

STATE OF MINNESOTA
COUNTY OF STEARNS

STEARNS
COURT
2015 JAN 7 AM 8 04
BY: _____ DEPUTY

DISTRICT COURT
SEVENTH JUDICIAL DISTRICT

Case Type: Personal Injury

Doe 50,

Court File No.:

Plaintiff,

v.

SUMMONS

The Diocese of St. Cloud and
Father James Thoennes,

Defendants.

THIS SUMMONS IS DIRECTED TO DEFENDANTS ABOVE NAMED.

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 Bradshaw & Bryant, 1505 Division Street, Waite Park, MN 56387.

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: January 6, 2015.

JEFF ANDERSON & ASSOCIATES, P.A.



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STATE OF MINNESOTA
COUNTY OF STEARNS

DISTRICT COURT
SEVENTH JUDICIAL DISTRICT

Case Type: Personal Injury

Doe 50,

Court File No.:

Plaintiff,

v.

COMPLAINT

The Diocese of St. Cloud and
Father James Thoennes,

Defendants.

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

PARTIES

1. Plaintiff Doe 50 is an adult male resident of the State of Oregon. At all relevant times for this Complaint, Plaintiff Doe 50 resided in the State of Minnesota. The identity of Plaintiff Doe 50 has been disclosed under separate cover to Defendants.

2. At all times material, Defendant 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 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. 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. At all times material, Father James Thoennes (hereinafter “Thoennes” or “Father Thoennes”) was a Roman Catholic priest employed by Defendant Diocese. At all times material, Thoennes remained under the direct supervision, employ and control of Defendant Diocese. Defendant Diocese placed Thoennes in positions at Defendant Diocese where he had access to and worked with children as an integral part of his work.

FACTS

4. In approximately 1964 Officials of Defendant Diocese, including Monsignor Bernard Wildenborg, learned or should have learned that its agent, Father James A. Thoennes sexually abused a young boy who was a student at St. Anthony of Padua in St. Cloud, Minnesota while Thoennes was assistant pastor there. Upon information and belief civil legal authorities were not contacted about the abuse.

5. Between approximately 1965 and 1967, Defendant Diocese learned or should have learned that Thoennes had sexually abused another child at St. Anthony of Padua. Upon information and belief civil authorities were never contacted about the report.

6. Upon information and belief, after the Diocese became aware or should have become aware that Thoennes had sexually abused children, this information was not disclosed to parishioners or their families.

7. In approximately 1970 Defendant Diocese assigned Thoennes to St. John’s Parish and School in Foley, Minnesota.

8. Plaintiff Doe 50 was raised in a devout Roman Catholic family and regularly attended mass, received the sacraments and participated in youth activities at St. John’s in Foley.

Plaintiff attended the parochial school at St. John's from the mid-1960s through the early 1970s. Plaintiff, therefore, developed great admiration, trust, reverence, and respect for the Roman Catholic Church and Defendant Diocese and its agents, including Roman Catholic Priests.

9. Plaintiff was a student and parishioner at St. John's and came in contact with Thoennes through his association with that parish and school.

10. Plaintiff's devoutly Catholic parents knew and respected Thoennes as an agent of Defendant Diocese and as a pastor at their church.

11. In approximately 1970 or 1971, when Plaintiff was an approximately 11 or 12 year old student and altar boy at St. John's, his parents allowed him to attend overnight trips with Thoennes to his mother's home. Thoennes sought permission for Plaintiff to accompany him directly from Plaintiff's parents. Plaintiff's parents were not told and had no knowledge that Thoennes had sexually abused at least two boys. Plaintiff's parents were therefore unaware Thoennes posed a threat to their son and allowed him to travel with a respected priest of the Diocese.

12. In approximately 1970 or 1971, while on the trips to Thoennes' mother's home, Thoennes engaged in unpermitted sexual contact with Plaintiff.

13. The Diocese knew or should have known that Thoennes was a child molester and/or knew or should have known that Thoennes was a danger to children before Thoennes molested Plaintiff.

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

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

16. Further, the Diocese, by holding itself 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 the Diocese entered into a fiduciary relationship with Plaintiff.

17. The Diocese had a special relationship with Plaintiff.

18. The Diocese owed Plaintiff a duty of reasonable care because it had superior knowledge about the threat that Thoennes posed to Plaintiff, the risk of abuse in general in its programs, and/or the risks that its facilities posed to minor children.

19. The Diocese owed Plaintiff a duty of reasonable care because it solicited youth and parents for participation in its youth programs; encouraged youth and parents to have the youth participate in its programs; undertook custody of minor children, including Plaintiff; promoted its facilities and programs as being safe for children; held its agents, including Thoennes, out as safe to work with children; encouraged parents and children to spend time with its agents; and/or encouraged its agents, including Thoennes, to spend time with, interact with, and recruit families and children.

20. The Diocese had a duty to Plaintiff to protect him from harm because its actions created a foreseeable risk of harm to Plaintiff.

21. The Diocese 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 Defendant's geographical confines, failure to have any outside agency test its safety procedures, failure to protect the children in its 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.

