



**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL
WILL COUNTY, ILLINOIS**

BRUCE KELLER,)	
)	
Plaintiff,)	
)	
vs.)	No. 2013L394
)	
ROMAN CATHOLIC DIOCESE OF JOLIET, a Trust;)	
)	
Defendant.)	

COMPLAINT AT LAW

NOW COMES the Plaintiff, BRUCE KELLER, by and through his attorneys, HURLEY, McKENNA & MERTZ, P.C., and as his Complaint at Law against the defendant, ROMAN CATHOLIC DIOCESE OF JOLIET (hereinafter referred to as “DIOCESE OF JOLIET”), states as follows:

PARTIES

1. Plaintiff BRUCE KELLER was born on November 18, 1971.
2. JAMES NOWAK was ordained a Roman Catholic Priest on May 27, 1967.
3. JAMES NOWAK served at various parishes in the DIOCESE OF JOLIET from 1967 until 2012, when he was removed from ministry. JAMES NOWAK is listed on the DIOCESE OF JOLIET’s website as a priest who has at least one credible allegation of sexual abuse of a child made against him while serving in the Diocese of Joliet.
4. Between 1967 and 2012, including but not limited to the years 1983 through 1985, JAMES NOWAK was under the direct supervision and control of the DIOCESE OF JOLIET, its officials, Bishops, and its agents and supervisors.

Initial case management set for		
09/03/2013	at:	9:00AM a.m.

FACTS COMMON TO ALL COUNTS

5. THE DIOCESE OF JOLIET, through its agents, invited families, including the family of re, to send their young children to school at various parish schools, including without limitation St. Dominic in Bolingbrook, Illinois.

6. Thus, the DIOCESE OF JOLIET was in the business of educating young children from kindergarten to eighth grade and beyond in Archdiocesan schools.

7. The DIOCESE OF JOLIET charged parents, including Plaintiff's family, fees to educate young children in the schools and/or programs of the DIOCESE OF JOLIET.

8. Thus, the children attending schools were invitees; or in the alternative were business invitees of the DIOCESE OF JOLIET.

9. Between 1983 and 1985, St. Dominic Catholic Church was operated and controlled by employees and agents of the DIOCESE OF JOLIET.

10. During the time that young children, including Plaintiff, attended schools of the DIOCESE OF JOLIET, including St. Dominic Catholic Church, the DIOCESE OF JOLIET had exclusive control over the children.

11. At all times relevant herein, the DIOCESE OF JOLIET, owned, operated and controlled the premises commonly known as the rectory, the church and the school associated with St. Dominic Catholic Church.

12. At all times relevant herein during the academic school years between 1983 through and including 1985, Plaintiff attended catechism school (CCD) at St. Dominic Catholic Church, a school owned and/or operated by defendant DIOCESE OF JOLIET.

13. During the time that young children, including Plaintiff, attended educational programs, including catechism schools of the DIOCESE OF JOLIET, including St. Dominic Catholic Church, the DIOCESE OF JOLIET had exclusive control over the children.

14. The DIOCESE OF JOLIET held itself out to Plaintiff BRUCE KELLER, then a minor, and his parents that, as an entity, it stood and acted in place of the parents of minor children, and thus the DIOCESE OF JOLIET held itself out to Plaintiff and his parents as acting **in loco parentis** while Plaintiff was enrolled in catechism school (CCD) at St. Dominic Catholic Church.

15. While Plaintiff attended catechism school (CCD) at St. Dominic Catholic Church, the DIOCESE OF JOLIET had exclusive custody and control of Plaintiff under such circumstances as to deprive his parents of their normal opportunities for protection of their then minor son. This protection is similar to that which a mother or father would exhibit to a newborn or young child. This includes, without limitations, the deprivation of a parent of their normal opportunity to protect their child from the sexual abuse of a predator or pedophile.

16. While Plaintiff attended catechism school (CCD) at St. Dominic Catholic Church, the DIOCESE OF JOLIET had exclusive custody and control of Plaintiff under such circumstances, and the DIOCESE OF JOLIET had a fiduciary duty to Plaintiff, acting as a protector of a minor ward Plaintiff's age. As an entity exercising exclusive custody and control of a minor boy such as Plaintiff, the DIOCESE OF JOLIET had a special duty to anticipate danger; and to exercise reasonable diligence to protect Plaintiff and other children from groups or individuals of notoriously dangerous character.

17. At all times relevant herein during the academic school years between 1983 through and including 1985, Plaintiff's family wanted Plaintiff to spend additional time with

JAMES NOWAK as part of an mentoring or spiritual guidance program to assist Plaintiff with trouble he was having in school and at home. As part of this mentoring program, Plaintiff accompanied JAMES NOWAK on trips arranged by JAMES NOWAK, where JAMES NOWAK served as the sole supervisor of Plaintiff.

18. During the time that Plaintiff accompanied JAMES NOWAK on these trips, the DIOCESE OF JOLIET had exclusive control over the Plaintiff.

19. The DIOCESE OF JOLIET held itself out to Plaintiff BRUCE KELLER, then a minor, and his parents that, as an entity, it stood and acted in place of the parents of minor children, and thus the DIOCESE OF JOLIET held itself out to Plaintiff and his parents as acting **in loco parentis** while Plaintiff was being supervised by JAMES NOWAK, a priest of the DIOCESE OF JOLIET.

20. While Plaintiff attended the trips arranged by JAMES NOWAK, the DIOCESE OF JOLIET had exclusive custody and control of Plaintiff under such circumstances as to deprive his parents of their normal opportunities for protection of their then minor son. This protection is similar to that which a mother or father would exhibit to a newborn or young child. This includes, without limitations, the deprivation of a parent of their normal opportunity to protect their child from the sexual abuse of a predator or pedophile.

21. While Plaintiff attended the trips arranged by JAMES NOWAK, the DIOCESE OF JOLIET had exclusive custody and control of Plaintiff under such circumstances, and the DIOCESE OF JOLIET had a fiduciary duty to Plaintiff, acting as a protector of a minor ward Plaintiff's age. As an entity exercising exclusive custody and control of a minor boy such as Plaintiff, the DIOCESE OF JOLIET had a special duty to anticipate danger; and to exercise

reasonable diligence to protect Plaintiff and other children from groups or individuals of notoriously dangerous character.

