention and invited him to the rectory for a private confession session. Father Doherty gave JOHN cigarettes in the rectory. JOHN began to regularly attend mass and go with Father Doherty to the rectory for private confessions. At one session, JOHN confessed that he was in a fight with another boy at school. Father Doherty advised and suggested to JOHN that he smoke marijuana and drink alcohol as a means to control his aggressive behavior. In accordance with Father Doherty’s advice, JOHN began drinking alcohol and smoking marijuana while still a young boy.

8. Father Doherty continued to groom JOHN, and at the ages of 9-10 JOHN spent more and more time at the rectory with Father Doherty. On one occasion, JOHN passed out on the couch after drinking soda that Father Doherty had given him. When JOHN awoke, he was

bleeding profusely from his anus.

9. Over approximately the next five years, while JOHN was at the approximately ages of 10-14, JOHN developed a more and more serious problem with drugs and alcohol. Father Doherty gave JOHN money to buy drugs. During this period, Doherty on multiple and frequent occasions committed acts of sodomy and oral copulation with JOHN. Many of these incidents occurred while JOHN was unconscious or semi-conscious after binging on drugs and alcohol.

10. Upon information and belief, Doherty sexually abused other boys before and during the time he abused JOHN. Upon information and belief, the ARCHDIOCESE knew or should have known that Doherty was sexually abusing boys and it took no action to protect JOHN.

11. Upon information and belief, at all relevant times, the ARCHDIOCESE had knowledge of Doherty's history of sexually perversity, and that he plyed young boys with drugs and alcohol.

12. In or about 1979, the ARCHDIOCESE was notified that Father Doherty was sexually abusing boys.

13. In or about 1987, the ARCHDIOCESE was again notified that Father Doherty was sexually abusing boys.

14. In or about 1992, the ARCHDIOCESE was not only notified that Father Doherty was sexually abusing boys, it settled a claim brought by a victim of Father Doherty's sexual abuse.

15. Despite these multiple instances of notice, the ARCHDIOCESE took no action against Doherty and continued to give him unfettered access to young boys.

16. Doherty and JOHN were in a fiduciary relationship. Doherty was in a position of trust and confidence with JOHN. JOHN looked to Doherty for counseling and guidance.

17. The ARCHDIOCESE was in a fiduciary relationship with JOHN. The

ARCHDIOCESE was in a position of trust and confidence with JOHN. JOHN looked to the ARCHDIOCESE and its representatives for counseling and guidance. In addition, the ARCHDIOCESE knew that JOHN had a special and privileged relationship with Doherty. The ARCHDIOCESE owed JOHN a fiduciary duty to:

- a) Investigate and warn JOHN of the potential for harm from Doherty;
- b) Disclose its awareness of facts regarding Doherty that created a likely potential for harm;
- c) Disclose its own negligence with regard to hiring, supervision and retention of Doherty;
- d) Provide a safe environment for JOHN where he would be free from abuse; and
- e) Protect JOHN from exposure to harmful individuals like Doherty.

18. The ARCHDIOCESE breached its fiduciary duty to JOHN by failing to:

- a) Investigate and warn JOHN of the potential for harm from Doherty;
- b) Disclose its awareness of facts regarding Doherty that created a likely potential for harm;
- c) Disclose its own negligence with regard to hiring, supervision and retention of Doherty;
- d) Provide a safe environment for JOHN where he was free from abuse; and
- e) Protect JOHN from exposure to harmful individuals like Doherty.

19. Doherty introduced JOHN to drugs and alcohol, and encouraged JOHN to abuse drugs and alcohol. Under his plan and scheme, Doherty made JOHN vulnerable to his heinous acts of sexual abuse.

COUNT I

NEGLIGENCE

20. Plaintiff JOHN DOE repeats and realleges Paragraphs 1 through 19 above.

21. At all material times, the ARCHDIOCESE owed a duty to Plaintiff to use reasonable care to insure the safety, care, well being and health of the minor JOHN while he was under the care, custody or in the presence of the ARCHDIOCESE. The ARCHDIOCESE's duties encompassed the hiring, retention and supervision of Doherty and otherwise providing a safe environment for JOHN.