22. Defendant failed to use ordinary care in determining whether its facilities were safe and/or to determine whether it had sufficient information to represent their facilities as safe. Defendant'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 its 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.

23. The Diocese also breached its duties to Plaintiff by failing to warn him and his family of the risk that Thoennes posed and the risks of child sexual abuse by clerics. Defendant Diocese failed to warn him about any of the knowledge that it had about child sex abuse.

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

25. The Diocese knew or should have known that some of the leaders and people working within the Diocese were not safe.

26. The Diocese knew or should have known that they did not have sufficient information about whether or not leaders and people working within the Diocese were safe.

27. The Diocese 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.

28. The Diocese 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.

29. The Diocese knew or should have known that the Diocese had numerous agents who had sexually molested children. It knew or should have known that child molesters have a high rate of recidivism. The Diocese knew or should have known that there was a specific danger of child sex abuse for children participating in its youth programs.

30. The Diocese held its 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.

31. The Diocese was negligent and/or made representations to Plaintiff and his family during each and every year of his minority.

32. Despite multiple reports of sexual abuse of minors spanning Thoennes' career, Defendant failed to inform law enforcement authorities or the public that he had sexually abused minor children. As a direct result, Thoennes avoided criminal investigation and prosecution and continued to sexually abuse minors.

33. Upon information and belief, Thoennes was not removed from public ministry until 1997.

34. In 2003, Defendant Diocese publicly admitted that there were 26 priests who worked in the Diocese who it deemed credibly accused of sexually molesting minors. The Diocese of St. Cloud has since released the original 26 names 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. 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; and has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT I: DEFENDANT FATHER JAMES THOENNES - SEXUAL BATTERY

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

37. In approximately 1970 or 1971, Defendant Fr. Thoennes inflicted unpermitted, harmful, and offensive sexual contact upon the person of Plaintiff.

38. As a direct result of Defendant Fr. Thoennes' wrongful conduct, Plaintiff has suffered the injuries alleged herein.

**COUNT II: DEFENDANT DIOCESE – NUISANCE
(COMMON LAW [MINN. STAT. § 609.74] AND MINN. STAT. § 561.01)**

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

40. Common law public nuisance is defined in Minnesota by MINN. STAT. § 609.74.

41. 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, Thoennes and the Diocese's other agents on its list of credibly accused clerics; 2) attack the credibility of the victims of Defendant's agents; 3) protect Defendant's agents from criminal prosecution for their sexual assaults against children; and/or 4) allow known child molesters to live freely in the community while their propensities are kept hidden from the public.

42. 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 St. Cloud, 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 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.

43. The negligence and/or deception and concealment by Defendant has permitted and/or maintained a condition that unreasonably endangers the safety and health of a considerable number of members of the public, including, but not limited to, children and residents in St. Cloud, Minnesota and other members of the general public who live in communities where Defendant's credibly accused molesters work and live. Defendant's failure to report multiple allegations of sexual assault and abuse of children to proper authorities has 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. These child molesters, whose propensities are known to the Diocese but not to the public, pose a threat of abuse to a considerable number of members of the public.

44. 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, Thoennes.

45. 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 he 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.

46. Plaintiff also suffered special, particular and peculiar harm after he learned of the Diocese's concealment of information about its list of clerics credibly accused sexually molesting minors. 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/or anger.

47. Plaintiff has also suffered and continues to suffer special and peculiar harm as a result of the dangerous condition maintained or permitted by Defendant. As a result of the condition maintained or permitted by Defendant that unreasonably endangers the safety and health of the public, Plaintiff has suffered and continues to suffer emotional distress, discomfort, and/or physical symptoms of emotional distress.

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

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

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

COUNT III: DEFENDANT DIOCESE – NEGLIGENCE

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

52. Defendant Diocese owed Plaintiff a duty of reasonable care.

53. Defendant Diocese breached the duty of reasonable care it owed Plaintiff.

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

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

COUNT IV: DEFENDANT ORDER – NEGLIGENT SUPERVISION

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

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

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

COUNT V: DEFENDANT DIOCESE – NEGLIGENT RETENTION

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

60. Defendant Diocese, by and through its agents, servants and employees, became aware, or should have become aware, of problems indicating that Thoennes 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 Thoennes from working with children.

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

PRAYER FOR RELIEF

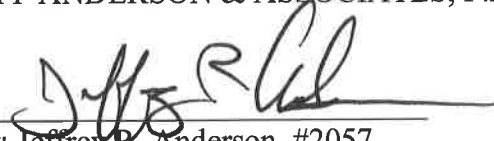
62. Plaintiff demands judgment against Defendant in an amount in excess of \$50,000.00, plus costs, disbursements, reasonable attorney's fees, interest, and such other and further relief as the court deems just and equitable.

63. Plaintiff requests an order requiring that the Diocese publicly release the names of any and all agents, including clerics, 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 the Diocese's documents pertaining to the accused agents.

DEMAND IS HEREBY MADE FOR A TRIAL BY JURY.

Dated: January 6, 2015.

JEFF ANDERSON & ASSOCIATES, P.A.



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Attorneys for Plaintiff

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.