22. Specifically, the DIOCESE OF JOLIET knew or reasonably should have known that a group of notoriously dangerous characters, namely predatory and pedophile priests, served in active ministry in the DIOCESE OF JOLIET years before, during and after 1983. These predatory priests were in the habit of sexually abusing juvenile boys and girls within the DIOCESE OF JOLIET, a fact the DIOCESE OF JOLIET knew or reasonably should have known. As a result, the DIOCESE OF JOLIET owed a duty to all the youth of the DIOCESE OF JOLIET, including Plaintiff, and Plaintiff's parents, to exercise due diligence to ascertain and anticipate dangers and make careful preparation to give Plaintiff effective protection, when the need would arise, from such predatory or pedophile priests serving in active ministry in the DIOCESE OF JOLIET.

23. In addition, the DIOCESE OF JOLIET armed with the knowledge of the preceding paragraph, would be under an affirmative duty to interfere and intervene when it knew or reasonably should have known of such predatory conduct; and would also have the duty to be reasonably vigilant in the supervision of the juveniles over which it had exclusive control so as to ascertain when such predatory conduct was about to occur.

24. During the time that JAMES NOWAK was a priest at St. Dominic Catholic Church and as a result of the affiliation Plaintiff had with the Roman Catholic Church and the DIOCESE OF JOLIET, a special fiduciary relationship of human, religious and spiritual trust developed between Plaintiff, and JAMES NOWAK and defendant DIOCESE OF JOLIET, with concomitant *in loco parentis* duties, including providing a safe haven for Plaintiff by providing for his physical and emotional care and safety. As a result of representations made by defendant

DIOCESE OF JOLIET and JAMES NOWAK and because the DIOCESE OF JOLIET and its agents held themselves out as counselors and instructors on matters that were spiritual, moral and ethical, Plaintiff placed great trust in the DIOCESE OF JOLIET and its priests so that the DIOCESE OF JOLIET gained control and influence over Plaintiff, and therefore defendant entered into a fiduciary relationship with the Plaintiff.

25. During the time that JAMES NOWAK served as the sole supervisor of Plaintiff on trips arranged by JAMES NOWAK as Plaintiff's mentor and advisor and as a result of the affiliation Plaintiff had with the Roman Catholic Church and the DIOCESE OF JOLIET, a special fiduciary relationship of trust developed between Plaintiff and JAMES NOWAK and defendant DIOCESE OF JOLIET, with concomitant *in loco parentis* duties, including providing safe haven for Plaintiff by providing for his physical and emotional care and safety. As a result of representations made by JAMES NOWAK and defendant DIOCESE OF JOLIET and because the DIOCESE OF JOLIET and its agents held themselves out as supervisors and providers of food, shelter and protection, Plaintiff placed great trust in the DIOCESE OF JOLIET and its priests so that the DIOCESE OF JOLIET and JAMES NOWAK gained control and influence over Plaintiff, and therefore entered into a fiduciary relationship with Plaintiff.

26. Defendant's fiduciary relationship with the Plaintiff established upon defendant a duty of good faith, fair dealing and the duty to act with the highest degree of trust and confidence. This fiduciary relationship includes the duty to warn and to disclose and the duty to protect children from sexual abuse and exploitation by Catholic priests whom the defendant promotes as being celibate and chaste representatives of God on earth and whom the DIOCESE OF JOLIET holds out to parishioners as safe, trustworthy community members. Defendant's fiduciary relationship with Plaintiff was based upon justifiable trust on Plaintiff's side and

superiority and influence on defendant's side particularly during the trips arranged by JAMES NOWAK.

27. The local leaders of defendant DIOCESE OF JOLIET were in a specialized or superior position to receive and did receive specific information regarding misconduct by priests and other agents and employees that was of critical importance to the well-being, protection, care and treatment of innocent victims, including the Plaintiff. This knowledge was not otherwise readily available. Defendant DIOCESE OF JOLIET exercised its special or superior position to assume control of said knowledge and any response thereto.

28. Plaintiff was in a subordinate position of weakness, vulnerability, and inequality and was lacking knowledge. Further, the ability of Plaintiff or his family to monitor the use or misuse of the power and authority of defendant DIOCESE OF JOLIET and JAMES NOWAK was compromised, inhibited or restricted by the DIOCESE OF JOLIET and JAMES NOWAK.

29. Defendant DIOCESE OF JOLIET had a secular standard of fiduciary duty which it breached by failing to act upon, or insufficiently acting upon or responding to, information which it had obtained by virtue of its superior status, known only or secretly to them, that was indicative or highly suggestive of a pattern of wrongful, unlawful or criminal behavior of JAMES NOWAK and its other priests. Defendant DIOCESE OF JOLIET breached this duty, as well as other duties, through inaction, manipulation, intimidation, evasion, intended deception, undue influence, duress or otherwise, as more fully described and set forth elsewhere in this Complaint, resulting in negative consequences to the welfare and well-being of Plaintiff.

30. By tradition, Roman Catholics, including Plaintiff, are taught to hold priests in the highest esteem as earthly representatives of God, and that priests, unlike lay people, belong to separate and higher station in life, the so called "clerical state," which it represents to be of

divine origin and which it represents entitles them to special privileges. For these and other reasons relating to the practices of Church, priests and other persons in leadership positions in the Church have traditionally occupied a position of great trust and allegiance among the parents and youth of Illinois, including Plaintiff.

31. As part of this traditional reverence of Church clergy, Plaintiff and his parents were instructed and indoctrinated by the DIOCESE OF JOLIET as children to show obedience to priests, including JAMES NOWAK, and were taught to believe and did believe that it would be “sinful” or wrong to make any kind of accusation against a priest or a bishop. Additionally, Plaintiff and his parents were instructed and believed that priests and Bishops follow their vow or promise of celibacy and chastity and could not and would not engage in conduct considered sexual, or evil or wrong. Plaintiff and his parents relied upon these teachings and incorporated them into Plaintiff’s religious beliefs and practices.

