

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**TIMOTHY B. LENNON,  
MARK S. BELENCHIA,  
ALFRED L. ANTONSEN, JR.,  
JOSEPH PISCITELLI,  
SHAUN A. DOUGHERTY, and  
MARK CRAWFORD,**

**Plaintiffs**

**v.**

**UNITED STATES CONFERENCE OF  
CATHOLIC BISHOPS and**

**HOLY SEE, in its Capacity as a Foreign State  
(State of the Vatican City), and in its Capacity  
as an Unincorporated Association and Head of  
an International Religious Organization,**

**Defendants.**

**CIVIL ACTION NO. 18-cv-2618-PLF**

**JURY TRIAL DEMANDED**

**FIRST AMENDED CLASS ACTION COMPLAINT AND JURY DEMAND**

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*[B]ut people loved darkness instead of light because their deeds were evil. Everyone who does evil hates the light and will not come into the light for fear that their deeds will be exposed.<sup>1</sup>*

*Have nothing to do with the fruitless deeds of darkness, but rather, expose them.<sup>2</sup>*

Plaintiffs Timothy B. Lennon, Mark S. Belenchia, Alfred L. Antonsen, Jr., Joseph Piscitelli, Shaun A. Dougherty, and Mark Crawford (collectively “Plaintiffs”), individually and on behalf of all similarly situated persons in the United States<sup>3</sup> (the “Class Members”), and based upon known facts and on information and belief, respectfully complain of the actions of Defendants United States Conference of Catholic Bishops (“USCCB”) and the Holy See, in its Capacity as a Foreign State (State of the Vatican City), and in its Capacity as an Unincorporated Association and Head of an International Religious Organization (“Holy See”) (together, “Defendants”).

### **NATURE OF THE CASE**

1. This case is about the endemic, systemic, rampant, and pervasive rape and sexual abuse of Plaintiffs and Class Members perpetrated by Catholic Church<sup>4</sup> cardinals, bishops, monsignors, priests, sisters, lay leaders, members of Catholic religious orders, educators, and other of Defendants’ personnel, members, agents, and representatives throughout the United States currently and/or formerly employed by, and/or under Defendants’ command, supervision, direction, and/or control while serving in active ministry (collectively, “Clergy” or “Catholic

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<sup>1</sup> John 3:19-20 (NIV).

<sup>2</sup> Ephesians 5:11 (NIV)

<sup>3</sup> Unless otherwise noted, the term “United States” hereafter includes the United States and the Territory of the U.S. Virgin Islands.

<sup>4</sup> Unless otherwise noted, the term “Catholic Church” means the Catholic Church in the United States, including the United States and the Territory of the U.S. Virgin Islands.

Clergy”)—with the full knowledge of, protection by, and cover-up by Defendants. Defendants have known about the rampant Clergy child sex abuse in the Catholic Church for decades, but have done nothing substantive to eliminate it, safeguard and protect vulnerable children, compensate the victims (including Plaintiffs and Class Members), or punish the abusive Clergy—even though they had a duty to do so.

2. Rather, as part of their Clergy sex abuse game plan, Defendants have routinely and systematically (i) protected the abusive Clergy, (ii) taken extraordinary measures to conceal their wrongful conduct, (iii) moved them from parish to parish, without warning parish members or the general public, thereby further facilitating their predatory practices,<sup>5</sup> (iv) failed and refused to report the abusive Clergy to law enforcement or other responsible authorities as required by law, and—incredibly—(v) promoted the abusive Clergy. Defendants’ wrongful acts are ongoing and continuous.

3. The sexual abuse of, or contact with, a minor under the age of 16 is a violation of a Catholic priest's obligation of celibacy set forth in both the 1917 and 1983 *Codes of Canon Law* (Canons 132 and 277, respectively)—both of which were legislated by Defendant USCCB and its predecessor(s). Because Clergy child sex abuse is particularly heinous, it is designated a crime or delict in in both the 1917 and 1983 *Codes of Canon Law* (Canons 2359 and 1395,

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<sup>5</sup> Abusive Clergy often were quietly transferred from one parish to another to give the accused a new start and avoid the possibility of added problems and exposure in the parish in which the sexual abuse took place. Clergy transfers occurred with little or no public explanation and no advance warning to parishes. On information and belief, there is documented evidence that in numerous dioceses in this country, Clergy reported for child sex abuse were transferred several times. In some cases, abusive Clergy were sent away to study, sent on retreats, sent to psychiatrists, or sent to special rehabilitation centers. In other instances, on information and belief, Defendant USCCB members deemed priests unsuitable for ministry in the home diocese yet recommended them for ministry in another diocese. In short, and even though Defendants knew about the rampant recidivism and that transfers do not solve the problem, they continued to engage in this practice to the detriment of children, such as Plaintiffs and Class Members when they were abused as minors.

respectively). These Canons are based on longstanding ecclesiastical laws going back to the earliest days of the Catholic Church because sex with minor children is particularly reprehensible. In fact, these Canons require Clergy guilty of child sex abuse to be punished with appropriate penalties, including dismissal as a cleric. Clergy child sex abuse is considered an aggravated offense if the abusive Clergy used his or her office or position to aid in the perpetration of the offense.

4. Since at least 1940 (and possibly earlier) Defendants have engaged (and continue to engage) in unlawful and intentional schemes to cover up and conceal Clergy child sex abuse so as to avoid compensating the victims (including Plaintiffs and Class Members), maintain Defendants' reputations, and maintain and expand their operations in the United States, and, in the process, cheated and defrauded Plaintiffs and Class members out of their childhood, youth, innocence, virginity, families, jobs, finances, assets—in short, their lives. Defendants (and the Clergy), *inter alia*, (i) misrepresented to Plaintiffs and Class Members—through their words and deeds—that they were persons of faith who had Plaintiffs' and Class Members' best interests at heart, and then, knowing that Plaintiffs and Class Members relied on their representations and put their faith and trust in the Clergy as their spiritual leaders, took advantage of their positions of power and influence by sexually abusing Plaintiffs and Class Members, (ii) misrepresented to Plaintiffs, Class Members, each other, the Clergy, and/or other third parties—explicitly and/or implicitly—that the wrongful sexual abuse did not occur (denial and deceit), (iii) shifted the focus of the allegations to Plaintiffs and Class Members by defaming them as liars, alleging Plaintiffs and Class Members falsified the charges, or that they suffered from some mental illness giving rise to their allegations of Clergy child sex abuse, and (iv) actively and fraudulently concealed the Clergy's wrongful sexual abuse by, among other things, (a) burying the charges deep within Defendants' organizations and affirmatively deciding not to publicize,

properly investigate, or act on them, (b) failing and refusing to terminate, or even discipline, abusing Clergy, (c) moving the abusive Clergy from parish to parish, without warning church members or the general public, thereby further facilitating their predatory practices, failing and refusing to report the abusive Clergy to law enforcement or other responsible authorities as required by law, and promoting abusive Clergy, and (iv) using all available means to look the other way, deny, obstruct the investigation of and conceal Clergy child sex abuse. Defendants' wrongful acts are ongoing and continuous.

5. The unified fashion in which Clergy child sex abuse was (and continues to be) handled demonstrates a meeting of Defendants' minds as to how best to prevent public knowledge of the abuse, avoid criminal prosecution, and suppress potential claims. On information and belief, Defendant USCCB member bishops cooperated with each other regarding the placement of problem Clergy. Defendants also engaged in a common plan to mislead the families of victims regarding the facts to suppress potential claims. Cases across the United States, regardless of the dioceses involved, were handled in this common fashion. The goal of their concerted action was (and continues to be) to prevent public exposure of this problem and victims' claims. Their concerted action, carried out within the USCCB forum, is ongoing and continuous even after medical evidence clearly established that extensive harm to victims, their families and society results from Clergy child sex abuse.

6. As a direct and proximate result of Defendants' (and the Clergy's) above-referenced wrongful actions, inaction, omissions, cover-up, deception, concealment, obstructive behavior regarding investigations, victim defamation, and conspiracy of silence, Plaintiffs and Class Members have suffered (and will continue to suffer), *inter alia*, physical and/or mental injury, pain, suffering, and other actual and consequential injuries, harm, and economic damages. Defendants have robbed Plaintiffs and Class Members of their childhood, youth, innocence,

virginity, families, jobs, finances, assets—in short, their lives.<sup>6</sup> Defendants intentionally engaged (and continue to engage) in these wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, defamation, and conspiracy of silence to their financial and reputational benefit, and to Plaintiffs' and Class Members' personal, mental, psychological, and financial detriment.

7. Defendants' wrongful conduct flagrantly violates the common law of the states, Catholic Church canon law, and customary international law, including treaties and conventions adopted and signed by Defendant Holy See. These laws make Clergy child sex abuse a crime, impose duties to report known or suspected child abuse, require organizations and individuals to act in the best interests of children, and establish civil responsibility—all with the goal of protecting children from harm. Clergy child sex abuse violates international human rights standards and conventions adopted by virtually all civilized nations. The financial, emotional, and psychological fallout from Defendants' above-described wrongful conduct and corresponding cover-up has had (and continues to have) a devastating impact on Plaintiffs, Class Members, and their families.

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<sup>6</sup> As set forth above, Clergy child sex abuse inflicts a variety of effects on the victims. But there also is a severe spiritual impact. The abuse has caused numerous victims to not only abandon the Catholic Church, but look upon it with disdain, fear and even hatred. Many are or were unable to make an emotional and intellectual distinction between the Clergy, the institutional authorities, and the Catholic Church itself. The Clergy and Defendants comprise the Catholic Church. The church was their source of spiritual security. Faith in God was intimately bound up with faith in and loyalty to the church. It was the church, through the Clergy and Defendants, that forgave sins. Then it became the forgiver committing the sins. Many victims—including Plaintiffs and Class Members—feel that they have been robbed of their faith and spiritual security. They cannot go to the Catholic Church for relief because the focal point of their trust, the Clergy and Defendants, have betrayed them. The Clergy, with Defendants' knowledge, led them into the worst kind of sin—sins of the flesh. The spiritual impact of Clergy child sex abuse is profound and related to patterns of self-destructive behavior often found in many Clergy child sex abuse victims.



**8.** Plaintiffs, therefore, for themselves and Class Members, bring this action against Defendants as a national class action under state common law for engaging in the above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, defamation and conspiracy of silence. Defendants' above-described unlawful actions and inaction constitute assault, breach of fiduciary duty, negligence/gross negligence, negligence *per se*, intentional infliction of emotional distress, public nuisance, conspiracy, and aiding and abetting.

**9.** Plaintiffs, therefore, for themselves and Class Members, seek to recover from Defendants damages and compensation in the form of (i) compensatory damages (or, alternatively, restitution), (ii) economic damages, (iii) punitive damages, (iv) medical monitoring, (v) pre- and post-judgment interest, and (vi) attorneys' fees, litigation expenses, and court costs. Plaintiffs, for themselves and Class Members, also seek declaratory and injunctive relief to compel Defendants to, *inter alia*, comply with various state statutes requiring them to report the abusive Clergy to law enforcement or other responsible authorities, terminate the abusive Clergy, identify the abusive Clergy to the general public so that parents may protect their children going forward, release documents evidencing such Clergy abuse to achieve transparency, and such other relief the Court deems just and proper.

### **JURISDICTION AND VENUE**

**10.** This Court has subject matter jurisdiction over Plaintiffs' claims under 28 U.S.C. § 1332(d) (CAFA), because (i) there are 100 or more Class Members, (ii) at least one Class Member is a citizen of a state diverse from the citizenship of Defendants, and (iii) the matter in controversy exceeds \$5,000,000 USD, exclusive of interest and costs.

**11.** This Court also has subject matter jurisdiction over Plaintiffs' claims under 28 U.S.C. § 1332(a) because the matter in controversy as to each individual Plaintiff exceeds the

sum of \$75,000, exclusive of interest and costs, and the controversy is between citizens of a state or states (the United States) and a foreign state (Defendant Holy See).

**12.** This Court also has subject matter jurisdiction over Plaintiffs' claims under 28 U.S.C. § 1331 because Plaintiffs allege violations of customary international law as codified in international treaties, including, without limitation, the *Universal Declaration of Human Rights* and the *Convention on the Rights of the Child*. Customary international law, as well as treaties and acts of Congress, are the "supreme law of the land" under Article VI of the United States Constitution. Issues of interpretation and application of such customary international law provide federal question jurisdiction under 28 U.S.C. § 1331.

**13.** This Court also has subject matter jurisdiction over Plaintiffs' claims against Defendant Holy See under 28 U.S.C. § 1330(a) because it is a "foreign state" within the meaning of 28 U.S.C. § 1603 falling within the exceptions to sovereign immunity set forth in 28 U.S.C. §§ 1605(a)(1); (a)(2); (a)(5).

**14.** This Court also has subject matter jurisdiction over Plaintiffs' claims under 28 U.S.C. § 1367 (supplemental jurisdiction).

**15.** This Court has *in personam* jurisdiction over Defendants because at all relevant times, Defendants, directly and/or through their agents and representatives (including, without limitation, Defendant USCCB) resided, were found, and conducted business in the District of Columbia. This Court also has *in personam* jurisdiction over Defendants because at all relevant times, they directly and/or through the Clergy, their agents and representatives (including, without limitation in the case of Defendant Holy See, Defendant USCCB), (i) caused tortious injury by the above-described wrongful acts or omissions in the District of Columbia, (ii) caused tortious injury in the District of Columbia by the above-described wrongful acts or omissions outside the District of Columbia, and/or (iii) engaged in a persistent course of conduct in the

District of Columbia and the tortious injury occurring in the District of Columbia arose out of the above-described wrongful acts or omissions.

