

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Personal Injury

Doe 56,

Court File No.:

Plaintiff,

v.

COMPLAINTCanons Regular of the Order of the Holy Cross a/k/a
Crosier Fathers and Brothers, Inc.,Defendant.

Plaintiff, for his cause of action against Defendant, allege that:

PARTIES

1. At all times material, Plaintiff Doe 56 was an adult male resident of the State of Minnesota. In the interest of privacy, the identity of Plaintiff has been disclosed under separate cover to Defendants.

2. At all times material, Defendant Canons Regular of the Order of the Holy Cross, Province of St. Odilia a/k/a Crosier Fathers and Brothers Province, Inc. (hereinafter referred to as "Crosiers") was an 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 and with principal places of business at 104 North Crosier Drive, Onamia, Minnesota and 4423 North 24th Street, Suite 400, Phoenix, Arizona. The Crosiers are a Roman Catholic religious order of priests and brothers affiliated with the Roman Catholic Church. The provincial is the top official of the Crosiers and is given authority over all matters dealing with the Crosiers as a result of his position. The Crosiers function as a business by engaging in numerous revenue producing activities and soliciting money in exchange

for its services. The Crosiers have programs which seek out the participation of children. The Crosiers, through its officials, have control over these programs involving children and the authority to appoint, supervise, monitor and fire each person working with children in these programs. Prior Kermit Holl is the superior of the Crosiers in Minnesota and is given authority over civil corporations including, but not limited to, the Crosier Seminary in Onamia, Crosier Missionary, Crosier Community of Anoka, Crosier Community of Shoreview and Crosier Fathers of Onamia. At the time of the abuse, many of the top decision makers and officials for the Crosiers were headquartered in St. Paul, Minnesota.

FACTS

3. At all times material, Defendant Gerald Allen Funcheon (hereinafter "Funcheon") was a Roman Catholic Priest of the Crosier Order employed by Defendant Crosiers. At all times material, Funcheon remained under the direct supervision, employ and control of Defendant Crosiers. Defendant Crosiers placed Funcheon in positions where he had access to and worked with children as an integral part of his work.

4. At all times material, Defendant Brother Wendell Mohs (hereinafter "Mohs"), was a Roman Catholic Brother of the Crosier Order employed by Defendant Crosiers. At all times material, Mohs remained under the direct supervision, employ and control of Defendant Crosiers. Defendant Crosiers placed Mohs in positions where he had access to and worked with children as an integral part of his work.

5. At all times material, Defendant Roger Vaughn (hereinafter "Vaughn") was a Roman Catholic Priest of the Crosier Order employed by Defendant Crosiers. At all times material, Vaughn remained under the direct supervision, employ and control of Defendant Crosiers.

Defendant Crosiers placed Vaughn in positions where he had access to and worked with children as an integral part of his work.

6. Prior to the sexual abuse of Plaintiff, Defendant Crosiers learned or should have learned that Funcheon was not fit to work with children.

7. Defendant Crosiers knew or should have known that Funcheon was a danger to children before Funcheon sexually abused Plaintiff.

8. Defendant Crosiers negligently or recklessly believed that Funcheon was fit to work with children; that Funcheon would not sexually abuse children; that Funcheon would not injure children; and/or that Funcheon would not hurt children.

9. In approximately 1979, Defendant Crosiers placed Funcheon at the Crosier Seminary and Monastery in Onamia, Minnesota. Funcheon had unlimited access to children at Onamia. Children, including Plaintiff, and their families were not told what Defendant Crosiers knew or should have known – that that Funcheon was a danger to children.

10. Prior to the sexual abuse of Plaintiff, Defendant Crosiers learned or should have learned that Mohs was not fit to work with children.

11. Defendant Crosiers knew or should have known that Mohs was a danger to children before Mohs sexually abused Plaintiff.

12. Defendant Crosiers negligently or recklessly believed that Mohs was fit to work with children; that Mohs would not sexually abuse children; that Mohs would not injure children; and/or that Mohs would not hurt children.

13. In approximately 1974, Defendant Crosiers placed Mohs at the Crosier Seminary and Monastery in Onamia, Minnesota. Mohs had unlimited access to children at Crosier Seminary. Children, including Plaintiff and his family, were not told what Defendant Crosiers knew or should

have known – that Mohs was a danger to children.

14. Prior to the sexual abuse of Plaintiff, Defendant Crosiers learned or should have learned that Vaughn was not fit to work with children.

15. Defendant Crosiers knew or should have known that Vaughn was a danger to children before Vaughn sexually abused Plaintiff.

16. Defendant Crosiers negligently or recklessly believed that Vaughn was fit to work with children; that Vaughn would not sexually abuse children; that Vaughn would not injure children; and/or that Vaughn would not hurt children.

17. In approximately 1977, Defendant Crosiers placed Vaughn at the Crosier Seminary and Monastery in Onamia, Minnesota. Vaughn had unlimited access to children at Onamia. Children, including Plaintiff and his family, were not told what Defendant Crosiers knew or should have known – that Vaughn was a danger to children.

18. Plaintiff was raised in a devout Roman Catholic family and attended Onamia Seminary as a high school freshman from approximately 1979 to 1980. As a result of his upbringing, Plaintiff developed great admiration, trust, reverence and respect for the Roman Catholic Church, including Defendant Crosiers and its agents, including Funcheon, Mohs and Vaughn.

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

20. Further, Defendant Crosiers, 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 Defendant Crosiers thus entered into a fiduciary relationship with Plaintiff.

21. Defendant Crosiers had a special relationship with Plaintiff.

22. Defendant Crosiers owed Plaintiff a duty of reasonable care because it had superior knowledge about the risk that Funcheon, Mohs and Vaughn posed to Plaintiff, the risk of abuse in general in its programs and/or the risks that its agents posed to minor children.