32. Plaintiff and his parents had the right to rely and did rely, on the representations and teachings of the Church and defendant DIOCESE OF JOLIET including, but not limited to, representations regarding priests in general and JAMES NOWAK in particular (including the representation that JAMES NOWAK was a priest in “good standing”). Plaintiff and his parents also expected and believed that the Church and defendant DIOCESE OF JOLIET would not tolerate criminal misconduct that represented a known threat to children by any priest. Accordingly, Plaintiff and his parents also relied on defendant’s omissions and silence.

33. The Church and defendant DIOCESE OF JOLIET created the misperception in the mind of Plaintiff and his parents and others that Plaintiff and other children were safe with priests in general and with JAMES NOWAK in particular. In fact, Plaintiff was a victim of a

known and preventable hazard that the Church, the DIOCESE OF JOLIET and JAMES NOWAK created and allowed to continue.

34. Further, as a result of the early instruction and indoctrination described herein, Plaintiff and his parents believed that defendant DIOCESE OF JOLIET was unaware and uninvolved in facilitating the criminal sexual behavior of its priests, and the wide-ranging efforts of defendant to conceal that criminal conduct from Plaintiff, his family and all parishioners.

35. **Knowledge of the DIOCESE OF JOLIET of Predator and Pedophile Priests:** At the time Plaintiff attended school at St. Dominic Catholic Church, and no later than the year 1983, the DIOCESE OF JOLIET, including members of its hierarchy and its officials, had actual knowledge that Catholic priests sexually abused minor parishioners within the DIOCESE OF JOLIET.

36. In the alternative, no later than the year 1983, the DIOCESE OF JOLIET knew or should have known that Catholic priests, specifically JAMES NOWAK, sexually abused young boys attending schools and programs operated by the DIOCESE OF JOLIET, including but not limited to St. Dominic Catholic Church.

37. No official or agent of the DIOCESE OF JOLIET has ever warned Plaintiff, his parents or others similarly situated, of such a problem of predatory and pedophile priests having infected the active ministry of the DIOCESE OF JOLIET's priests when Plaintiff attended school and/or programs operated by the DIOCESE OF JOLIET and St. Dominic Catholic Church.

38. The DIOCESE OF JOLIET had a pattern and practice of hiding and non-disclosing facts that pedophile and predatory priests served in active ministry in the DIOCESE OF JOLIET.

39. The DIOCESE OF JOLIET had a pattern and practice of secretly transferring predatory priest in and out of the State of Illinois; and in and out of the DIOCESE OF JOLIET to the detriment of Plaintiff, his parents and all parishioners of the DIOCESE OF JOLIET.

40. Defendant DIOCESE OF JOLIET knew or should have known of the pedophilic behavior of its priests assigned to St. Dominic Catholic Church before Plaintiff was first sexually abused by JAMES NOWAK in 1983.

41. Defendant DIOCESE OF JOLIET failed to act on its knowledge regarding the pedophilic behavior of its priests assigned to St. Dominic Catholic Church in and prior to 1983.

42. Defendant DIOCESE OF JOLIET failure to act on its knowledge regarding the pedophilic behavior of its priests assigned to St. Dominic Catholic Church in and prior to 1983 increased the likelihood that Plaintiff would be harmed. Defendant DIOCESE OF JOLIET's failure to act on that knowledge also contributed to Plaintiff's inability to have any knowledge of the wrongful nature of the events.

43. As of 1985, when Plaintiff was first sexually abused by JAMES NOWAK, the DIOCESE OF JOLIET had abandoned, or in the alternative, had failed to fully follow its own procedures with respect to the voluntary undertaking described herein.

44. **Various Church Documents Which Confirm a Voluntary Undertaking to Prevent the Crime of Solicitation and Sexual Abuse:** The DIOCESE OF JOLIET voluntarily undertook a duty to protect persons like Plaintiff from being sexually abused by priests employed by the defendant DIOCESE OF JOLIET.

45. The DIOCESE OF JOLIET possessed various other documents which confirmed that the DIOCESE OF JOLIET voluntarily undertook a duty to prevent the crime of sexual abuse of minors and other persons. These include, without limitations, various portions of the Code of

Canon Law, under which the DIOCESE OF JOLIET operated, such Code which was first formulated in 1917, and remained in force during all material times herein.

46. When Plaintiff, at 12 to 14 years of age, attended catechism school (CCD) at St. Dominic Catholic Church, Plaintiff came under the exclusive custody and control of the employees and agents of the DIOCESE OF JOLIET during the class time.

47. When Plaintiff, at 12 to 14 years of age, attended trips arranged by JAMES NOWAK as Plaintiff's mentor and/or advisor, Plaintiff came under the exclusive custody and control of the employees and agents of the DIOCESE OF JOLIET during that time.

48. When Plaintiff, at 12 to 14 years of age, attended catechism school (CCD) at St. Dominic Catholic Church, JAMES NOWAK, an employee and agent of the DIOCESE OF JOLIET, was in charge of, or otherwise supervised, the children attending CCD classes, including but not limited to, feeding, sheltering, disciplining, and other supervisory duties.

49. When Plaintiff, at 12 to 14 years of age, attended trips arranged by JAMES NOWAK as Plaintiff's mentor and/or advisor, JAMES NOWAK, an employee and agent of the DIOCESE OF JOLIET, was in charge of, or otherwise supervised, Plaintiff, including but not limited to, feeding, sheltering, disciplining, and other supervisory duties.

50. In approximately 1983 and continuing through 1985, JAMES NOWAK began taking Plaintiff on trips to a local health club. While at the health club, JAMES NOWAK would shower with Plaintiff, weigh Plaintiff while Plaintiff was naked, sit in the sauna and/or jacuzzi with Plaintiff while both JAMES NOWAK and Plaintiff were naked.

51. The DIOCESE OF JOLIET knew or should have known prior to 1983 that JAMES NOWAK was a predatory or pedophile priest and prevented him from supervising minor children.

52. The DIOCESE OF JOLIET knew or should have known about the inappropriate and illegal activities that occurred at the health club in 1983 through 1985.

53. In approximately 1985, JAMES NOWAK arrived at Plaintiff's home one day to talk with Plaintiff as his mentor and/or advisor. JAMES NOWAK went to Plaintiff's room, told Plaintiff he wanted to bless him and put his hands on Plaintiff's stomach. JAMES NOWAK then placed his hands inside Plaintiff's underwear and fondled Plaintiff's genitals.