**16.** This Court also has *in personam* jurisdiction over Defendant Holy See under 28 U.S.C. § 1330(b) because the Court has subject matter jurisdiction over Plaintiffs' claims against Defendant Holy See under 28 U.S.C. § 1330(a) and service of process will be made under 28 U.S.C. § 1608(a).

**17. Exception to sovereign immunity—waiver—under 28 U.S.C. §§ 1605(a)(1).** Defendant Holy See has implicitly or explicitly waived any rights under, and/or is estopped from raising, the Foreign Sovereign Immunities Act (28 U.S.C. § 1604) as a defense to suit by, among other things, (i) failing to raise such defense for decades in settling, acquiescing in, and approving settlements of child rape and sexual abuse claims against itself, the Catholic Church and/or its Clergy, agents, and representatives (including, without limitation, Defendant USCCB) in the United States over which it exercises absolute control and authority under its own canon law, regulations, directives, policies, and procedures, and (ii) the transmission to, and receipt from, the United States of directives, orders, policies, procedures, and other direction or guidance, whether explicit or implicit. Defendant Holy See's wrongful conduct presents fundamental issues of human rights and the protection of children. Such actions have never been given immunity by the United States government. Moreover, fundamental human rights violations were subject to accountability in United States courts prior to the enactment of the Foreign Sovereign Immunities Act. In enacting the Foreign Sovereign Immunities Act, there is no evidence that the United States Congress intended to immunize such fundamental human rights of children from accountability in United States courts. Defendant Holy See, therefore, is not entitled to sovereign immunity under 28 U.S.C. § 1605(a)(1).

**18. Exception to sovereign immunity for conducting commercial activity under 28 U.S.C. §§ 1605(a)(2).** Defendant Holy See’s wrongful conduct is based on commercial activity carried on in the United States, acts performed in the United States in connection with Defendant Holy See’s commercial activity elsewhere, and/or upon acts outside the territory of the United States in connection with Defendant Holy See’s commercial activity elsewhere that caused a direct effect in the United States. Defendant Holy See’s commercial activities encompass both a regular course of commercial conduct, including, without limitation, fundraising activities, real estate transactions, and other commercial transactions or acts. Such commercial activities have had (and continue to have) substantial contact with the United States, including (i) acts performed in the United States, (ii) funds raised from persons, entities, agencies, agents, and representatives (including, without limitation, Defendant USCCB) in the United States and sent to Defendant Holy See from the United States, (iii) real estate purchased and sold in the United States, (iv) explicit and implicit policy directives sent by Defendant Holy See to Defendant USCCB, Clergy, and other agents and representatives in the United States, and (v) other substantial consequences for persons within the United States resulting from Defendant Holy See’s actions—directly and/or under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine. Defendant Holy See, therefore, is not entitled to sovereign immunity under 28 U.S.C. § 1605(a)(2).

**19. Exception to sovereign immunity for causing personal injury in the United States under 28 U.S.C. §§ 1605(a)(5).** Plaintiffs, for themselves and Class Members, seek money damages from Defendant Holy See for personal injuries in the United States caused—directly and/or the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine—by Defendant Holy See’s tortious acts or omissions and/or the tortious acts or omissions of Defendant Holy See’s Clergy, agents, and representatives (including,

without limitation, Defendant USCCB) while acting within the scope of their office or employment within the United States. Such acts within the United States include, without limitation, the negligent hiring, supervision, direction, and/or control of Defendant Holy See's Clergy, agents and representatives (including, without limitation, Defendant USCCB) in the United States, as effectuated within the United States, thereby resulting in a pattern of Clergy child sex abuse and serious personal injury to children in the United States. Defendant Holy See's failure to hire, supervise, direct, and/or control its Clergy, agents, and representatives (including, without limitation, Defendant USCCB) in the United States constitutes a breach of mandatory obligations under United States and international law. Nor do Defendant Holy See's longstanding directives and refusal to comply with various states' criminal statutes mandating the reporting of child rape and sexual abuse constitute "discretionary acts or functions." The acts and omissions of Defendant Holy See's Clergy, agents, and representatives (including, without limitation, Defendant USCCB) in covering up and concealing known criminal acts of child sex abuse by its Clergy and other agents amount to criminal conduct by aiding, abetting, enabling, and being in criminal complicity with the crime of child rape and sexual abuse, reckless endangerment, and obstruction of justice. Plaintiffs' claims against Defendant Holy See do not arise out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights, but rather, arise out of the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine, violations of customary international law, assault, breach of fiduciary duty, negligence/gross negligence, negligence *per se*, intentional infliction of emotional distress, public nuisance, conspiracy, and aiding and abetting. Defendant Holy See, therefore, is not entitled to sovereign immunity under 28 U.S.C. § 1605(a)(5).

**20.** At all relevant times, and as set forth above, Defendants resided, were found, and conducted business in the District of Columbia and/or a substantial part of the events or

omissions giving rise to Plaintiffs' claims occurred in the District of Columbia. Accordingly, venue is proper in this District under 28 U.S.C § 1391(a); (b); (f)(1); and (f)(3). Venue also is proper in this District as to Defendant Holy See under 28 U.S.C § 1391(f)(4).

**PARTIES**

**Plaintiffs**

**21.** Plaintiff Timothy B. Lennon is a citizen and resident of Arizona. Plaintiff Lennon is a Clergy child sex abuse victim and survivor. Plaintiff Lennon was a minor, United States citizen, and resident of the State of Iowa at the time the Clergy sex abuse occurred. Beginning in 1959, when Plaintiff Lennon was 12 years old, he was sexually abused multiple times by Father Peter Murphy, a priest at Blessed Sacrament in the Diocese of Sioux City, Iowa. Plaintiff Lennon relied on Father Murphy as a person of faith who had his best interest at heart and put his faith and trust in Father Murphy as his spiritual leader. With full knowledge that Plaintiff Lennon had placed his faith and trust in him, Father Murphy violated this trust and took advantage of his position of power and influence by sexually abusing Plaintiff Lennon. Defendants knew (or should have known) that Father Murphy, who they employed, commanded, supervised, directed, and/or controlled, was guilty of child sex abuse—yet they did not prevent him from engaging in child sex abuse, or punish him for engaging in child sex abuse, but rather, engaged in a concerted action to cover-up Father Murphy's child sex abuse. Father Murphy continued in his position as parish priest after the sexual abuse ended. As a direct and proximate result of Defendants' (and Father Murphy's) above-described wrongful conduct, Plaintiff Lennon has suffered (and will continue to suffer) physical and/or mental injury, pain, suffering in the form of post-traumatic stress disorder ("PTSD"), and other actual and consequential injury, harm, and economic damages. Plaintiff Lennon brings this action on behalf of himself and all similarly situated Catholic Church Clergy child sex abuse victims in the United States.

**22.** Plaintiff Mark S. Belenchia is a citizen and resident of Mississippi. Plaintiff Belenchia is a Clergy child sex abuse victim and survivor. Plaintiff Belenchia was a minor, United States citizen, and resident of the State of Mississippi at the time the Clergy sex abuse occurred. Beginning in 1968, when Plaintiff Belenchia was 12 years old, he was sexually abused more than 75 times by Father Bernard Haddican, a priest in St. Mary's Church Parish in the Diocese of Jackson, in Shelby, Mississippi. Plaintiff Belenchia relied on Father Haddican as a person of faith who had his best interest at heart and put his faith and trust in Father Haddican as his spiritual leader. With full knowledge that Plaintiff Belenchia had placed his faith and trust in him, Father Haddican violated this trust and took advantage of his position of power and influence by sexually abusing Plaintiff Belenchia. Defendants knew (or should have known) that Father Haddican, who they employed, commanded, supervised, directed, and/or controlled, was guilty of child sex abuse—yet they did not prevent him from engaging in child sex abuse, or punish him for engaging in child sex abuse, but rather, engaged in a concerted action to cover-up Father Haddican's child sex abuse. Father Haddican continued in his position as parish priest after the sexual abuse ended. As a direct and proximate result of Defendants' (and Father Haddican's) above-described wrongful conduct, Plaintiff Belenchia has suffered (and will continue to suffer) physical and/or mental injury, pain, suffering in the form of suicidal ideation, low self-esteem, depression and fear, and severe mental issues, including PTSD, and other actual and consequential injury, harm, and economic damages. Plaintiff Belenchia brings this action on behalf of himself and all similarly situated Catholic Church Clergy child sex abuse victims in the United States.

**23.** Plaintiff Alfred L. Antonsen, Jr. is a citizen and resident of Illinois. Plaintiff Antonsen is a Clergy child sex abuse victim and survivor. Plaintiff Antonsen was a minor, United States citizen, and resident of the State of Illinois at the time the Clergy sex abuse

occurred. In 1962, when Plaintiff Antonsen was approximately 16 years old, he was sexually abused by Father Michael P. Hogan, an Augustinian order priest on a trip to Wisconsin while he was a student at St. Rita High School in the Archdiocese of Chicago, Illinois. Plaintiff Antonsen relied on Father Hogan as a person of faith who had his best interest at heart and put his faith and trust in Father Hogan as his spiritual leader. With full knowledge that Plaintiff Antonsen had placed his faith and trust in him, Father Hogan violated this trust and took advantage of his position of power and influence by sexually abusing Plaintiff Antonsen. Defendants knew (or should have known) that Father Hogan, who they employed, commanded, supervised, directed, and/or controlled, was guilty of child sex abuse—yet they did not prevent him from engaging in child sex abuse, or punish him for engaging in child sex abuse, but rather, engaged in a concerted action to cover-up Father Hogan’s child sex abuse. Father Hogan continued in his position as a religious order priest from the Midwest Augustinians after the sexual abuse ended. As a direct and proximate result of Defendants’ (and Father Hogan’s) above-described wrongful conduct, Plaintiff Antonsen has suffered (and will continue to suffer) physical and/or mental injury, pain, suffering in the form of alcoholism, and his education and sports suffered, and other actual and consequential injury, harm, and economic damages. Plaintiff Antonsen brings this action on behalf of himself and all similarly situated Catholic Church Clergy child sex abuse victims in the United States.

**24.** Plaintiff Joseph Piscitelli is a citizen and resident of California. Plaintiff Piscitelli is a Clergy child sex abuse victim and survivor. Plaintiff Piscitelli was a minor, United States citizen, and resident of the State of California at the time the Clergy sex abuse occurred. From 1969 to 1970, when Plaintiff Piscitelli was 14 years old, he was sexually abused multiple times by Father Steve Whelan, a member of the Salesian order, associated with the Oakland Diocese in Richmond, California. Plaintiff Piscitelli relied on Father Whelan as a person of faith who had



his best interest at heart and put his faith and trust in Father Whelan as his spiritual leader. With full knowledge that Plaintiff Piscitelli had placed his faith and trust in him, Father Whelan violated this trust and took advantage of his position of power and influence by sexually abusing Plaintiff Piscitelli. Defendants knew (or should have known) that Father Whelan, who they employed, commanded, supervised, directed, and/or controlled, was guilty of child sex abuse—yet they did not prevent him from engaging in child sex abuse, punish him for engaging in child sex abuse, or compensate Plaintiff Piscitelli for being victimized by Father Whelan, but rather, engaged in a concerted action to cover-up Father Whelan’s child sex abuse. Father Whelan continued in his position as parish priest after the sexual abuse ended. As a direct and proximate result of Defendants’ (and Father Whelan’s) above-described wrongful conduct, Plaintiff Piscitelli has suffered (and will continue to suffer) physical and/or mental injury, pain, suffering in the form of PTSD, emotional trauma, and other actual and consequential injury, harm, and economic damages. Plaintiff Piscitelli brings this action on behalf of himself and all similarly situated Catholic Church Clergy child sex abuse victims in the United States.

**25.** Plaintiff Shaun A. Dougherty is a citizen and resident of Pennsylvania. Plaintiff Dougherty is a Clergy child sex abuse victim and survivor. Plaintiff Dougherty was a minor, United States citizen, and resident of the State of Pennsylvania at the time the Clergy sex abuse occurred. Beginning in 1980, and continuing through at least 1983, when Plaintiff Dougherty was 10 years old, he was sexually abused multiple times by Father George Koharchik, a priest at the St. Clement Church, Diocese of Altoona-Johnstown, Pennsylvania. Plaintiff Dougherty relied on Father Koharchik as a person of faith who had his best interest at heart and put his faith and trust in Father Koharchik as his spiritual leader. With full knowledge that Plaintiff Dougherty had placed his faith and trust in him, Father Koharchik violated this trust and took advantage of his position of power and influence by sexually abusing Plaintiff Dougherty. Defendants knew

(or should have known) that Father Koharchik, who they employed, commanded, supervised, directed, and/or controlled, was guilty of child sex abuse—yet they did not prevent him from engaging in child sex abuse, punish him for engaging in child sex abuse, or compensate Plaintiff Dougherty for being victimized by Father Koharchik, but rather, engaged in a concerted action to cover-up Father Koharchik’s child sex abuse. Father Koharchik continued in his position as parish priest after the sexual abuse ended. As a direct and proximate result of Defendants’ (and Father Koharchik’s) above-described wrongful conduct, Plaintiff Dougherty has suffered (and will continue to suffer) physical and/or mental injury, pain, suffering in the form of severe mental injury, including a suicide attempt, substance abuse, and other actual and consequential injury, harm, and economic damages. Plaintiff Dougherty brings this action on behalf of himself and all similarly situated Catholic Church Clergy child sex abuse victims in the United States.