22. The ARCHDIOCESE breached these duties by failing to protect the minor JOHN from sexual assault and lewd and lascivious acts committed by the agent and employee of the ARCHDIOCESE, Doherty. Additionally, the ARCHDIOCESE failed to protect JOHN from dependency on drugs and alcohol which Doherty fostered, encouraged and caused.

23. At all relevant times, the ARCHDIOCESE knew or in the exercise of reasonable care should have known that Doherty was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and protection.

24. With such actual or constructive knowledge, the ARCHDIOCESE provided Doherty unfettered access to JOHN and gave him unlimited and uncontrolled privacy.

25. At all relevant times, the ARCHDIOCESE created an environment which fostered child sexual abuse against children it had a duty to protect, including JOHN.

26. At all relevant times, the ARCHDIOCESE had inadequate policies and procedures to protect children it was entrusted to care for and protect, including JOHN.

27. As a direct and proximate result of the ARCHDIOCESE's negligence, JOHN suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

WHEREFORE, Plaintiff JOHN DOE demands judgment against the ARCHDIOCESE OF MIAMI for compensatory damages, costs and such other and further relief as this Court deems proper. Plaintiff intends to move to amend the Complaint in accordance with Florida

Statutes to assert a claim for punitive damages.

COUNT II
RESPONDEAT SUPERIOR / VICARIOUS LIABILITY

28. Plaintiff JOHN DOE repeats and realleges Paragraphs 1 through 19 above.

29. Doherty was at all material times hereto the employee, appointee and agent of the ARCHDIOCESE.

30. Doherty was authorized to be alone with JOHN and to have unfettered and unsupervised access to young JOHN in the rectory and elsewhere.

31. The acts described above occurred on the premises of land operated and/or controlled by the ARCHDIOCESE (or at a place authorized by the ARCHDIOCESE), occurred during working hours, and occurred in the course and scope of the performance of Doherty's duties. Doherty's initial contact and relationship with JOHN was in furtherance of the business of the ARCHDIOCESE. In addition, Doherty was authorized to touch JOHN and display affection in a manner consistent with providing counseling, spiritual guidance and leadership. Doherty extended and converted his authorized touching into the sexual abuse of JOHN as described above.

32. Upon information and belief, Doherty was authorized to touch JOHN in an improper manner.

33. The wrongful acts of Doherty were committed in the actual or apparent course and scope of his employment or agency with the ARCHDIOCESE.

34. The wrongful acts were committed while Doherty was doing what his employment or agency contemplated.

35. Doherty acted with willful or reckless disregard for JOHN'S welfare.

36. Doherty's conduct was outrageous, going beyond all bounds of decency.

37. As a result of Doherty's conduct, JOHN suffered severe emotional distress.

38. Under the doctrine of respondeat superior, the ARCHDIOCESE is responsible for

the negligent, reckless and intentional actions of its servant, Doherty, committed in the actual or apparent scope of his duties.

WHEREFORE, Plaintiff JOHN DOE demands judgment against the ARCHDIOCESE OF MIAMI for compensatory damages, costs and such other and further relief as this Court deems just and proper. Plaintiff intends to move to amend the Complaint in accordance with Florida Statutes to assert a claim for punitive damages.

COUNT III
LOSS OF PARENTAL CONSORTIUM

39. Plaintiffs JOHN DOE's MOTHER and JOHN DOE's FATHER repeat and reallege paragraphs 1 through 19 above.

40. Defendant's tortious acts and omissions are the direct and proximate cause of damages to JOHN DOE's MOTHER and JOHN DOE's FATHER, consisting of parental loss of comfort, companionship and society and healthcare costs associated with the treatment of JOHN.

41. The Defendants' tortious acts were the direct and proximate cause of JOHN suffering a permanent and total disability.

42. JOHN DOE's MOTHER and JOHN DOE's FATHER experienced great pain and suffering from the time that Defendants' tortious acts and omissions occurred.

WHEREFORE, Plaintiffs JOHN DOE's MOTHER and JOHN DOE's FATHER demand judgment for loss of consortium damages, costs and such other and further relief as this Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial in this action.

Dated: September 6th, 2005.

Respectfully submitted,

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