54. When JAMES NOWAK was molesting Plaintiff as stated above, Plaintiff was 14 years old, did not understand what was occurring, and believed that he could not tell anyone about JAMES NOWAK's behavior.

55. Further, when JAMES NOWAK was molesting Plaintiff, as stated above, JAMES NOWAK gave the appearance of authority to Plaintiff and stood **in loco parentis** and as the Plaintiff's spiritual leader.

56. Due to shame, embarrassment, fear, and psychological trauma BRUCE KELLER suppressed the memory of his abuse and was unaware of the injury he suffered as a result of the sexual molestation.

57. Plaintiff continued to repress his memory of the abuse throughout his adult life, suffering greatly as a result of the repression.

58. It was not until July of 2012, that BRUCE KELLER discovered that he was repressing the memories of his abuse and discovered his injuries.

59. In approximately March of 2013, after Plaintiff discovered a news story regarding the cover-up of a local priest's sexual abuse of numerous children, he first became aware of the potential involvement of the DIOCESE OF JOLIET in the concealment and facilitation of his abuse by JAMES NOWAK.

60. **Fraudulent Misrepresentation and Non-Disclosure of Predatory and Pedophile Priests by DIOCESE OF JOLIET Officials:** The DIOCESE OF JOLIET, through its bishops, priests, employees, agents, officials and attorneys, has had actual knowledge that predatory and pedophile priests have been an active and unrestricted ministry in the U.S. Roman Catholic Church in general, and within the DIOCESE OF JOLIET specifically, at all relevant times between at least 1983 and the present.

61. Additionally, the DIOCESE OF JOLIET had actual or constructive knowledge that JAMES NOWAK routinely sexually abused minor parishioners at all relevant times between at least 1983 and the present.

62. Armed with the above knowledge, the DIOCESE OF JOLIET hid the information from its parishioners, including Plaintiff and his parents, up to and including the present.

63. In each of the years between at least 1983 and the date of the filing of this complaint, the DIOCESE OF JOLIET has misrepresented and under-reported the true nature and number of predatory and pedophile priests that have served in active ministry in the DIOCESE OF JOLIET. The DIOCESE OF JOLIET has had and presently does have a financial incentive to misrepresent and non-disclose the true nature and scope of this problem of predatory and pedophile priests, as more particularly described below. The DIOCESE OF JOLIET continues to non-report pedophile priests who have served in active ministry in the DIOCESE OF JOLIET, if such priests were in an Order.

64. In addition, there have been other specific instances and patterns of under reporting, non-disclosure and misrepresentation by the DIOCESE OF JOLIET, of the true nature and extent of pedophile and predatory priests who have served in the DIOCESE OF JOLIET.

65. Because of its “Assumed Duty” described above, and because of its “Special Relationship” with school children and minor parishioners over which it had exclusive control and custody, the DIOCESE OF JOLIET had a duty to disclose all that it knew, or reasonably should have known about predatory and pedophile priests. The DIOCESE OF JOLIET had a duty to Plaintiff and his parents to be candid about such a problem of predatory and pedophile priests; and had similar duty not to downplay, under-report, or otherwise mis-inform or non-disclose facts regarding these issues to Plaintiff and his parents.

66. Because of its “Assumed Duty” described above, and because of its “Special Relationship” with school children and minor parishioners over which it had exclusive control and custody, and as a result of the fiduciary relationship between Plaintiff, the DIOCESE OF JOLIET, and JAMES NOWAK, the DIOCESE OF JOLIET had a duty to contact Plaintiff and his parents and disavow JAMES NOWAK’s representations that his conduct towards Plaintiff and the abuse was correct, proper, and/or authorized by the church.

67. The failure of the defendant DIOCESE OF JOLIET to take any action regarding JAMES NOWAK’s sexual abuse of Plaintiff is consistent with its decades-long practice of failing to respond to credible allegations of sexual abuse. On numerous occasions since at least 1983, the DIOCESE OF JOLIET received credible allegations of sexual abuse but failed to take the actions necessary to properly investigate the allegations. On information and belief, the DIOCESE OF JOLIET engaged in a pattern and practice of purposefully hiding claims of sexual abuse, including the frequent transfer of priests accused of pedophilic behavior, to protect its reputation and avoid the scandal and civil liability that would result if parishioners and the public at large were aware of the incidents of pedophilia in the church community.

68. The DIOCESE OF JOLIET did not take appropriate action to safeguard the children of the DIOCESE OF JOLIET. On information and belief, on numerous occasions, the DIOCESE OF JOLIET transferred priests accused of inappropriate behavior toward a minor from one assignment to another, without disclosing any information about the priest's behavior to anyone in the community or to law enforcement officials. Additionally, the DIOCESE OF JOLIET knowingly accepted known child molesters into the DIOCESE OF JOLIET and assigned them to ministries without warning anyone in the community of pedophilic behavior of these priests. Instead, the DIOCESE OF JOLIET assured parishioners that pedophilic and predatory priests were trustworthy and upstanding community members.

69. Defendant DIOCESE OF JOLIET created the misperception in the mind of Plaintiff and his parents and others that he and other children were safe with the DIOCESE OF JOLIET's priests in general and with JAMES NOWAK in particular. At no time during the period in question did defendant DIOCESE OF JOLIET have in place an effective system or procedure to supervise or monitor priests' abstinence from sexual activity or pre-sexual grooming of children in the DIOCESE OF JOLIET to prevent or minimize the risk of sexual contact with minors. Nor did defendant DIOCESE OF JOLIET employ reasonably sufficient procedures for testing and screening priests for dangerous sexual proclivities, such as those shown by JAMES NOWAK.

70. If defendant and its agents had not misrepresented or concealed the true nature of predatory and pedophile priests in the DIOCESE OF JOLIET, Plaintiff would have discovered earlier, and within the limitation period (whatever that may be held to in this case) that he had suffered damages as a result of the abuse and/or that the DIOCESE OF JOLIET was responsible and liable for the abuse and damages he suffered; and therefore would have filed his cause of

action (a) before his 18th birthday; (b) in less than 2 years after of his 18th birthday; or (c) earlier than he did without the aid of any applicable Discovery Rule.