**26.** Plaintiff Mark Crawford is a citizen and resident of New Jersey. Plaintiff Crawford is a Clergy child sex abuse victim and survivor. Plaintiff Crawford was a minor, United States citizen, and resident of the State of New Jersey at the time the Clergy sex abuse occurred. Beginning in approximately 1977, and continuing through at least 1983, when Plaintiff Crawford was 15 years old, he was sexually abused multiple times by Father Kenneth Martin, a priest in the St. Andrews Parish, in the Archdiocese of Newark, New Jersey. Plaintiff Crawford relied on Father Martin as a person of faith who had his best interest at heart and put his faith and trust in Father Martin as his spiritual leader. With full knowledge that Plaintiff Crawford had placed his faith and trust in him, Father Martin violated this trust and took advantage of his position of power and influence by sexually abusing Plaintiff Crawford. Defendants knew (or should have known) that Father Martin, who they employed, commanded, supervised, directed, and/or controlled, was guilty of child sex abuse—yet they did not prevent him from engaging in child sex abuse, or punish him for engaging in child sex abuse, but rather, engaged in a

concerted action to cover-up Father Martin's child sex abuse. Father Martin continued in his position as parish priest, and was even promoted, after the sexual abuse ended. As a direct and proximate result of Defendants' (and Father Martin's) above-described wrongful conduct, Plaintiff Crawford has suffered (and will continue to suffer) physical and/or mental injury, pain, suffering in the form of physical beatings and sexual abuse, and other actual and consequential injury, harm, and economic damages. Plaintiff Crawford brings this action on behalf of himself and all similarly situated Catholic Church Clergy child sex abuse victims in the United States.

**Defendant United States Conference of Catholic Bishops (USCCB)**

**27.** Defendant USCCB is the episcopal conference and legislative body of the Catholic Church. Defendant USCCB supervises, directs, and/or controls Catholic Clergy in the United States. Defendant USCCB is overseen, governed, supervised, directed, and/or controlled by Defendant Holy See.

**28.** The Catholic Church is part of the worldwide Roman Catholic Church; it also is overseen, governed, supervised, directed, and/or controlled by Defendant Holy See. With Catholicism making up 20.8% of the United States population as of 2018, it is the largest religious denomination in the United States. The United States has the fourth largest Catholic population in the world after Brazil, Mexico and the Philippines, the largest Catholic minority population, and the largest English-speaking Catholic population.

**29.** Founded in 1966 as the joint National Conference of Catholic Bishops and the United States Catholic Conference, Defendant USCCB is composed of all active and retired members of the Catholic hierarchy (*i.e.*, diocesan, coadjutor, and auxiliary bishops and the ordinary of the Personal Ordinariate of the Chair of Saint Peter) in the United States and the Territory of the U.S. Virgin Islands. In the Commonwealth of Puerto Rico, the bishops in the six dioceses have their own episcopal conference, the Puerto Rican Episcopal Conference. The

bishops in U.S. insular areas in the Pacific Ocean – the Commonwealth of the Northern Mariana Islands, the Territory of American Samoa, and the Territory of Guam – are members of the Episcopal Conference of the Pacific. Defendant USCCB adopted its current name in July 2001. Defendant USCCB’s headquarters are in Washington, D.C.

**30.** The 1983 *Code of Canon Law* establishes three levels of church laws and regulations for the Catholic Church. The first level is universal law, which is enacted by the pope and operative throughout the world. The second level is national law enacted by Defendant USCCB. The third level is diocesan law enacted by a diocesan bishop and operative in the bishop’s diocese. Diocesan bishops, however, are prohibited from enacting legislation that conflicts with national law promulgated by Defendant USCCB.

**31.** Defendant USCCB also oversees, governs, supervises, and directs all dioceses and parishes comprising the Catholic Church in the United States according to the 1983 *Code of Canon Law*<sup>7</sup>, and prior to that, the 1917 *Code of Canon Law*. Defendant USCCB is empowered by church law to legislate for United States dioceses on many issues and, in fact, the 1983 *Code of Canon Law* contains many areas specifically left to Defendant USCCB to decide. On an on-going basis, Defendant USCCB studies and votes on issues which can bind all United States dioceses. In certain situations, the ultimate approval of Defendant Holy See is required for such legislation, yet the fact remains that Defendant USCCB has the power to make policy decisions, the power to legislate, and the power and resources to provide information, direction and supervision of dioceses, parishes, and their Clergy. Defendant USCCB officers and

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<sup>7</sup> The 1983 *Code of Canon Law* (Latin: *Codex Iuris Canonici*), also known as the Johanno-Pauline Code, is the "fundamental body of ecclesiastical laws" for the Catholic Church. It is the second and current comprehensive codification of canonical legislation for the Catholic Church. It was promulgated on January 25, 1983 by Pope John Paul II and took effect on November 27, 1983. It replaced the 1917 *Code of Canon Law* promulgated by Pope Benedict XV.

representatives have frequently represented themselves as acting on behalf of the entire community of the Catholic Church, including Catholic children.

**32.** The 1983 *Code of Canon Law* does not circumscribe, but rather, prescribes the legislative function of Defendant USCCB. For example, Canon 455 states that Defendant USCCB has the power to issue general decrees (laws) in two cases:

1. when the general law (the Code) prescribes it or when the Holy See allows all conferences or particular conferences to issue decrees, and
2. when the Holy See allows a conference to issue a decree upon the request of the conference or by order of the Holy See.

The cases prescribed by the general law consist of certain canons of the Code stating that the application of the law is left to the episcopal conference. Properly speaking, these are called "executory decrees," which means that they are precise determinations on how to observe laws.

**33.** In addition to executorial decrees, Defendant USCCB also may enact decrees or laws for its own territory. To do so it must first secure a mandate from or the permission of Defendant Holy See. Defendant Holy See also may instruct Defendant USCCB to enact legislation for a specific need. When Defendant USCCB seeks permission to enact a decree, the process usually begins with a proposal from a bishop or group of bishops. The proposal is then studied by various USCCB committees and finally placed before the entire USCCB in plenary session. If they vote favorably, the issue is sent to Defendant Holy See for its approval or disapproval. If it approves, Defendant USCCB then moves to enact and enforce the decree.

**34.** The *Code of Canon Law* contains 84 other instances where the enactment of laws governing the Catholic Church and its Clergy—referred to as Complementary Norms—is the prerogative of Defendant USCCB. For example, under the Complementary Norms, Defendant USCCB can (i) require that each diocese have an office for alternative dispute resolution (c.

1733, S2), (ii) establish the regulations for leasing ecclesiastical property in the United States (c.1297)<sup>8</sup>, and (iii) regulate fundraising by Catholic entities (c.1262).<sup>9</sup>

**35.** Defendant USCCB also has assumed responsibility for studying numerous issues impacting the day to day life of Catholics in each diocese in the country. Over the years, Defendant USCCB has created policies and procedures and conducted studies in a variety of areas impacting dioceses and their Clergy throughout the United States. Defendant USCCB has sought to influence U.S. public policy and/or state governments in areas over which it has authority—including U.S. policy regarding nuclear deterrence; U.S. policy relating to immigration and illegal aliens/health care matters; practices followed by both Catholic-sponsored and non-sectarian hospitals; the Right to Life movement; legislation related to abortion and Hispanic and black ministry movements; various legislation concerning minorities, immigrants, family life ministries and youth ministries; and various legislation concerning education and children's rights (excluding, ironically, the sexual abuse of children).

**36.** Defendant USCCB also has funded and conducted numerous studies on the physical, emotional, spiritual, and psychological state of the priesthood in the United States and is, and has been, cognizant of the various kinds of difficulties facing Catholic Clergy. It has given large sums of money to the Catholic-sponsored and Catholic-run health care facilities specifically geared to treating Clergy with emotional, substance, and psycho-sexual problems (the Paraclete Facilities). Defendant USCCB also has actively studied and published its studies regarding the life and ministry of Catholic Clergy, including *The Catholic Priest in the United*

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<sup>8</sup> Complementary Norm on Leasing Ecclesiastical Property: <http://www.usccb.org/beliefs-and-teachings/what-we-believe/canon-law/complementary-norms/canon-1297-leasing-of-church-property/cfm>.

<sup>9</sup> Complementary Norm on Fundraising: <http://www.usccb.org/beliefs-and-teachings/what-we-believe/canon-law/complementary-norms/canon-1262-fundraising-appeals.cfm>.

States: Historical Investigations (1972), Sociological Investigations (1972), and Psychological Investigations (1972).

**37.** Defendant USCCB's study of the life and ministry of Catholic Clergy is carried out through *ad hoc* committees and standing committees on Pastoral Research and Practices and Priestly Life and Ministry. The study of Catholic Clergy also impacts on, and is related to, civil law issues, including various civil law regulations and statutes pertaining to child sex abuse, a felony crime in each state and the District of Columbia.

**38.** Since Defendant USCCB has sought to influence public policy in numerous areas directly related to church matters, and in keeping with Catholic theology and canon law, Defendant USCCB has a direct interest in the moral issues related to the welfare of children—including, *inter alia*, the duties to safeguard and protect them from Clergy child sex abuse, report abusive Clergy to law enforcement, maintain transparency regarding abusive Clergy, and compensate Clergy child sex abuse victims—including Plaintiffs and Class Members—for their injuries and harm. And, in fact, throughout the years, Defendant USCCB has maintained several committees pertaining to the welfare of children, including the Domestic Social Policy Committee, International Policy Committee, and Marriage and Family Life Committee. These committees have published major studies focusing on children and the family, including, without limitation, *A Family Perspective in Church and Society, Manual for all Pastoral Leaders* (1988), *Putting Children and Families First, a Challenge For Our Church, Nation, and World* (1991) (*see* section on Abuse and Neglect at 9), and a *Plan of Pastoral Action for Family Ministry* (1978).

**39.** The Catholic Church has traditionally advocated the obligations of the secular State towards the individual and common good. It has, as an international and national entity, assumed the right to speak out on various public issues, which it claims are grounded in religious teaching and impact civic culture. On the national level, Defendant USCCB has invoked this

claim in its efforts to influence public policy in numerous areas, including those directly related to sexual morality—such as abortion, sterilization, and the distribution of contraceptives. Clergy child sex abuse is a felony crime and an ecclesiastical crime. While Defendant USCCB has taken proactive stances on abortion, sterilization, and the distribution of contraceptives, it, ironically, has failed and refused to be proactive about safeguarding and protecting children from Clergy child sex abuse and reporting abusive Clergy to law enforcement.

40. In 2002, Defendant USCCB adopted a policy directive titled the *Charter for the Protection of Children and Young People*. In 2002, Defendant USCCB also promulgated a companion document, the *Essential Norms*, which “constitute particular law for all the dioceses/eparchies of the United States of America.”<sup>10</sup> The *Essential Norms* mandate the so-called one-strike policy (Norm 8), the establishment of diocesan review boards (Norm 4), and victims assistance coordinators (Norm 3). They also set out the procedure for investigating accusations of the sexual abuse of minors (Norm 6), including by complying with civil laws (Norm 11). The *Essential Norms* also require all dioceses to develop a written policy on the sexual abuse of minors, which must be filed with the USCCB (Norm 2). Catholic Clergy and dioceses throughout the United States have regularly and repeatedly violated the *Charter for the Protection of Children and Young People* and the *Essential Norms*. By the same token, Defendant USCCB has regularly, repeatedly, and knowingly failed and refused to enforce the *Charter for the Protection of Children and Young People* and the *Essential Norms*—to the detriment of Plaintiffs and Class Members—even after commissioning the John Jay College of

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<sup>10</sup> *Charter for the Protection of Children and Young People/Essential Norms*: <http://www.usccb.org/issues-and-action/child-and-youthprotection/loader.cfm?sessionid:1F83E84FE6BC7003A65BCA5DB2574044.usccb?csModule--security/getfile&pageid:59441&CFID=66954833&CFTOKEN=44005553>.



Justice to perform two studies of the nature and scope<sup>11</sup> and causes and contexts of the sexual abuse of children by Catholic Clergy.<sup>12</sup>

**41.** Defendant USCCB also has broad influence in media communications, controlling a national news service, which is available to religious and secular newspapers throughout the United States, and radio and cable television channels. Defendant USCCB also controls a closed-circuit television network and has a media/public relations staff. Defendant USCCB has regularly used these media outlets to influence public policy, opinion, and practice in areas in which the Catholic Church claims to have competence, including matters related to sexual morality. Yet, ironically, Defendant USCCB has never used its media power to address Clergy child sexual abuse, identify the abusive Clergy, or warn the faithful or the public at large about this rampant problem in the Catholic Church and the abusive Clergy committing these heinous acts on minor children.