23. Defendant Crosiers owed Plaintiff a duty of reasonable care because it solicited youth and parents for participation in its programs, encouraged youth and parents to have 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 Funcheon, Mohs and Vaughn out as safe to work with children, encouraged parents and children to spend time with its agents, and/or encouraged its agents, including Funcheon, Mohs and Vaughn to spend time, interact with, and recruit children.

24. Defendant Crosiers had a duty to protect Plaintiff from harm because Defendant Crosiers' actions created a foreseeable risk of harm to Plaintiff.

25. Defendant Crosiers' breach of its duties include, but are not limited to: failure to have sufficient policies and procedures to prevent child sexual abuse, failure to properly implement policies and procedures to prevent child sexual abuse, failure to take reasonable measures to make sure that the policies and procedures to prevent child sexual abuse were working, failure to adequately inform families and children of the risks of child sexual abuse, failure to investigate risk of child molestation, failure to protect children in its programs from sexual abuse, failure to

adhere to applicable standards 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 and failure to use ordinary care in determining whether its facilities were safe and/or whether it had sufficient information to represent its facilities as safe.

26. Defendant Crosiers failed to use ordinary care in determining whether its facilities and agents were safe to work with children and/or in determining whether it had sufficient information to represent its facilities and agents as safe to work with children. Defendant Crosiers' failures include, but are not limited to: failure to have sufficient policies and procedures to prevent abuse by its agents and at its facilities, failure to investigate risks at its facilities and of its agents, failure to properly train workers at its facilities, failure to have any outside agency test its safety procedures, and failure to train its agents and employees to properly identify signs of child molestation.

27. Defendant Crosiers also breached its duty to Plaintiff by failing to warn Plaintiff and his family of the risk that Funcheon, Mohs and Vaughn posed and the risk of child sexual abuse by clerics. It also failed to warn them about any knowledge that Defendant Crosiers had about child sexual abuse.

28. Defendant Crosiers also breached its duty to Plaintiff by failing to report Funcheon's, Mohs' or Vaughn's sexual abuse of children to law enforcement.

29. Defendant Crosiers knew or should have known that some of its leaders and people working at Catholic institutions and schools were not safe.

30. Defendant Crosiers knew or should have known that it did not have sufficient information about whether its leaders and people working at Catholic institutions and schools were safe.

31. Defendant Crosiers knew or should have known that there was a risk of child sexual abuse for children participating in Catholic programs and activities and with its agents and employees.

32. Defendant Crosiers knew or should have known that it did not have sufficient information about whether there was a risk of child sexual abuse for children participating in Catholic programs and activities and with its agents and employees.

33. Defendant Crosiers knew or should have known that it had numerous agents who had sexually molested children. It knew or should have known that child sexual molesters have a high rate of recidivism. It knew or should have known that there was a specific danger of child sexual abuse for children participating in its youth programs and with its agents.

34. Defendant Crosiers 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 to respect and revere these leaders and agents, soliciting youth and families to its programs, marketing to youth and families, recruiting youth and families and holding out the people that worked in the programs as being safe to work with children.

35. Defendant Crosiers were negligent and/or made representations to Plaintiff and his family during each and every year of his minority.

36. In approximately 1979 or 1980, when Plaintiff Doe 56 was approximately 14 or 15 years old and a student at Crosiers Seminary, Funcheon, Mohs and Vaughn inflicted harmful, offensive and unpermitted sexual contact upon Plaintiff Doe 56.

37. Defendant Crosiers failed to inform law enforcement authorities what they knew or should have known about Funcheon, Mohs and Vaughn. As a direct result, Funcheon, Mohs and Vaughn avoided criminal investigation and prosecution and continued to sexually abuse children.

38. 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 counselling, and on information and belief has and/or will incur loss of income and/or loss of earning capacity.

COUNT I: NEGLIGENCE

39. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count and further allege that:

40. Defendant Crosiers owed Plaintiff a duty of reasonable care.

41. Defendant Crosiers breached the duty of reasonable care it owed to Plaintiff.

42. Defendant Crosiers' breach of its duty was a proximate cause of Plaintiff's injuries.

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

COUNT II: NEGLIGENT SUPERVISION

44. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count and further allege that:

45. At all times material, Funcheon, Mohs and Vaughn were employed by Defendant Crosiers and were under Defendant Crosiers' direct supervision, employ and control when they committed the wrongful acts alleged herein. Funcheon, Mohs and Vaughn engaged in the wrongful conduct while acting in the course and scope of their employment with Defendant

Crosiers and/or accomplished the sexual abuse by virtue of their job-created authority. Defendant Crosiers failed to exercise ordinary care in supervising Funcheon, Mohs and Vaughn in their assignments and failed to prevent the foreseeable misconduct of Funcheon, Mohs and Vaughn from causing harm to others, including Plaintiff.

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

COUNT III: NEGLIGENT RETENTION

47. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count and further allege that:

48. Defendant Crosiers, by and through its agents, servants and employees, became aware or should have become aware of problems indicating that Funcheon, Mohs and Vaughn were unfit agents with dangerous and exploitive propensities, prior to Funcheon's, Moh's and Vaughn's sexual abuse of Plaintiff, yet Defendant Crosiers failed to take any further action to remedy the problem and failed to investigate or remove Funcheon, Mohs or Vaughn from working with children.

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

PRAYER FOR RELIEF

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

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues so triable.

Dated: 7/2/15

JEFF ANDERSON & ASSOCIATES, P.A.



By: Jeffrey R. Anderson, #2057
Michael G. Finnegan, #033649X
Joshua D. Peck, #0395581
366 Jackson Street, Suite 100
St. Paul, MN 55101
(651) 227-9990

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.