71. Because of the defendant's misrepresentation and concealment, Plaintiff (a) was unaware of his claim when he turned 18; (b) did not know the DIOCESE OF JOLIET had done something wrong at any time until approximately March of 2013, and because of the misrepresentation and concealment of the DIOCESE OF JOLIET, was otherwise not aware of his injury or the cause of his injury until approximately March of 2013.

72. **Detrimental Reliance:** Before, during and after the 1983-1985 school years, Plaintiff and his parents detrimentally relied on the false statements and non-disclosures of the DIOCESE OF JOLIET about predatory and pedophile priests serving in the DIOCESE OF JOLIET.

73. If the parents of Plaintiff were informed by defendant prior to 1983 that the DIOCESE OF JOLIET knew or reasonably should have known at that time about pedophile priests working for and/or on behalf of the defendant, they would not have permitted Plaintiff, their then minor son, to be alone with any priest at St. Dominic Catholic Church, including JAMES NOWAK.

74. **The DIOCESE OF JOLIET had a financial incentive to withhold facts about predatory and pedophile priests:** If the DIOCESE OF JOLIET were to disclose the true extent of predatory pedophile priests described above, collections from church members to the DIOCESE OF JOLIET in the form of cash, pledges, bequests under Wills, Trusts and Estate Plans would significantly diminish.

75. Thus, one of the reasons the DIOCESE OF JOLIET misrepresented or failed to disclose that agents and/or employees of the DIOCESE OF JOLIET, generally, and JAMES

NOWAK in particular, could be a dangerous minors, and failed to disclose the true nature and extent of predatory and pedophile priests, was not because it did not have knowledge of such misconduct. Rather, the reason for the misrepresentation and non-disclosure by the DIOCESE OF JOLIET was because such disclosure would put the DIOCESE OF JOLIET at significant risk of losing millions of dollars per year in the form of donations, pledges or other inflows of cash or cash equivalents.

76. At no time before approximately March of 2013 did Plaintiff know, nor reasonably should have known that he was injured in any way, or that he had been the victim of any wrongful conduct, on the part of defendant DIOCESE OF JOLIET.

77. **Damages:** As a direct result of JAMES NOWAK's sexual abuse, and the fraudulent and wrongful conduct of defendant DIOCESE OF JOLIET, Plaintiff has suffered and continues to suffer severe and permanent emotional distress, anger, terror, embarrassment, loss of self-esteem, disgrace, humiliation, loss of enjoyment of life, loss of religious faith, difficulty in practicing his religion through the Church, severe psychological injury and deprivation of earning capacity reasonably certain to occur in the future, and has incurred and will continue to incur expenses for psychological treatment, therapy and counseling.

78. **Equitable Estoppel:** First, as more particularly described above, the DIOCESE OF JOLIET misrepresented and concealed material facts about the true nature of predatory and pedophile priests in DIOCESE OF JOLIET.

79. Second, the DIOCESE OF JOLIET knew at the time the representations were made, and when the concealment occurred, that they were untrue.

80. Third, at no time did Plaintiff know that the representations made by the DIOCESE OF JOLIET were untrue.

81. Fourth, the DIOCESE OF JOLIET intended to reasonably expect the representation to be acted upon by Plaintiff, an abused person, and his parents and by other victims of sexual abuse by a priest.

82. Fifth, Plaintiff and his parents reasonably relied upon the representations of the DIOCESE OF JOLIET in good faith and to their detriment; and

83. Sixth, Plaintiff has been prejudiced by his reliance on the representations of the DIOCESE OF JOLIET and fraudulent misrepresentation of the DIOCESE OF JOLIET described above.

84. As a result, the DIOCESE OF JOLIET should be equitably estopped from asserting any statute of limitation defense.

COUNT I

Special Relationship: Duty of Persons Having Custody of Another – Restatement of Torts (Second) §314A(4), § 320

Plaintiff, BRUCE KELLER, complains of the defendant, DIOCESE OF JOLIET as follows:

1-84. Plaintiff incorporates Paragraphs 1 through 84 of this Complaint as if fully set forth herein.

85. The allegations of fact and law above confirm that the DIOCESE OF JOLIET had a special relationship and duty to intervene and protect Plaintiff consistent with the Restatement of Torts (Second), sec. 314 (A)(4) and sec. 320; and as more particularly described above regarding a person or entity who has exclusive custody or control of a minor boy.

86. Because the DIOCESE OF JOLIET voluntarily took custody of Plaintiff under circumstances described above which deprived him, and his parents, of their normal powers of self-protection; and thereby subjected Plaintiff to associations with persons likely to harm him, the DIOCESE OF JOLIET was under a duty to exercise reasonable care as to control the conduct

of third persons as to prevent them from intentionally harming Plaintiff, or so conducting themselves as to create an unreasonable risk of harm to Plaintiff as the DIOCESE OF JOLIET knew or had reason to know that it had the ability to control the conduct of third persons, and knew or should have known that it had the ability to control the conduct of third persons, and knew or should know of the necessity and opportunity for exercising such control. In addition, defendant had a duty of affirmative action for the aid and protection of Plaintiff; had a duty to anticipate danger, and had a duty to be reasonably vigilant in the supervision of priests working at churches in the DIOCESE OF JOLIET, when the DIOCESE OF JOLIET knew or reasonably should have known such churches were staffed by predatory pedophiles.

87. That the defendant DIOCESE OF JOLIET breached the duty of care owed to Plaintiff, a minor boy, and his parents, and was guilty of one or more of the following wrongful acts and/or omissions.

- a. Improperly deprived Plaintiff of the normal protection of his parents and directed minor Plaintiff to be alone with JAMES NOWAK, a priest that it knew or should have known was a pedophile;
- b. Improperly deprived Plaintiff of the normal protection of his parents and directed minor Plaintiff to be alone with JAMES NOWAK, a priest at a parish that defendant knew or should have known was staffed by priests who were pedophiles;
- c. Failed to take affirmative acts of protection or vigilance to protect minor Plaintiff from physical harm while he was in its sole and exclusive custody on trips arranged and supervised by predatory or pedophile priests of the DIOCESE OF JOLIET and St. Dominic Catholic Church, including JAMES NOWAK;
- d. Improperly exposing the minor Plaintiff to unsupervised contact with JAMES NOWAK wherein he was able to sexually abuse Plaintiff, when it knew or should have known JAMES NOWAK had a history of repeatedly sexually abusing minors.