**42.** Laws and regulations enacted by Defendant USCCB governing, supervising, and directing the Catholic Church must be observed by all dioceses in the United States. By way of example, the Program of Priestly Formation, Fifth Edition,<sup>13</sup> a document developed by Defendant USCCB, must be observed in all seminaries in the United States whether diocesan or inter-diocesan and, in fact, Defendant USCCB organizes regular visitations to seminaries across the United States to make sure they are complying with its terms.

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<sup>11</sup> Nature and Scope: <http://www.usccb.org/issues-and-action/child-and-youth-protection/upload/The-Nature-and-Scope-of-Sexual-Abuse-of-Minors-by-Catholic-Priests-and-Deacons-in-the-United-States-1950-2002.pdf>.

<sup>12</sup> Causes and Contexts: <http://www.usccb.org/issues-and-action/child-and-youth-protection/upload/The-Causes-and-Context-of-Sexual-Abuse-of-Minors-by-Catholic-Priests-in-the-United-States-1950-2010.pdf>.

<sup>13</sup> Program for Priestly Formation: <http://www.usccb.org/upload/program-priestly-formation-fifth-edition.pdf>.

**43.** For several decades, each diocese in the United States has secured its federal tax-exempt status by means of a group exemption granted by the Internal Revenue Service to Defendant USCCB.<sup>14</sup> IRS Publication 4573 states that to qualify for a group tax exemption, the central organization and its subordinates must have a defined relationship. The IRS Determination Letter, in fact, specifies that United States dioceses and other related organizations listed in the Official Catholic Directory are subordinate organizations to Defendant USCCB, the central organization.

**44.** Finally, and in addition to its general legislative and oversight functions, Defendant USCCB also collects donations from the faithful in dioceses throughout the United States. In fact, Defendant USCCB requires “all dioceses throughout the country support an important objective through special annual parish appeals and collections.” Currently these collections are the Catholic Home Missions Appeal, the Catholic Communication Campaign, the Catholic Campaign for Human Development, the Collection for the Church in Latin America, the Collection for Aid to the Church in Central and Eastern Europe, the Retirement Fund for Religious Appeal, the Catholic Relief Services Collection, and Catholic University of America Collection.”<sup>15</sup> Every diocese in the United States is required to collect money from parishioners for these causes. While local dioceses may retain a portion of the funds collected, the vast majority of the funds are remitted to Defendant USCCB according to its schedules, rules, and regulations. These collections are forwarded to Defendant USCCB by local diocese employees via a special USCCB web portal (<http://www.nationalcollections.org>). In some cases, these

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<sup>14</sup> 2018 IRS Determination Letter: <http://usccb.org/about/general-counsel/upload/2018-IRS-Determination-Letter'-redacted.odf>.

<sup>15</sup> One Church, One Mission: Guidelines for National Collections: <http://www.usccb.org/about/nationalcollections/collection-administration/upload/one-church-one-mission-guidelines-national-collections.pdf>.

employees' only job is to collect and forward the funds for Defendant USCCB's national collections.<sup>16</sup>

**45.** Thus, Defendant USCCB has vast resources, receives substantial funding to operate its bureaucracy from individual lay Catholics, Catholic organizations, individual dioceses, and its Clergy, and maintains various offices or representatives in individual dioceses. Defendant USCCB's practices and procedures clearly demonstrate that it, in fact, acts as a governing body by passing legislation, establishing policy, supervising the implementation of its laws, regulations and policies, and overseeing, governing, and directing all dioceses, parishes, and Clergy comprising the Catholic Church (including their parishioners). As such, Defendant USCCB had (and continues to have) the duty to exercise due care to protect the Catholic community from known danger—including Clergy child sex abuse.

**46.** Defendant USCCB's decisions and acts—including those pertaining to Clergy child sex abuse—in turn, must (and do) receive the *recognitio*, or approval of the Roman dicasteries, which are subject to the immediate and absolute authority of Defendant Holy See. *See, e.g.,* footnote 17, *infra*. Defendant USCCB, a corporation organized under the laws of the District of Columbia, already has been served with Summons in this matter.

#### **Defendant Holy See**

**47.** Defendant Holy See, in its Capacity as a Foreign State (State of the Vatican City), and in its Capacity as an Unincorporated Association and Head of an International Religious Organization (Holy See) is the ecclesiastical, governmental, and administrative ruler of the Roman Catholic Church worldwide, including Defendant USCCB and the Catholic Church in the United States. Defendant Holy See oversees, governs, supervises, and directs Defendant

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<sup>16</sup> Retirement Fund for Religious in Archdiocese of Saint Paul and Minneapolis: <http://thecatholicspirit.com/featured/through-retirement-furrd-catholics-show-gratitude-for-religious-men-andwomen/>.

USCCB,<sup>17</sup> all dioceses and parishes comprising the Catholic Church in the United States, and its Clergy by and through Defendant USCCB. Defendant Holy See also is the sovereign entity ruling Vatican City.

**48.** The pope is the head of state and directs the Roman Curia, a collection of administrative units governing and directing different ecclesial functions, such as religious life, evangelization, church doctrine, and church law. Curial officials are cardinals, bishops, and priests directly employed at the Vatican in the different administrative units.

**49.** Defendant Holy See comprises the authority, jurisdiction, and sovereignty vested in the pope and his delegated advisors to direct the activities of the worldwide Roman Catholic Church, including Defendant USCCB and the Catholic Church in the United States. Defendant Holy See has absolute and unqualified power and control over the Catholic Church, including absolute and unqualified power and control over every Catholic Church archdiocese, diocese, school, Clergy, and other of Defendants' personnel, members, employees, agents, and representatives. Defendant Holy See exercises certain powers and engages in certain activities peculiar to sovereigns. Defendant Holy See also exercises powers, and engages in activities, including commercial activities, that are not peculiar to sovereigns, but rather, are exercised and engaged in by private actors, including unincorporated associations and headquarters of international religious organizations.

**50.** Defendant Holy See, which occupies its own sovereign territory located within the city of Rome, Italy, is a unique entity. It enters into treaties and conventions with other

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<sup>17</sup> For example, on November 11, 2018, Defendant Holy See issued an eleventh-hour directive to Defendant USCCB to postpone its efforts to hold bishops more responsible in Clergy child sex abuse cases, which Defendant USCCB was set to consider at its annual meeting in November 2018. *See, e.g., Vatican tells U.S. bishops not to vote on proposals to tackle sexual abuse, spurns outside investigations*, [https://www.washingtonpost.com/religion/2018/11/12/vatican-asks-us-bishops-not-vote-sexual-abuse-proposals-they-planned/?utm\\_term=.9d54738367e4](https://www.washingtonpost.com/religion/2018/11/12/vatican-asks-us-bishops-not-vote-sexual-abuse-proposals-they-planned/?utm_term=.9d54738367e4) (last visited March 6, 2019).

foreign states, including the *Universal Declaration of Human Rights* and the *Convention on the Rights of the Child*, maintains diplomatic relations with 176 sovereign states, including the United States, and has permanent observer status in the United Nations. At the same time, and wholly distinct and separate from its role and activities as a sovereign, it is an unincorporated association and head of the worldwide Roman Catholic Church and its Clergy.

**51.** Defendant Holy See engages in commercial activity in the District of Columbia, throughout the United States, and worldwide. Defendant Holy See buys and sells real and personal property, and purchases and supplies goods and services. Defendant Holy See is supported by the contributions of money (including tithes), real property, and personal property by Catholic Church parishioners, including those located within the District of Columbia, which are received as part of its regular course of commercial conduct in the United States. In exchange, Defendant Holy See, directs, supervises, supports, promotes, engages, and provides religious and pastoral directives and guidance, education, and counseling services to the worldwide Roman Catholic Church, including the Catholic Church, directly and/or through the Clergy, its employees, and its agents and representatives (including, without limitation, Defendant USCCB). Defendant USCCB, a representative and agent of Defendant Holy See that it supervises and directs in a manner consistent with the command control doctrine, is headquartered in the District of Columbia.

**52.** Defendant Holy See creates, organizes, divides, and realigns dioceses, archdioceses and ecclesiastical provinces throughout the worldwide Roman Catholic Church, including the Catholic Church in the United States. It also names bishops to lead the dioceses and transfers them between different dioceses or religious offices within the Holy See. Defendant Holy See dictates the minimum requirements for ordination as a priest or bishop, and gives final approval to the creation, division, and suppression of provinces of religious orders.

**53.** Defendant Holy See directs and mandates the Clergy's morals and standards of conduct. Defendant Holy See creates, appoints, assigns, reassigns, directs, supervises, and retires all Clergy. It also approves the elections of the heads of Catholic religious orders and, through its agents and representatives (including, without limitation, Defendant USCCB), Defendant Holy See exercises its power to directly assign, reassign, and remove Clergy from their positions. All Clergy vow to respect and obey Defendant Holy See. For example, when a priest is ordained, he stands before his consecrators and the congregation and pledges his obedience and loyalty to the supreme Roman Catholic pontiff, Defendant Holy See.

**54.** Defendant Holy See is responsible for the work and discipline of the Clergy. As such, Defendant Holy See, among other things, requires bishops to regularly file reports regarding the status of, and any problems with, the Clergy. Defendant Holy See promulgates and enforces the Catholic Church internal laws and regulations regarding the education, training, standards of conduct, and discipline of the Clergy and all others who serve in the internal governance, administrative, judicial, educational, and pastoral operations of the worldwide Roman Catholic Church, including the Catholic Church in the United States.

**55.** No Clergy may be removed from service or a position of leadership without the approval of Defendant Holy See, nor may any Clergy remain in service or a position of leadership over the objection of Defendant Holy See. Defendant Holy See is directly and absolutely responsible for removing Catholic Clergy from service and/or making them ineligible for positions of leadership in the various divisions and offices of the worldwide Roman Catholic Church, including the Catholic Church in the United States, by issuing instructions, mandates, and dictates in and/or directed to the United States by and through Defendant USCCB, its agent and representative in the United States. Defendant Holy See has the ultimate authority to approve or disapprove the settlement of legal claims against the Clergy for child rape and sexual abuse.

**56.** Defendant Holy See is not a party to any international service of process treaty, and has refused Plaintiffs' attempt at service via 28 U.S.C. § 1608(a)(3). Accordingly, Defendant Holy See may be served with process via 28 U.S.C. § 1608(a)(4).

### **FACTS**

#### **I. A brief history of Clergy child sex abuse in the Catholic Church in the United States.**

**57.** Cases of child rape and sexual abuse by Catholic Clergy in the 20th and 21st centuries are widespread and have led to numerous allegations, investigations, trials, and convictions, as well as revelations about decades of attempts by Defendants to cover up reported incidents. The abused children include boys and girls, some as young as 3 years old, with the majority between the ages of 11 and 14. Many cases involve allegations against Clergy for decades of abuse; such allegations were frequently made by adults or older youth years after the abuse occurred. Cases also have also been brought against members of the Catholic Church hierarchy—including Defendants—for covering up sex abuse allegations and moving abusive Clergy from parish to parish where the abuse continued.

**58.** Clergy child sex abuse in the Catholic Church has been going on for centuries. For example, in 306 A.D., the Council of Elvira in Spain passed the first formal legislation condemning Clergy child sex abuse, including the sexual abuse of boys.

**59.** In the 11th century, Father Peter Damien wrote the Book of Gomorrah, which called for the punishment of Clergy who sexually molested and abused children, particularly boys. A copy of the book was presented to Defendant Holy See.

**60.** Defendant Holy See's knowledge of Clergy child sex abuse and its duty to monitor the Clergy and report sexual abuse first came into focus in the early 20th century when, in 1917, the Curia completed a decade-long codification of church law into the 1917 Code of Canon Law. Pope Paul VI later updated the canon to the new 1983 Code. The 1917 Code made

“adultery, debauchery, bestiality, sodomy, pandering, [and] incest” ecclesial crimes. The 1917 Code specifically made it a crime for Clergy to have sexual relations or relationships with children under the age of sixteen. It also mandated, without reservation, the suspension of guilty clerics and removal from any office, and “in more serious cases,” deposition. The 1983 Code goes even further, expressly forbidding Clergy child sex abuse and directing that “civil laws to which the law of the Church yields are to be observed in canon law with the same effects,” which requires both laity and clergy to report civil crimes to civil authorities as a matter of canon law. These provisions alone demonstrate that Defendant Holy See was well-aware of the centuries-old practice of Clergy child rape and sexual abuse—yet did nothing to stop it.

**61.** In the late 1940s, American Father Gerald Fitzgerald founded the Congregation of the Servants of the Paraclete, a religious order that treats Catholic Clergy struggling with personal difficulties, such as substance abuse and sexual misconduct. In a series of letters and reports to high-ranking Catholic leaders starting in the 1950s, Fitzgerald warned of substantial problems with pedophile priests. He wrote, for example, “[sexual abuse] offenders were unlikely to change and should not be returned to ministry.” He discussed the problem with Pope Paul VI (1963 – 1978) and “in correspondence with several bishops.”

**62.** In March 1962, Defendant Holy See privately circulated the *Crimen sollicitationis*, a document containing a set of procedural norms for dealing with the solicitation of sex in confession, Clergy sex with minors, homosexual relations, and bestiality. This document, which is an official legislative text, issued by the Congregation of the Holy Office and specifically approved by Pope John XXIII, imposed the highest level of secrecy on handling Clergy child sex abuse matters and on the document itself. It reflects Defendant Holy See’s longstanding policies and directives regarding Clergy child sex abuse. This secret document was first discovered and made public in July 2003 by news media in the United States



and throughout the world. It requires bishops in the United States, including the District of Columbia, not to report Clergy child sex abuse to criminal or civil authorities even though the failure and refusal to do so is a criminal offense throughout the United States. At all relevant times, and as part of both its course of commercial conduct and particular commercial transactions and acts in the United States, Defendant Holy See directed (and continues to direct) bishops in the United States (*i.e.*, Defendant USCCB) to conceal from its parishioners and the general public its Clergy's sexual abuse of children in order to avoid public scandal, perpetuate its "Christian" public image, and ensure the continued receipt of funds from its parishioners and other financial contributors. Defendant USCCB has carried out (and continues to carry out) Defendant Holy See's directives—all in furtherance of Defendants' commercial activities in the United States, including the District of Columbia.

**63.** Although abusive Clergy were sent to mental health facilities, such as those operated by the Servants of the Paraclete since the 1950s, there was scant public discussion of the problem until the mid-1960s; the issue was swept under the rug. Even then, most of the discussion was secretly conducted by and between the Catholic Church hierarchy—including Defendants. A public discussion of the sexual abuse of minors by Catholic Clergy finally took place at a National Association for Pastoral Renewal meeting held at the University of Notre Dame in 1967. All Defendant USCCB member-bishops were invited.

**64.** Thereafter, various local and regional discussions of the problem were held by Defendant USCCB member-bishops. However, it was not until the 1980s that discussion of Clergy child sex abuse began to be covered as a phenomenon in the U.S. news media. According to the Catholic News Service, public awareness of Clergy child sex abuse in the United States began in the late 1970s and the 1980s as an outgrowth of the growing awareness of the overall physical abuse of children in society.

**65.** In September 1983, the *National Catholic Reporter* published an article on the topic. The subject gained wider national notoriety in October 1985 when Louisiana priest Gilbert Gauthé pleaded guilty to eleven counts of molesting boys. After the coverage of Gauthé’s crimes subsided, the issue faded to the fringes of public attention until the mid-1990s, when it was again brought to national attention after numerous books on the topic were published.

**66.** By the 1990s, Clergy child sex abuse cases began receiving significant media and public attention—especially in Canada, the United States, Australia, and Ireland. A critical investigation by *The Boston Globe* in 2002 led to widespread media coverage of the issue in the United States, later dramatized in the motion picture *Spotlight*. Since then, widespread Clergy child sex abuse has been exposed in Europe, Australia, and Chile.

**67.** From 2001 to 2010, Defendant Holy See considered Clergy child sex abuse allegations involving about 3,000 priests dating back fifty years, reflecting worldwide patterns of long-term abuse and the Catholic Church hierarchy’s pattern of regularly covering up such abuse. Diocesan officials and academics knowledgeable about the Catholic Church know that Clergy child sex abuse is generally not discussed, and thus, is difficult to measure.

**68.** After the 2002 revelation by *The Boston Globe* that Clergy child sex abuse was widespread in the Catholic Church in Massachusetts and elsewhere, *The Dallas Morning News* conducted a year-long investigation. It reported in 2004 that even after these revelations and public outcry, the Catholic Church had moved allegedly abusive priests out of the countries where they had been accused, only to re-assign them to “settings that bring them into contact with children, despite church claims to the contrary.” The investigation found that nearly half of 200 cases “involved clergy who tried to elude law enforcement.”

**69.** In a 2001 apology, Pope John Paul II called Clergy child sex abuse “a profound contradiction of the teaching and witness of Jesus Christ.” Pope Benedict XVI apologized, met

with victims, and spoke of his “shame” at the evil of abuse, calling for perpetrators to be brought to justice, and denouncing mishandling by church authorities.

**70.** In 2003, Archbishop Timothy M. Dolan of the Catholic Archdiocese of Milwaukee authorized payments of as much as \$20,000 to sexually abusive priests to convince them to leave the priesthood.

**71.** According to a 2004 research study by the John Jay College of Criminal Justice for Defendant USCCB (the “*Report*”), 4,392 Catholic priests and deacons in active ministry between 1950 and 2002 have been plausibly accused (neither withdrawn nor disproven) of under-age sexual abuse by 10,667 individuals. Estimating the number of priests and deacons active in the same period at 110,000, the *Report* concluded that approximately 4% have faced such allegations. The *Report* noted that “[i]t is impossible to determine from our surveys what percent of all actual cases of abuse that occurred between 1950 and 2002 have been reported to the Church and are therefore in our dataset.” The *Report* also found that:

- Approximately 81% of the victims were male.
- Female victims of sexual abuse by Catholic priests tended to be younger than the males. Data showed that the number and proportion of sexual misconduct directed at girls under 8 years old was higher than that directed at boys of the same age.
- 22.6% of the victims were age 10 or younger, 51% were between the ages of 11 and 14, and 27% were between the ages to 15 to 17 years.
- A substantial number (almost 2000) of very young children were victimized by priests.
- 9,281 victim surveys had information about an investigation. In 6,696 (72%) cases, an investigation of the allegation was carried out. Of these, 4,570 (80%) were substantiated; 1,028 (18%) were unsubstantiated; 83 (1.5%) were found to be false. In 56 cases, priests were reported to deny the allegations.
- In approximately 20% of the allegations, the allegedly abusive Clergy were deceased or inactive at the time the allegation was first made, and typically no investigation was conducted in these circumstances.
- In 38.4% of the allegations, the abuse was alleged to have occurred within a single year, in 21.8% the alleged abuse lasted more than a year, but less than 2 years, in 28% between 2 and 4 years, in 10.2% between 5 and 9 years and, in under 1%, 10 or more years.

The 4,392 accused priests amounted to approximately 4% of the 109,694 priests in active ministry during that time. Of these 4,392 priests, approximately:

- 56% had one reported allegation against them; 27% had two or three allegations against them; nearly 14% had four to nine allegations against them; and 3% (149 priests) had 10 or more allegations against them. These 149 priests were responsible for almost 3,000 victims, or 27% of the allegations.
- The allegations were substantiated for 1,872 priests and unsubstantiated for 824 priests. The allegations were considered credible for 1,671 priests and not credible for 345 priests.
- 50% of the priests were 35 years of age or younger at the time of the first instance of alleged abuse.
- Almost 70% of the allegedly abusive priests were ordained before 1970.
- Fewer than 7% were reported to have themselves been victims of physical, sexual or emotional abuse as children. Although 19% had alcohol or substance abuse problems, 9% were reported to have used drugs or alcohol during the instances of abuse.

**72.** The *Report* also found that “[l]ike in the general population, child sex abuse in the Catholic Church appears to be committed by men close to the children they allegedly abuse.” According to the study, “many (abusers) appear to use grooming tactics to entice children into complying with the abuse, and the abuse occurs in the home of the alleged abuser or victim.” The *Report* characterized these enticements as actions such as buying the minor gifts, letting the victim drive a car, and taking youths to sporting events. The most frequent context for abuse was a social event and many abusive Clergy socialized with the victims’ families. Abuses occurred in a variety of places with the most common being Clergy residences.

**73.** Many of the reported acts of Clergy child sex abuse involved fondling or unspecified abuse. There were allegations of forced acts of oral sex and intercourse. Detailed information on the nature of the abuse was not reported for 26.6% of the reported allegations. Approximately 27.3% of the allegations involved the cleric performing oral sex on the victim; 25.1% of the allegations involved penile penetration or attempted penetration.

74. The *Report* further noted that although there were reported acts of Clergy child sex abuse in every year, the incidence of reported abuse increased markedly in the 1960s and 1970s. There was, for example, a more than six-fold increase in the number of reported acts of abuse of males aged 11 to 17 between the 1950s and the 1970s. Contributing factors to Clergy sex abuse were “poor screening and training of priests.”

75. The *Report* also noted the Catholic Church hierarchy’s failure to grasp the seriousness of the problem, overemphasis on the need to avoid a scandal, use of unqualified treatment centers for Clergy removed for rehabilitation, a misguided willingness by bishops to forgive sexual misconduct as a moral failing and not treat it a crime, allowance of recidivism upon reassignment of abusing priests, and insufficient accountability of the hierarchy for inaction. The *Report* has since been updated through 2010.

76. The Augustin Cardinal Bea, S.J., who specializes in abuse counseling and is considered an expert on clerical abuse, stated that “approximately 4% of priests during the past half century (and mostly in the 1960s and 1970s) have had a sexual experience with a minor.” In fact, the United States has the highest number of reported Clergy child sex abuse cases.

77. As recently as 2011, Father Curtis Wehmeyer was allowed to work as a priest in Minnesota despite many people reporting concern about his sexual compulsion and suspicious behavior with boys. Father Wehmeyer was employed as a priest without proper background checks. He was later convicted of sexually abusing two boys. After his arrest, numerous complaints were lodged that the responsible Clergy were more concerned with how to spin the story in a favorable light than in helping victims.

78. On May 13, 2017, Pope Francis acknowledged that the Vatican had a 2,000-case backlog of Clergy child sex abuse cases.

**79.** Pope Francis began 2018 by accusing victims of fabricating allegations, but by April apologized for his “tragic error,” and by August expressed “shame and sorrow” for the tragic history of Clergy sexual abuse of children, but the situation has not substantively changed.

**80.** In July 2018, Cardinal Theodore McCarrick resigned from the College of Cardinals (the first Cardinal to do so since 1927), following allegations of child sex abuse and attempted homosexual rape at a seaside villa.

**81.** In August 2018, Archbishop Carlo Maria Viganò, a former senior Vatican official and diplomat, claimed the pope knew as early as 2013 about allegations that the former archbishop of Washington, ex-Cardinal Theodore McCarrick, had been sexually active with seminarians and that Pope Benedict XVI had privately disciplined him over the charges. Archbishop Viganò said that Pope Francis had ignored then-Cardinal McCarrick’s record and rehabilitated him as a powerful figure in the Catholic Church.

**82.** In August 2018, a Pennsylvania grand jury issued a searing report that Defendant USCCB member-bishops and other leaders of the Catholic Church in Pennsylvania covered up child sexual abuse by more than 300 priests against over 1000 victims over a period of 70 years, persuading victims not to report the abuse and law enforcement not to investigate it. Since then, attorneys general in at least a dozen states have opened investigations into whether their local dioceses engaged in cover-ups of Clergy child sex abuse.

**83.** On October 9, 2018, the United States Department of Justice (“DOJ”) sent a sweeping request to Defendant USCCB that every diocese in the United States preserve all documents related to the handling of Clergy child sex abuse. The DOJ also asked Defendant USCCB to retain its files on a broad array of internal matters, including Clergy child sex abuse investigations and the transfer of priests across state or international borders, or to treatment centers. The DOJ’s request includes documents contained in “secret archives” —

the confidential files kept by each diocese. On October 23, 2018, Defendant USCCB sent the DOJ letter to all United States dioceses.

**84.** On October 12, 2018, Pope Francis accepted the resignation of Cardinal Donald Wuerl, the archbishop of Washington, D.C., for his handling of Clergy child sex abuse. Cardinal Wuerl, who was the bishop of Pittsburgh for 18 years before coming to Washington, D.C., in 2006, is accused by Catholics for not doing enough to root out Clergy child sex abuse. In a highly unusual step, as he accepted the resignation of Cardinal Wuerl, the pope also wrote a letter praising Cardinal Wuerl's "nobility" in choosing to step down rather than defend his record. The pope's letter further angered critics of the Catholic Church's response to Clergy child sex abuse say the pontiff fails to appreciate the gravity of the crisis. Terence McKiernan of BishopAccountability.org, an organization that tracks Clergy child sex abuse cases, said the letter "sends a clear message that for Pope Francis, Cardinal Wuerl is more important than the children he put in harm's way."

**85.** On November 12, 2018, at its annual meeting in Baltimore, Maryland, Defendant USCCB was prepared to vote on reforms addressing Clergy child sex abuse. At the eleventh hour, however, Defendant Holy See ordered Defendant USCCB not to take any action on the proposed reforms, but rather, wait until after a global summit on the issue planned for February 2019. Defendant USCCB followed Defendant Holy See's directive and did not vote on the two action items—thereby kicking the can down the road again.

**86.** According to a November 12, 2018 article in the Washington Post, in a press conference, Cardinal Daniel DiNardo, the president of Defendant USCCB, emphasized the control Defendant Holy See possesses over Defendant USCCB: "We are Roman Catholic bishops, in communion with our Holy Father in Rome. And he has people around him who are what we call congregations or offices, and we're responsible to them, in that communion of

faith.” Bishop Christopher Coyne, head of Defendant USCCB’s communications committee, reiterated the point: “We in the U.S. can have a limited view of the worldwide church ... It would be difficult if we came up with [different] policies and procedures.”

**87.** According to the same article in the Washington Post, at Defendant USCCB’s annual meeting, Defendant Holy See’s Ambassador to the United States, Archbishop Christophe Pierre, warned the bishops not to rely on investigations of Clergy child sex abuse by lay commissions or law enforcement, effectively instructing the bishops to ignore evidence of abuse unless it comes from the Church itself. He quoted a French author who said that “whoever pretends to reform the church with the same means to reform temporal society” will “fail.”