88. As a direct and proximate result of one or more of the foregoing wrongful acts and omissions of the defendant DIOCESE OF JOLIET, Plaintiff suffered injuries and damages

as more particularly described above; and such other damages to which experts in this case may testify.

WHEREFORE, Plaintiff BRUCE KELLER, demands judgment against defendant ROMAN CATHOLIC DIOCESE OF JOLIET in an amount in excess of \$50,000, and such other relief as the Court deems just and equitable.

COUNT II
Voluntary Undertaking:
Duty to Protect Against Predatory and Pedophile Priests

Plaintiff, BRUCE KELLER, complains of the defendant, DIOCESE OF JOLIET as follows:

1-84. Plaintiff incorporates Paragraphs 1 through 84 of this Complaint as if fully set forth herein.

85. Defendant DIOCESE OF JOLIET, through its own policies and procedures, and the provisions of Canon Law, voluntarily undertook and did assume the duty to establish a security, investigation, and prosecution program, to deter pedophile and predatory conduct by priests; and to protect its parishioners and members from harm in the event predatory and pedophile priests were service in the DIOCESE OF JOLIET.

86. The DIOCESE OF JOLIET failed to exercise reasonable care in carrying out this voluntary undertaking, and the failure to exercise reasonable care increased the risk of harm to Plaintiff from predatory and pedophile priests who were serving in the DIOCESE OF JOLIET.

87. That the defendant DIOCESE OF JOLIET breached the duty of care owed to Plaintiff, a minor boy, and his parents, and was guilty of one or more of the following wrongful acts and/or omissions:

- a. Failed to properly investigate, prosecute and punish priests who were reported to have been guilty of predatory or pedophile conduct;

- b. Failed to properly investigate all priests involved in staffing a particular parish when defendant knew, or should have known, that one or more of the priests staffing a particular parish was a pedophile;
- c. Improperly deprived Plaintiff of the normal protection of his parents and directed minor Plaintiff to be alone with JAMES NOWAK, a priest that it knew or should have known was a pedophile;
- d. Improperly deprived Plaintiff of the normal protection of his parents and directed minor Plaintiff to be alone with JAMES NOWAK, a priest at a parish that defendant knew or should have known was staffed by priests who were pedophiles;
- e. Failed to take affirmative acts of protection or vigilance to protect minor Plaintiff from physical harm while he was in its sole and exclusive custody as minor parishioner attending a trip arranged and supervised by a predatory and pedophile priest of the DIOCESE OF JOLIET, when it knew or reasonably should have known that predatory and pedophile priests were in active ministry in the DIOCESE OF JOLIET;
- f. Improperly exposing the minor Plaintiff to unsupervised contact with JAMES NOWAK wherein he was able to sexually abuse Plaintiff when it knew or should have known JAMES NOWAK had a history of repeatedly sexually abusing minors.

88. As a direct and proximate result of one or more of the foregoing wrongful acts and omissions of the defendant DIOCESE OF JOLIET, Plaintiff suffered injuries and damages as more particularly described above; and such other damages to which experts in this case may testify.

WHEREFORE, Plaintiff BRUCE KELLER demands judgment against defendant the ROMAN CATHOLIC DIOCESE OF JOLIET in an amount in excess of \$50,000, and such other relief as the Court deems just and equitable.

COUNT III
Respondeat Superior:
Acts within the Scope of Employment

Plaintiff BRUCE KELLER complains of the defendant DIOCESE OF JOLIET as follows:

1-84. Plaintiff incorporates Paragraphs 1 through 84 of this Complaint as if fully set forth herein.

85. It was the duty of the defendant DIOCESE OF JOLIET, through the acts of its employees and agents, to exercise reasonable care for the protection and benefit of the Plaintiff, then a minor boy, when it had exclusive custody and control of the Plaintiff.

86. At all times relevant herein, the actions of JAMES NOWAK, as described above, were acts within the scope of JAMES NOWAK's employment by the defendant DIOCESE OF JOLIET. Since the acts of sexual abuse of the then minor Plaintiff took place during the time when Plaintiff attended a trip arranged and supervised by JAMES NOWAK, a priest of the DIOCESE OF JOLIET and St. Dominic Catholic Church, they were acts within the scope of JAMES NOWAK's employment by the defendant DIOCESE OF JOLIET.

87. Since the acts of sexual abuse of the then minor Plaintiff were perpetrated by JAMES NOWAK, the pastor of St. Dominic Catholic Church of the DIOCESE OF JOLIET, during a trip arranged by JAMES NOWAK as Plaintiff's mentor and spiritual advisor, such acts of sexual abuse, were acts within the scope of JAMES NOWAK's employment.

88. In the alternative, and in the light of the facts as more particularly described above, including paragraphs 1-84 above, the DIOCESE OF JOLIET should be estopped from denying that all such acts of JAMES NOWAK were not within the scope of his employment.

89. That the defendant DIOCESE OF JOLIET breached the duty of care owed to Plaintiff, a minor boy, and his parents, and was guilty of one or more of the following wrongful acts and/or omissions, through the actions or omissions of JAMES NOWAK:

- a. Improperly fondled and sexually abused Plaintiff, a minor, while he was under the exclusive control of the DIOCESE OF JOLIET;

- b. Improperly fondled and sexually abused while he was under the exclusive control of the DIOCESE OF JOLIET, while Plaintiff attended a school operated by the DIOCESE OF JOLIET and St. Dominic Catholic Church.

90. As a direct and proximate result of one or more of the foregoing wrongful acts and omissions of the defendant DIOCESE OF JOLIET, Plaintiff suffered injuries and damages as more particularly described above; and such other damages to which experts in this case may testify.

WHEREFORE, Plaintiff BRUCE KELLER demands judgment against defendant the ROMAN CATHOLIC DIOCESE OF JOLIET in an amount in excess of \$50,000, and such other relief as the Court deems just and equitable.