**88.** At the February 2019 summit on sexual abuse in Rome, Italy, German Cardinal Reinhardt Marx admitted that Defendant Holy See destroyed files to prevent the documentation of decades of Clergy child sex abuse, telling the prelates attending the summit that such maladministration led “in no small measure” to more children being harmed. According to the National Catholic Reporter, Cardinal Marx “said the church’s administration had left victims’ rights ‘trampled underfoot’ and ‘made it impossible’ for the worldwide institution to fulfill its mission. ‘Files that could have documented the terrible deeds and named those responsible were destroyed, or not even created,’ said Marx, beginning a list of a number of practices that survivors have documented for years but church officials have long kept under secret.” Joshua J. McElwee, *Cardinal admits to Vatican summit that Catholic Church destroyed abuse files*, National Catholic Reporter (Feb. 23, 2019), available at <https://www.ncronline.org/news/accountability/cardinal-admits-vatican-summit-catholic-church-destroyed-abuse-files>.

**89.** Despite the admission that Defendant Holy See’s file destruction caused even more Clergy child sex abuse, the February 2019 Rome summit produced no concrete changes to the Catholic Church’s governance that would prevent such abuse going forward. In other words,



in November 2018, Defendant Holy See ordered Defendant USCCB not to adopt concrete measures to prevent Clergy child sex abuse so that the issue could be addressed at the February 2019 summit in Rome, yet the Rome summit also failed to adopt concrete measures to prevent such abuse. At the end of the summit, Pope Francis, not surprisingly, downplayed and attempted to explain away the significance of Defendants' and the Catholic Church's problem, stating, "Our work has made us realize once again that the gravity of the scourge of the sexual abuse of minors is, and historically has been, a widespread phenomenon in all cultures and societies," and pointing out that most abuse takes place in the home. <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2019/02/24/190224c.html>.

**90.** A few days before the Rome summit, Cardinal Theodore McCarrick, the former Archbishop of Newark and the Archbishop of Washington, D.C., was laicized for sexual crimes against adults and minors stretching back nearly fifty years. Cardinal McCarrick's behavior had long been known within the Catholic Church—including by Defendants—as two New Jersey dioceses allegedly settled with his victims. One of his victims, Reverend Boniface Ramsey, reported Cardinal McCarrick's conduct to the Archbishop of Louisville in 1993 and to the apostolic nuncio in Washington, D.C. in a 2000 letter. Elizabeth Bruenig, *He wanted to be a priest. He says Archbishop McCarrick used that to abuse him.*, Washington Post (Sept. 12, 2018). Yet, Cardinal McCarrick faced no consequences for his wrongful actions before he reached the customary retirement age of 75 in 2006. Archbishop Carlo Maria Viganò has accused Pope Francis and several senior Catholic Church officials of knowing about—and failing to act on—Cardinal McCarrick's alleged misconduct.

**91.** About two days after the February 2019 Rome summit, Cardinal George Pell of Australia was sentenced to six years in prison for molesting two choirboys in the 1990s. After the sentence was announced, Defendant Holy See announced it would begin its own

investigation into Cardinal Pell. Incredibly, this means that there was some period of time during which Cardinal Pell was charged with a crime that Defendant Holy See did not investigate even though Cardinal Pell was Prefect of the Secretariat for the Economy, which put him in charge of Defendant Holy See's finances, reporting directly to the pope.

**II. Defendants have repeatedly failed and refused to properly address Clergy child sex abuse and compensate the victims.**

**92.** Historically, Defendants have addressed Clergy child sex abuse as an internal matter. Abusive Clergy were sanctioned under canon law (if at all) and sometimes received treatment from specialized Catholic service agencies, but relatively few of them were reported to civil authorities. Abusive Clergy have been routinely moved from parish to parish where they still had personal contact with children, rather than seeking to permanently remove them from the priesthood. Clergy child sex abuse has been institutionalized, routinized, and tolerated by the Catholic Church hierarchy, including Defendants, for decades to the point that it has operated as a criminal syndicate. Defendants are guilty of a grave moral failure for allowing the massive and rampant Clergy child sex abuse. In fact, in response to Defendants' failure to report Clergy child sex abuse to law enforcement, lawmakers in multiple states have moved to change their laws to make reporting of abuse to law enforcement compulsory.

**93.** Defendant Holy See has been especially slow to react. For example, in April 2003, the Pontifical Academy for Life organized a three-day conference, entitled "Abuse of Children and Young People by Catholic Priests and Religious," where eight non-Catholic psychiatric experts spoke nearly all Vatican dicasteries' representatives. The panel of experts identified the following factors contributing to the sexual abuse problem:

- Failure by the hierarchy to grasp the seriousness of the problem.
- Overemphasis on the need to avoid a scandal.
- Use of unqualified treatment centers.
- Misguided willingness to forgive.
- Insufficient accountability.

Yet Defendant Holy See took no affirmative action to address the issue.

**94.** Thereafter, in July 2010, Defendant Holy See issued a document doubling the length of time after a victim's 18th birthday that abusive Clergy can be tried in a church court and streamlining the processes for removing pedophile Clergy. However, the new rules are less strict than those already in place in the United States and do not clarify that pedophilia is a civil offense. Again, no decisive action to protect children from pedophile Clergy.

**95.** In May 2011, Defendant Holy See published new guidelines dealing with Clergy child sex abuse cases. The guidelines instruct Defendant USCCB member-bishops and heads of Catholic religious orders worldwide to develop "clear and coordinated" procedures for dealing with sexual abuse allegations, cooperate with the police, and respect the relevant local laws in investigating and reporting allegations of Clergy child sex abuse to civil authorities (although the guidelines do not make such reporting mandatory). The guidelines, however, are perfunctory and insufficient; they do not have the status of church law and do not provide any specific enforcement mechanisms.

**96.** While Defendants claim to have addressed the issue, the truth is that as of at least 2006, there were approximately 5,000 abusive Clergy in the United States, only 150 of whom had been successfully prosecuted. Defendants and other Church leaders who enabled Clergy child sex abuse were too frequently careless about their own accountability and the accountability of perpetrators. Some critics of the Catholic Church, such as Patrick Wall, attribute this to Defendants' lack of cooperation. In California, for example, the archdiocese sought to block the disclosure of confidential counseling records on two priests, arguing that such action would violate their First Amendment right on religious protection.

**97.** In September 2010, Pope Benedict XVI lamented that the Catholic Church had not been vigilant enough or quick enough in responding to the problem of Clergy child sex

abuse. After Pope Benedict's resignation in 2013, he was criticized by Survivors Network of those Abused by Priests (SNAP) for allegedly protecting the Church's reputation "over the safety of children." Representatives from the Center for Constitutional Rights (at the time engaged in an International Criminal Court case against Pope Benedict on behalf of SNAP), alleged that Pope Benedict had been directly involved in covering up some of the crimes.

**98.** Defendants have historically failed to act quickly and decisively remove, treat, laicize, and report Clergy accused of sexual misconduct. Cardinal Roger Mahony of the Archdiocese of Los Angeles, said: "We have said repeatedly that ... our understanding of this problem and the way it's dealt with today evolved, and that in those years ago, decades ago, people didn't realize how serious this was, and so, rather than pulling people out of ministry directly and fully, they were moved."

**99.** One early opponent of the treatment of sexually abusive priests was Father Gerald Fitzgerald, the founder of The Congregation of the Servants of the Paraclete. Although Father Fitzgerald started the Servants of the Paraclete to assist Clergy struggling with alcohol and substance abuse problems, he soon began counseling Clergy who had sexually abused minors. Initially, Father Fitzgerald attempted to treat such Clergy using the same spiritual methods he used with his other patients. But as he grew convinced of the futility of treating sexually abusive Clergy, Father Fitzgerald came to vehemently oppose the return of sexual abusers to their duties. He wrote regularly to Defendants and their representatives about his opinion that many Clergy child sex abusers could not be cured and should be laicized immediately. But Defendants took no action.

**100.** Defendants also have historically operated under a veil of secrecy regarding Clergy child sex abusers. As reported by *The Boston Globe*, several Defendant USCCB member-bishops have facilitated compensation payments to victims on condition that their allegations

remain secret. According to *The Boston Globe*, the Archdiocese of Boston secretly settled Clergy child sex abuse claims against at least 70 Clergy from 1992 to 2002. This practice is consistent with the Catholic Church's worldwide game plan to cover up Clergy child sex abuse. For example, in November 2009, the Irish Commission to Inquire into Child Abuse reported:

The Dublin Archdiocese's pre-occupations in dealing with cases of child sexual abuse, at least until the mid-1990s, were the maintenance of secrecy, the avoidance of scandal, the protection of the reputation of the Church, and the preservation of its assets. All other considerations, including the welfare of children and justice for victims, were subordinated to these priorities. The Archdiocese did not implement its own canon law rules and did its best to avoid any application of the law of the State.

**101.** In April 2010, a lawsuit was filed in Milwaukee federal court by an anonymous "John Doe 16" against Defendant Holy See and Pope Benedict XVI. The plaintiff accused the pope and others of covering up Clergy child sex abuse cases to avoid scandal to the detriment of the concerned children. In February 2011, two German lawyers initiated charges against Pope Benedict XVI at the International Criminal Court, alleging the Pope (aka Joseph Ratzinger), as head of the Congregation for the Doctrine of the Faith, covered up Clergy child sex abuse to protect the perpetrators.

**102.** Internal division within the Catholic Church over this issue finally became public. A Vatican spokesman stated "[w]hen individual institutions of national churches are implicated, that does not regard the competence of the Holy See. ... The competence of the Holy See is at the level of the Holy See." But citing canons 331 and 333 of the 1983 Code of Canon Law, James Carroll of *The Boston Globe* asserted that "[o]n the question of how far papal authority extends, the canon law of the Catholic Church could not be clearer," and the Holy See's denial of competency contravenes canon law. Canon 331 states that "The vicar of Christ ... possesses full, immediate, and universal ordinary power in the Church, which he is always able to exercise freely," and canon 333 states that "... by virtue of his office, the Roman pontiff not only

possesses power over the universal church, but also obtains the primacy of ordinary power over all particular churches and groups of them.”

**103.** Silvano Tomasi, Defendant Holy See’s ambassador to the U.N. at the time, stated—quite incredibly—that the Vatican is not responsible for abusive Clergy because “Clergy are citizens of their own states, and they fall under the jurisdiction of their own country.” But a United Nations report<sup>18</sup> disagreed, stating that since Clergy are “bound by obedience to the pope” under canon law, Defendant Holy See, in fact, is accountable. The report also urged the Vatican to insist that the police be involved in all Clergy child sex abuse reports and end the “code of silence” leading to whistleblowers being “ostracized, demoted and fired.”

**104.** Placing cases under the competence of Defendant Holy See’s Congregation for the Doctrine of the Faith also makes the process more secretive and lengthens the time required to address Clergy child sex abuse allegations. For example, in his biography of Pope John Paul

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<sup>18</sup> In early 2014, the United Nations Committee on the Rights of the Child issued a report asserting that the Pope and the Catholic Church have worked hard to protect their reputations, rather than protect children. The Committee called for the immediate removal of all known or suspected Clergy child molesters, opening up the archives on abusers and bishops who covered up such abuse, and instances of abuse reported to law enforcement agencies for investigation and prosecution. The Committee issued the following statement:

The committee is gravely concerned that the Holy See has not acknowledged the extent of the crimes committed, has not taken the necessary measures to address cases of child sexual abuse and to protect children, and has adopted policies and practices which have led to the continuation of the abuse by, and the impunity of, the perpetrators.

Due to a code of silence imposed on all members of the clergy under penalty of excommunication, cases of child sexual abuse have hardly ever been reported to the law enforcement authorities in the countries where such crimes occurred.

The Committee also enumerated several major findings, including that pedophile Clergy were sent to new parishes or other countries without police being informed, the Vatican never insisted on bishops reporting child sexual abuse to police, and known abusers still have access to children.

II, David Yallop asserts that the backlog of referrals to the Congregation for the Doctrine of the Faith for action against abusive Clergy is so large that it takes 18 months to merely get a reply.

**105.** Vatican officials themselves have expressed concern that the Catholic Church's insistence on confidentiality in its treatment of Clergy child sex abuse cases effectively operates as a ban on reporting serious accusations to civil and criminal authorities. Early in 2010, Cardinal Claudio Hummes, the head of the Congregation for Clergy, finally stated that instances of Clergy child sex abuse were "criminal facts," as well as serious sins, requiring co-operation with the civil justice system. But nothing substantively happened to address the issue. Italian academic Lucetta Scaraffia described the Catholic Church's conspiracy to hide Clergy child sex abuse as *omerta*, the Mafia code of silence, stating: "We can hypothesize that a greater female presence, not at a subordinate level, would have been able to rip the veil of masculine secrecy that in the past often covered the denunciation of these misdeeds with silence."

**106.** Moreover, the 1962 *Crimen sollicitationis* issued by Defendant Holy See's Holy Office (now called the Congregation for the Doctrine of the Faith) codified the procedures to be followed in cases of Clergy who used the sacrament of Penance to make sexual advances to penitents; to wit, keep all allegations of sexual abuse secret. This document alone demonstrates Defendants' systematic conspiracy to condone and conceal such crimes.