COUNT IV
Negligence Regarding Actions Outside the Scope of Employment –
Restatement of Torts (Second), § 317

Plaintiff BRUCE KELLER complains of the defendant DIOCESE OF JOLIET as follows:

1-84. Plaintiff incorporates Paragraphs 1 through 84 of this Complaint as if fully set forth herein.

85. It was the duty of the defendant DIOCESE OF JOLIET, through the acts of its employees and agents, to exercise reasonable care for the protection and benefit of the minor boy, Plaintiff, over whom it had exclusive custody and control.

86. In the alternative, if the actions of JAMES NOWAK as described above, during the time during Plaintiff attended a trip arranged and supervised by JAMES NOWAK as Plaintiff's mentor and/or advisor, were acts outside the scope of JAMES NOWAK's employment by the defendant DIOCESE OF JOLIET, these acts were such acts for which defendant had legal responsibility as more particularly described below.

87. The DIOCESE OF JOLIET, as master, was under a duty to exercise reasonable care so as to control its servant, JAMES NOWAK, while acting outside the scope of his employment as to prevent him from intentionally harming others, or from so conducting himself as to create an unreasonable risk of bodily harm to them as JAMES NOWAK at all relevant times used his position of trust and authority given to him by the DIOCESE OF JOLIET to form relationships with parish youths and to gain the permission of parish parents to take these minor children on trips supervised by the priest alone; and the DIOCESE OF JOLIET knew or had reason to know that it had the ability to control the servant, JAMES NOWAK; and knew or should have known of the necessity and opportunity for exercising such control.

88. The sexual abuse of Plaintiff occurred during a trip arranged by JAMES NOWAK, a priest of the DIOCESE OF JOLIET and St. Dominic Catholic Church. JAMES NOWAK served as Plaintiff's mentor and/or advisor solely because of his position as a priest and/or pastor, and as a guardian of the then minor Plaintiff, during the time of Plaintiff's attendance at catechism school (CCD) at a school operated by the DIOCESE OF JOLIET and St. Dominic Catholic Church.

89. In addition, JAMES NOWAK served as Plaintiff's mentor and/or advisor only by his appointment as pastor by the DIOCESE OF JOLIET, the DIOCESE OF JOLIET knew that it had the ability to control JAMES NOWAK, and the DIOCESE OF JOLIET knew that JAMES NOWAK, and other priests at St. Dominic Catholic Church, were likely to be alone with the minor boys on these trips.

90. DIOCESE OF JOLIET knew or reasonably should have known that to allow predatory and pedophile priests who were sexually attracted to young boys at remote or private locations outside the presence of other adults was a formula for disaster; and disaster did occur in

the form of the sexual abuse of Plaintiff by JAMES NOWAK, a priest of the DIOCESE OF JOLIET.

91. That the defendant DIOCESE OF JOLIET breached the duty of care owed to Plaintiff, a minor boy, and his parents, and was guilty of one or more of the following wrongful acts and/or omissions, through the actions or omissions of JAMES NOWAK:

- a. Improperly fondled and sexually abused Plaintiff, a minor, while he was under the exclusive control of the DIOCESE OF JOLIET;
- b. Improperly fondled and sexually abused Plaintiff, a minor, while he attended while he attended a trip organized and supervised by agents and/or employees of the DIOCESE OF JOLIET and St. Dominic Catholic Church, in 1985.

92. As a direct and proximate result of one or more of the foregoing wrongful acts and omissions of the defendant DIOCESE OF JOLIET, Plaintiff suffered injuries and damages as more particularly described above; and such other damages to which experts in this case may testify.

WHEREFORE, Plaintiff BRUCE KELLER demands judgment against defendant the ROMAN CATHOLIC DIOCESE OF JOLIET in an amount in excess of \$50,000 and such other relief as the Court deems just and equitable.

COUNT V
Institutional Negligence

Plaintiff BRUCE KELLER complains of the defendant DIOCESE OF JOLIET as follows:

1-84. Plaintiff incorporates Paragraphs 1 through 84 of this Complaint as if fully set forth herein.

85. Defendant DIOCESE OF JOLIET owed Plaintiff a duty to provide competent and safe care and supervision by instituting and following policies and procedures to govern priests at parishes within the DIOCESE OF JOLIET.

86. Defendant DIOCESE OF JOLIET did not have any policies and/or procedures to identify and remove predatory or pedophile priests from the seminary program before providing them with access to minor parishioners residing in the DIOCESE OF JOLIET.

87. Defendant DIOCESE OF JOLIET had written policies and/or procedures in place requiring the DIOCESE OF JOLIET to investigate and remove all predatory or pedophile priests from active ministry.

88. Defendant DIOCESE OF JOLIET did not have policies and/or procedures in place to prevent predatory or pedophile priests from taking parish minors on religious on trips away from their families.

89. From 1983 through 1985 and at all relevant times herein, defendant DIOCESE OF JOLIET, was negligent for one or more of the following reasons:

- a. Failed to create, adopt and/or implement written policies and/or procedures designed to identify and remove predatory or pedophile priests from the seminary before providing them with access to minor parishioners of the DIOCESE OF JOLIET;
- b. Failed to follow the written policies and/or procedures that were in place requiring the defendant DIOCESE OF JOLIET to investigate and remove predatory or pedophile priests;
- c. Failed to institute adequate policies and/or procedures designed to prevent predatory or pedophile priests from molesting minor parishioners;
- d. Failed to adopt and adequately maintain policies and procedures that would prevent predatory or pedophile priests from taking minor parishioners on trips from their parents;
- e. Failed to recognize the predatory or pedophilic tendencies of JAMES NOWAK while he was in the seminary;
- f. Ignored the predatory and pedophilic tendencies of JAMES NOWAK while he was in the seminary;

- g. Failed to recognize the predatory or pedophilic tendencies of JAMES NOWAK while he was in active ministry as a priest with the DIOCESE OF JOLIET;
- h. Ignored the predatory and pedophilic tendencies of JAMES NOWAK while he was in active ministry as a priest with the DIOCESE OF JOLIET;
- i. Otherwise failed to institute policies and procedures to protect against the known danger presented by predatory or pedophile priests.

90. As a direct and proximate result of one or more of the foregoing wrongful acts and omissions of the defendant DIOCESE OF JOLIET, Plaintiff suffered injuries and damages as more particularly described above; and such other damages to which experts in this case may testify.

WHEREFORE, Plaintiff BRUCE KELLER demands judgment against defendant the ROMAN CATHOLIC DIOCESE OF JOLIET in an amount in excess of \$50,000 and such other relief as the Court deems just and equitable.

COUNT VI Fraudulent Misrepresentation

Plaintiff BRUCE KELLER complains of the defendant DIOCESE OF JOLIET as follows:

1-84. Plaintiff incorporates Paragraphs 1 through 84 of this Complaint as if fully set forth herein.

85. It was the duty of the DIOCESE OF JOLIET to refrain from making fraudulent misrepresentations or non-disclosure of facts that it had a duty to disclose to Plaintiff and his parents at and before the year 1983, and from that year to the present. Because of the "Special Relationship" that the DIOCESE OF JOLIET undertook, as more particularly described above, DIOCESE OF JOLIET had a duty to Plaintiff and his parents to disclose all it knew or reasonably should have known about predatory and pedophile priests who sexually abused minors, including Plaintiff, as described above.

86. That the defendant DIOCESE OF JOLIET breached the duty of care owed to Plaintiff and his parents and was guilty of one or more of the following wrongful acts and/or omissions:

- a. Guilty of fraudulent misrepresentations and non-disclosure of its knowledge regarding predatory and pedophile priests, including JAMES NOWAK;
- b. Guilty of fraudulent misrepresentations and non-disclosure of its knowledge regarding predatory and pedophile priests serving at St. Dominic Catholic Church, including JAMES NOWAK;
- c. Guilty of fraudulent misrepresentations and non-disclosure of its knowledge regarding JAMES NOWAK;
- d. Was otherwise guilty of fraudulent misrepresentations and non-disclosure that will come out during the course of Discovery in this case.

87. Plaintiff, and his parents during the time he was a minor, detrimentally relied on the fraudulent misrepresentations and non-disclosure of the DIOCESE OF JOLIET as more particularly described above.

88. As a direct and proximate result of one or more of the foregoing wrongful acts and omissions of the defendant DIOCESE OF JOLIET, Plaintiff suffered injuries and damages as more particularly described above; and such other damages which experts in this case may testify.

89. As a direct and proximate result of one or more of the foregoing wrongful acts and omissions of the defendant DIOCESE OF JOLIET, Plaintiff failed to discover that his injuries and damages were caused by sexual abuse and failed to discover that his injuries and damages were wrongfully caused until approximately March of 2013.

WHEREFORE, Plaintiff BRUCE KELLER demands judgment against defendant the ROMAN CATHOLIC DIOCESE OF JOLIET in the amount in excess of \$50,000 and such other relief as the Court deems just and equitable.

COUNT VII
Equitable Tolling

Plaintiff BRUCE KELLER complains of the defendant DIOCESE OF JOLIET as follows:

1-84. Plaintiff incorporates Paragraphs 1 through 84 of this Complaint as if fully set forth herein.

85. It was the duty of the DIOCESE OF JOLIET to refrain from making fraudulent misrepresentations or non-disclosure of facts that it had a duty to disclose to Plaintiff and his parents at and before the year 1983, and from that year to the present. Because of the “Special Relationship” that the DIOCESE OF JOLIET undertook, as more particularly described above, the DIOCESE OF JOLIET had a duty to Plaintiff and his parents to disclose all it knew or reasonably should have known about predatory and pedophile priests who sexually abused minors, including Plaintiff, as described above

86. That the defendant DIOCESE OF JOLIET breached the duty of care owed to Plaintiff and his parents and was guilty of one or more of the following wrongful acts and/or omissions:

- a. Guilty of fraudulent misrepresentations and non-disclosure of its knowledge regarding predatory and pedophile priests;
- b. Guilty of fraudulent misrepresentations and non-disclosure of its knowledge regarding predatory and pedophile priests serving at St. Dominic Church;
- c. Guilty of fraudulent misrepresentations and non-disclosure of its knowledge regarding JAMES NOWAK;
- d. Was otherwise guilty of fraudulent misrepresentations and non-disclosure that will come out during the course of Discovery in this case.

87. Plaintiff, and his parents during the time he was a minor, detrimentally relied on the fraudulent misrepresentations and non-disclosure of the DIOCESE OF JOLIET as more particularly described above.

88. As a result of this detrimental reliance on the fraudulent misrepresentations and non-disclosure of the DIOCESE OF JOLIET, Plaintiff failed to discover that his injuries and damages were caused by sexual abuse and failed to discover that his injuries and damages were wrongfully caused until approximately March of 2013.

89. As a result, Plaintiff's complaint is not barred by the statute of limitations or the statute of repose based on the doctrine of equitable tolling.

WHEREFORE, Plaintiff BRUCE KELLER demands judgment against defendant ROMAN CATHOLIC DIOCESE OF JOLIET in the amount in excess of \$50,000 and such other relief as the Court deems just and equitable.

COUNT VIII
Res Ipsa Loquitur

Plaintiff, BRUCE KELLER, complains of the defendant DIOCESE OF JOLIET as follows:

1-84. Plaintiff incorporates Paragraphs 1 through 84 of this Complaint as if fully set forth herein.

85. This count is plead in the alternative, namely that during Plaintiff's attendance of trips organized and supervised by agents and/or employees of the DIOCESE OF JOLIET and St. Dominic Catholic Church, Plaintiff was at all relevant times within the exclusive custody and control of the DIOCESE OF JOLIET.

86. In the alternative, that allowing a 14 year-old boy to be taken on a trip and to be exposed to a person that sexually molests him is something that does not ordinarily occur in the absence of negligence.

87. As a direct and proximate result of the negligence of the defendant DIOCESE OF JOLIET, Plaintiff suffered injuries and damages as more particularly described above; and such other damages to which experts in this case may testify.

WHEREFORE, Plaintiff BRUCE KELLER demands judgment against defendant ROMAN CATHOLIC DIOCESE OF JOLIET in the amount in excess of \$50,000 and such other relief as the Court deems just and equitable.

Respectfully Submitted

/s/ Mark R. McKenna
Mark R. McKenna

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