**107.** In 2013, a group calling itself Catholic Whistleblowers launched a public campaign to encourage improvement in implementing zero-tolerance policies on Clergy child sex abuse. The group said that "vigilance is necessary because some bishops are violating the ... policies, and abusive clergy (who now number 6,275, according to the bishops' count of those accusations that they deem credible) still have access to children." According to abuse victim, Mary Dispenza:

It is easy to think that when we talk about the crisis of child rape and abuse that we are talking about the past – and the Catholic Church would have us believe

that this most tragic era in church history is over. It is not. It lives on today. Pedophiles are still in the priesthood. Coverups of their crimes are happening now, and bishops in many cases are continuing to refuse to turn information over to the criminal justice system. Cases are stalled and cannot go forward because the church has such power to stop them. Children are still being harmed and victims cannot heal.

*“Opinion: Pope Francis must finally root out child abuse,”* CNN.com (Feb. 6, 2014).

**108.** While Defendants claim to have properly addressed Clergy child sex abuse, it’s only lip service at best. In truth, they have hardened their defenses, allowed the abuse to continue, systematically and consistently covered it up, refused to address the issue, marginalized the victims, refused to compensate the victims—including Plaintiffs and Class Members—and refused to report such abuse and the abusing Clergy to the proper authorities—all in the name of shielding Defendants and the Catholic Church from scandal and protecting their commercial activities and financial support. Yet thousands of victims across the United States continue to report Clergy child sex abuse.

**109.** In short, Defendants have known about the Clergy child sex abuse rampant in the Catholic Church for decades yet done nothing to stop it. In fact, the opposite has occurred. Defendants continue to marginalize Clergy sex abuse victims and the issue at large while abusive Clergy stay on the job and go unpunished and, most important, children in the United States—and worldwide—Catholic Church continue to be at risk for Clergy sex abuse.

**110.** Clergy child sex abuse crimes occurred in the past, are occurring now, and will continue in the future unless Defendants act decisively to ensure that child safety has a higher priority than protecting abusive Clergy and the reputation of the Catholic Church. They have not acted decisively so far. Defendants have failed and refused to properly address Clergy child sex abuse and compensate the victims—including Plaintiffs and Class Members (and continue to do so). It is time for the guilty Clergy at all levels to be identified and permanently rooted out of the Catholic Church, the sexual abuse victims—including Plaintiffs and Class Members—properly



compensated for their injuries and damages, and comprehensive protocols and procedures instituted to compensate future victims and protect children and their families from abusive Clergy going forward. This case has resulted.

### **CLASS ACTION ALLEGATIONS**

**111.** Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs bring this action against Defendants as a national class action, for themselves and all members of the following Class of similarly situated individuals in the United States and the Territory of the U.S. Virgin Islands (the “Nationwide Class”):

All persons and if minor children, their parents or guardians on their behalf, who were sexually abused by Catholic Church cardinals, bishops, monsignors, priests, sisters, lay leaders, members of Catholic religious orders, educators, and other of Defendants’ personnel, members, agents, and representatives (*i.e.*, the “Clergy”), from 1940 to present.

**112.** Excluded from the Nationwide Class are Defendants, all current and former members and employees of Defendants, Catholic Clergy, and the Court and its personnel.

**113.** The proposed Nationwide Class consists of over five thousand geographically dispersed members, the joinder of whom in one action is impracticable. The precise number and identities of Class Members are currently unknown to Plaintiffs but are identifiable and readily ascertainable from Defendants’ internal records.

**114.** Defendants violated the rights of each Class Member in the same way by their and the Clergy’s above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence.

**115.** Certain questions of law and fact common to the proposed Nationwide Class predominate over any questions affecting individual Class Members, including:

- (i) whether Defendants’ above-described wrongful actions constitute assault at common law;
- (ii) whether Defendants’ above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding

investigations, and conspiracy of silence constitute breach of fiduciary duty at common law;

- (iii) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute negligence/gross negligence at common law;
- (iv) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute negligence *per se* at common law;
- (v) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute intentional infliction of emotional distress at common law;
- (vi) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute a public nuisance at common law;
- (vii) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute conspiracy at common law;
- (viii) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute aiding and abetting at common law;
- (ix) whether Defendants should be compelled to make full restitution to Plaintiffs and Class Members under principles of equity;
- (x) whether Defendants also are liable to Plaintiffs and Class Members for the Clergy's above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine;
- (xi) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence directly or proximately caused Plaintiffs and Class Members to suffer physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages;
- (xii) whether Plaintiffs and Class Members are entitled to recover actual damages, consequential damages, compensatory damages, economic damages, punitive damages, pre- and post-judgment interest, attorneys' fees, litigation expenses, and court costs and, if so, the amount of the recovery; and

- (xiii) whether Plaintiffs and Class Members are entitled to declaratory and injunctive relief, including the establishment of a medical monitoring fund for the testing, diagnosis and treatment of Plaintiffs' and Class Members' emotional, psychological, and mental health issues directly and proximately resulting from Defendants' (and the Clergy's) above-described wrongful conduct.

**116.** Plaintiffs' claims are typical of Class Members' claims because Plaintiffs and Class Members are all victims of Clergy child sex abuse and Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence.

**117.** Plaintiffs and their counsel will fairly and adequately represent the interests of Class Members. Plaintiffs have no interests antagonistic to, or in conflict with, the interests of any Class Members. Plaintiffs' counsel are experienced in leading and prosecuting class actions and complex commercial litigation, including complex torts.

**118.** A class action is superior to all other available methods for fairly and efficiently adjudicating Plaintiffs' and Class Members' claims. Plaintiffs and Class Members have been (and will continue to be) harmed as a direct and proximate result of Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence. Litigating this case as a class action is appropriate because (i) it will avoid a multiplicity of suits and the corresponding burden on the courts and Parties, (ii) it would be virtually impossible for all Class Members to intervene as parties-plaintiff in this action, and (iii) it will provide court oversight of the claims process once Defendants' liability is adjudicated.

**119.** Certification, therefore, is appropriate under FED. R. CIV. P. 23(b)(3) because the above-described common questions of law or fact predominate over any questions affecting individual Class Members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

**120.** Certification also is appropriate under FED. R. CIV. P. 23(b)(2) because Defendants have acted (or refused to act) on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or equitable relief with respect to the Class as a whole.

**121.** Certification also is appropriate under FED. R. CIV. P. 23(b)(1) because the prosecution of separate actions by individual Class Members would create a risk of establishing incompatible standards of conduct for Defendants. For example, one court might decide that the challenged actions are illegal and enjoin Defendants, while another court might decide that the same actions are not illegal. Individual actions also could be dispositive of the interests of the other Class Members who are not parties to such actions, and substantially impair or impede their ability to protect their interests.

**122.** Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence are applicable to the Class as a whole, for which Plaintiffs seek, *inter alia*, damages, declaratory relief, injunctive relief, and other equitable remedies.

**123.** Absent a class action, Defendants will retain the benefits of their wrongdoing despite seriously violating the law and inflicting physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages on Plaintiffs and Class Members.

## **CLAIMS FOR RELIEF/ CAUSES OF ACTION**

### **COUNT I**

#### **ASSAULT**

**(On Behalf of the Nationwide Class Against Both Defendants Under the Doctrine of *Respondeat Superior*, Agency Theory, and/or the Command Responsibility Doctrine)**

**124.** The preceding factual statements and allegations are incorporated by reference.

**125.** While under Defendants' employment, command, supervision, direction, and/or control, abusive Clergy abused their positions of power, authority, trust, and confidence, and

knowingly and/or recklessly instigated and engaged in the inappropriate, unauthorized, forced, unjustified, and wrongful physical contact and sexual abuse of Plaintiffs and Class Members when they were minors and without their consent. Defendants thereafter intentionally failed and refused to report such Clergy child sex abuse to law enforcement or other responsible authorities as required by law, and intentionally and actively instigated, perpetrated, and participated in multiple schemes to cover up such sexual abuse.

**126.** Defendants and the Clergy knew or reasonably should have believed that Plaintiffs and Class Members would regard the above-described inappropriate, unauthorized, forced, unjustified physical contact and sexual abuse and subsequent cover-up as wrongful and offensive, which, in fact, it was (and continues to be), and they do.

**127.** Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence regarding Clergy child sex abuse and abusive Clergy furthered (and continue to further) Defendants' interests by, *inter alia*, (i) suppressing negative publicity so as to maintain the "Christian" reputation of Defendants and the Catholic Church, maintain their membership and tithing base, maintain the flow of contributions from their parishioners and other donors, and (ii) avoiding the payment of compensation to Clergy child sex abuse victims.

**128.** As a direct and proximate result of Defendants' (and the Clergy's) above-described wrongful conduct, Plaintiffs and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. Defendants' above-described wrongful conduct—while the abusive Clergy were under Defendants' employ, command, supervision, direction, and/or control—constitute assault at common law under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine.

**COUNT II**

**BREACH OF FIDUCIARY DUTY**

**(On Behalf of the Nationwide Class Against Both Defendants Directly and Under the Doctrine of *Respondeat Superior*, Agency Theory, and/or the Command Responsibility Doctrine)**

**129.** The preceding factual statements and allegations are incorporated by reference.

**130.** While the abusive Clergy were under Defendants' employ, command, supervision, direction, and/or control, Plaintiffs and Class Members, as parishioners, trusted the Clergy and other of Defendants' members, officers, employees, agents and representatives who sexually abused them to provide them with sound spiritual guidance and act in Plaintiffs' and Class Members' best interests. The Clergy and Defendants' members, officers, employees, agents and representatives who sexually abused Plaintiffs and Class Members were in positions of power and influence over Plaintiffs and Class Members. Such personal and moral relationships between Plaintiffs and Class Members, on the one hand, and the Clergy and Defendants, on the other hand, were confidential, special, and fiduciary relationships, pursuant to which Defendants had a duty to, *inter alia*, guide, lead, and protect Plaintiffs and Class Members, not allow them to be sexually abused by the Clergy, conceal the Clergy's wrongful conduct when discovered, move the abusive Clergy from parish to parish, without warning church members or the general public, thereby further facilitating their predatory practices, refuse to report the abusive Clergy to law enforcement or other responsible authorities as required by law, and even promote the abusive Clergy. Plaintiffs and Class Members expected and, in fact, trusted Defendants and the Clergy to engage in lawful and appropriate relationships with them and, in fact, Defendants and the Clergy were well-aware of Plaintiffs' and Class Members' expectations of trust and confidence that Defendants and the Clergy would do so.

**131.** As fiduciaries, Defendants and the Clergy owed Plaintiffs and Class Members (i) the commitment to deal fairly and honestly, (ii) the duties of good faith and undivided loyalty, and (iii) integrity of the strictest kind. Defendants and the Clergy were obligated to exercise the highest degree of care in carrying out their above-described obligations to Plaintiffs and Class Members as spiritual leaders and confidants under the Parties' confidential, special, and fiduciary relationships.

**132.** Defendants and the Clergy, however, breached their fiduciary duty to Plaintiffs and Class Members by, *inter alia*, (i) knowingly and/or recklessly instigating and engaging in, facilitating, and/or allowing the inappropriate, unauthorized, forced, unjustified, and wrongful rape and sexual abuse of Plaintiffs and Class Members when they were minors and without their consent (both), (ii) intentionally failing and refusing to report such wrongful child sexual abuse to law enforcement or other responsible authorities as required by law (Defendants), and (iii) intentionally and actively instigating, perpetrating, and participating in multiple schemes to cover up such wrongful child sexual abuse (Defendants). In breaching their duties to Plaintiffs and Class Members, Defendants acted intentionally, wantonly, recklessly, and with a complete disregard for Plaintiffs' and Class Members' rights and interests, and the consequences of their actions.

**133.** Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence regarding Clergy child sex abuse and abusive Clergy furthered (and continue to further) Defendants' interests by, *inter alia*, (i) suppressing negative publicity so as to maintain the "Christian" reputation of Defendants and the Catholic Church, maintain their membership and tithing base, maintain the flow of contributions from their parishioners and other donors, and (ii) avoiding the payment of compensation to Clergy child sex abuse victims.

**134.** As a direct and proximate result of Defendants' (and the Clergy's) above-described wrongful conduct, Plaintiffs and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, compensatory, and economic damages. Defendants' above-described wrongful conduct—while the abusive Clergy were under Defendants' employ, command, supervision, direction, and/or control—constitutes breach of fiduciary duty at common law, both directly and under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine.

### **COUNT III**

#### **NEGLIGENCE/GROSS NEGLIGENCE**

##### **(On Behalf of the Nationwide Class Against Both Defendants Directly and Under the Doctrine of *Respondeat Superior*, Agency Theory, and/or the Command Responsibility Doctrine)**

**135.** The preceding factual statements and allegations are incorporated by reference.

**136.** To establish a negligence claim, there must be (i) a legal duty on the part of the defendant to conform to a certain standard of conduct to protect others against unreasonable risks, (ii) a breach of that duty, (iii) a proximate cause between the conduct and the resulting injury, and (iv) actual damages to the claimant's person or property. Foreseeability that an injury might result from the act complained of normally serves as the paramount factor in determining the existence of a duty. When deciding if some injury was reasonably foreseeable, whether expressly or implicitly, courts examine what the actor knew or should have known.

**137.** Defendants knew that if they failed to exercise reasonable care and safeguard and protect Plaintiffs and Class Members—rather than facilitate and allow them to be sexually abused as minors by the Clergy, conceal the Clergy's wrongful conduct when discovered, move the abusive Clergy from parish to parish, without warning church members or the general public, thereby further facilitating their predatory practices, refuse to report the abusive Clergy to law



enforcement or other responsible authorities as required by law (and even promote the abusive Clergy), and fail and refuse to institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Clergy going forward—that Plaintiffs and Class Members would suffer the physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages they, in fact, have suffered (and will continue to suffer).

**138.** It was also imminently foreseeable to Defendants that if they failed to exercise reasonable care and safeguard and protect Plaintiffs and Class Members—rather than facilitate and allow them to be sexually abused as minors by the Clergy, conceal the Clergy’s wrongful conduct when discovered, move the abusive Clergy from parish to parish, without warning church members or the general public, thereby further facilitating their predatory practices, refuse to report the abusive Clergy to law enforcement or other responsible authorities as required by law (and even promote the abusive Clergy), and fail and refuse to institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Clergy going forward—that Plaintiffs and Class Members would suffer the physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages they, in fact, have suffered (and will continue to suffer). There is no other foreseeable group of individuals who would be directly and/or proximately injured or harmed by Defendants’ and the Clergy’s above-described wrongful conduct other than Plaintiffs and Class Members, the Clergy child sex abuse victims.

**139.** As such, Defendants had (and continue to have) a legal duty to Plaintiffs and Class Members to comply with certain standards of conduct and, *inter alia*, (i) safeguard and protect Plaintiffs and Class Members from Clergy sexual predators, (ii) discipline known offenders (rather than harboring them, protecting them, and moving them from parish to parish

and covering up and further facilitating their abhorrent behavior), (iii) report sexual predator Clergy to law enforcement or other responsible authorities as required by law, (iv) institute policies of transparency, disclosing in the public record the names of all known Clergy with plausible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employ, (v) publicly admit their wrongdoing, (vi) personally apologize to Plaintiffs and Class Members, and (vii) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Clergy going forward.

**140.** Defendants duty to comply with these standards of conduct and protect Plaintiffs and Class Members from the physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages they, in fact, have suffered (and will continue to suffer) at the hands of Defendants and the Clergy also arose out of the above-described fiduciary relationships and relationships of trust and confidence between the parties resting on sound public policy as derived from a calculus of factors, including, *inter alia*, the (i) social and theological consensus that clergy/parishioner relationships—especially when the parishioners are vulnerable minors—are sacred and worthy of protection (they are), (ii) foreseeability of the physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages that Plaintiffs and Class Members, in fact, have suffered (and will continue to suffer) at the hands of Defendants and the Clergy, (iii) moral blame society attaches to the sexual abuse of minor children by the Clergy and other powerful persons in leadership positions (it's severely disfavored), and (iv) prevention of future physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages to the victims and future victims (*i.e.*, future injury and harm could (and very well will) occur if Defendants fail to, *inter alia*, (a) protect minor children from abusive Clergy, (b) end their

policies, procedures, and schemes of moving abusive Clergy from parish to parish and covering up their wrongful conduct, (c) discipline known offending Clergy, (d) report sexual predator Clergy to law enforcement or other responsible authorities as required by law, (e) institute policies of transparency, disclosing in the public record the names of all known Clergy with plausible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employ, (f) publicly admit their wrongdoing, and (g) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Clergy going forward.).

**141.** Defendants duty to comply with these standards of conduct and protect Plaintiffs and Class Members from the physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages they, in fact, have suffered (and will continue to suffer) at the hands of Defendants and the Clergy also arose out of canon law and the customary international law regarding human rights and various human rights conventions, including, *inter alia*, the *Universal Declaration of Human Rights* and the *Convention on the Rights of the Child*, which Defendant Holy See signed and ratified.

**142.** Defendants negligently, or in a grossly negligent manner, breached their common law, moral, and other duties to Plaintiffs and Class Members by, *inter alia*, failing to (i) safeguard and protect Plaintiffs and Class Members from Clergy sexual predators, (ii) properly hire, direct, supervise, and/or control the abusive Clergy, (iii) discipline known offenders (rather than harboring them, protecting them, and moving them from parish to parish and covering up and further facilitating their abhorrent behavior), (iv) report sexual predator Clergy to law enforcement or other responsible authorities as required by law, (v) institute policies of transparency, disclosing in the public record the names of all known Clergy with plausible allegations of sexual misconduct against, releasing all corresponding documents and information,

and terminating and expelling such offenders from Defendants' employ, (vi) publicly admit their wrongdoing, (vii) personally apologize to Plaintiffs and Class Members, and (viii) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Clergy going forward.

**143.** Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence regarding Clergy child sex abuse and abusive Clergy furthered (and continue to further) Defendants' interests by, *inter alia*, (i) suppressing negative publicity so as to maintain the "Christian" reputation of Defendants and the Catholic Church, maintain their membership and tithing base, maintain the flow of contributions from their parishioners and other donors, and (ii) avoiding the payment of compensation to Clergy child sex abuse victims.

**144.** As a direct and proximate result of Defendants' (and the Clergy's) above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence, negligence, and gross negligence, Plaintiffs and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. Defendants' above-described wrongful conduct—while the abusive Clergy were under Defendants' employ, command, supervision, direction, and/or control—constitutes negligence and gross negligence at common law, both directly and under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine.

#### **COUNT IV**

#### **NEGLIGENCE PER SE**

**(On Behalf of the Nationwide Class Against Both Defendants)**

**145.** The preceding factual statements and allegations are incorporated by reference.

**146.** The following state statutes require all persons with knowledge of child sex abuse to report such abuse to law enforcement or other responsible authorities:

Ala. Code § 26-14-3(a); (f)

Alaska Stat. § 47.17.020(d)

Ariz. Rev. Stat. § 13-3620(A); (L)

Ark. Code §§ 12-18-402; 12-18-803(b)

Cal. Penal Code §§ 11166(d); 11165.7(a)(32)-(33)

Colo. Rev. Stat. §§ 13-90-107(1)(c); 19-3-304(2)(aa)

Conn. Gen. Stat. § 17a-101(b)

Del. Code Tit. 16, §§ 903; 909

Fla. Stat. §§ 39.201(1); 39.204

Ga. Code § 19-7-5

Idaho Code § 16-1605

325 Ill. Com. Stat. § 5/4; 735 Ill. Comp. Stat. § 5/8-803

Ind. Code § 31-33-5-1

Ky. Rev. Stat. § 620.030(1), (3)

La. Children's Code Art. 603(17)(b)-(c)

Me. Rev. Stat. Tit. 22, § 4011-A(1)(A)(27)

Md. Code Fam. Law § 5-705(a)(1), (a)(3)

Tenn. Code § 37-1-403(a)

Mass. Gen. Laws Ch. 119, §§ 21; § 51A(j)

Mich. Comp. Laws §§ 722.623; 722.631

Minn. Stat. § 626.556, Subd. 3(a)

Miss. Code § 43-21-353(1)

Mo. Stat. §§ 210.140; 210.115; 352.400

Mont. Code §§ 15-6-201(2)(b); 41-3-201(2)(h), (5)(b)

Neb. Rev. Stat. § 28-711

Nev. Rev. Stat. § 432B.220(3)(d)

N.H. Rev. Stat. §§ 169-C:29; 169-C:32

N.J. Stat. § 9:6-8.10

N.M. Stat. § 32A-4-3(A)

N.C. Gen. Stat. §§ 7B-301; 7B-310

N.D. Cent. Code § 50-25.1-03(1)

Ohio Rev. Code §§ 2151.421(A)(4)(b)-(d); 2151.421(A)(4)(a)

Okla. Stat. Tit. 10A, § 1-2-101

Or. Rev. Stat. §§ 419B.005(3)(h); 419B.010(1)

23 Pa. Cons. Stat. §§ 6311(a); 6311.1

R.I. Gen. Laws §§ 40-11-11; 40-11-3(a)

S.C. Code § 63-7-420

Tenn. Code § 37-1-605(a)

Tex. Fam. Code § 261.101

Utah Code § 62A-4a-403

Vt. Stat. Tit. 33, §§ 4913(a), (h)-(i); 4912(12)

Va. Code § 63.2-1509

Wash. Rev. Code §§ 26.44.030(7); 26.44.060(3)

W.Va. Code §§ 49-2-811; 49-2-803

Wis. Stat. § 48.981(2)(b)

Wyo. Stat. § 14-3-205(a)

Wyo. Stat. § 14-3-210

**147.** Moreover, the 1917 Code made “adultery, debauchery, bestiality, sodomy, pandering, [and] incest” ecclesial crimes. The 1917 Code specifically made it a crime for Clergy to have sexual relations or relationships with children under the age of sixteen. It also mandated, without reservation, the suspension of guilty clerics and removal from any office, and “in more serious cases,” deposition. The 1983 Code goes even further, expressly forbidding Clergy child sex abuse and directing that “civil laws to which the law of the Church yields are to be observed in canon law with the same effects,” which requires both laity and clergy to report civil crimes to civil authorities as a matter of canon law.

**148.** By their above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence—more specifically, Defendants’ failure to report the above-described Clergy child sex abuse to law enforcement or other responsible authorities as required by law—Defendants violated (and continue to violate) the above-listed statutes and canon law.

**149.** By their above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence, Defendants also violated (and continue to violate) customary international law regarding human rights and various human rights conventions, including, *inter alia*, the *Universal Declaration of Human Rights* and the *Convention on the Rights of the Child*, which Defendant Holy See signed and ratified.

**150.** Plaintiffs and Class Members are clearly within the class of persons the above-listed statutes, canon law, international law, and human rights conventions are designed to

protect. The physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages they, in fact, have suffered (and will continue to suffer) at the hands of the Clergy and Defendants are precisely the types of damages, injury, and harm the above-listed statutes, canon law, international law, and human rights conventions are designed to guard against.

**151.** Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence regarding Clergy child sex abuse and abusive Clergy furthered (and continue to further) Defendants' interests by, *inter alia*, (i) suppressing negative publicity so as to maintain the "Christian" reputation of Defendants and the Catholic Church, maintain their membership and tithing base, maintain the flow of contributions from their parishioners and other donors, and (ii) avoiding the payment of compensation to Clergy child sex abuse victims.

**152.** As a direct and proximate result of Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence, and violations of the above-listed statutes, canon law, international law, and human rights conventions, Plaintiffs and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. Defendants' above-described wrongful conduct—while the abusive Clergy were under Defendants' employ, command, supervision, direction, and/or control—constitutes negligence *per se* at common law, both directly and under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine.



**COUNT V**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

**(On Behalf of the Nationwide Class Against Both Defendants Directly and Under the Doctrine of *Respondeat Superior*, Agency Theory, and/or the Command Responsibility Doctrine)**

**153.** The preceding factual statements and allegations are incorporated by reference.

**154.** Defendants' (and the Clergy's) above-described extreme, outrageous, and wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence regarding Clergy child sex abuse and abusive Clergy were committed intentionally and/or recklessly.

**155.** Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence regarding Clergy child sex abuse and abusive Clergy furthered (and continue to further) Defendants' interests by, *inter alia*, (i) suppressing negative publicity so as to maintain the "Christian" reputation of Defendants and the Catholic Church, maintain their membership and tithing base, maintain the flow of contributions from their parishioners and other donors, and (ii) avoiding the payment of compensation to Clergy child sex abuse victims.

**156.** As a direct and proximate result of Defendants' (and the Clergy's) above-described wrongful conduct, Plaintiffs and Class Members have suffered (and will continue to suffer) severe emotional distress. Defendants' above-described wrongful conduct—while the abusive Clergy were under Defendants' employ, command, supervision, direction, and/or control—constitutes intentional infliction of emotional distress, both directly and under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine.

**COUNT VI**

**PUBLIC NUISANCE**

**(On Behalf of the Nationwide Class Against Both Defendants)**

**157.** The preceding factual statements and allegations are incorporated by reference.

**158.** By their above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence, Defendants have taken (and continue to take) affirmative actions to facilitate the sexual abuse of children by the Clergy and conspire to engage, and engage, in ongoing efforts to, *inter alia*, (i) conceal from the general public the child sexual abuse committed by the Clergy, the identities of the abusive clergy, and the predatory tendencies of the abusive Clergy, (ii) attack the credibility of the victims of the Clergy's sexual abuse, (iii) protect the abusive Clergy from criminal prosecution for their sexual abuse of children by concealing their wrongful conduct and engaging in a conspiracy of silence, (iv) moving abusive Clergy from parish to parish, without warning church members or the general public, thereby further facilitating their predatory practices, (v) failing and refusing to report the abusive Clergy to law enforcement or other responsible authorities as required by law (and even promoting the abusive Clergy), and (vi) making affirmative misrepresentations to current or future employers regarding the abusive Clergy's fitness for employment in positions that include working with children—while failing to disclose information regarding the sexual misconduct by such predators.

**159.** The abusive Clergy's predatory tendencies coupled with Defendants' facilitation, deception, and concealment of such abuse was (and continues to be) an unreasonable interference with the general public's common right to the comfortable enjoyment of life because children cannot be left unsupervised in any location where abusive Clergy are present. The general public cannot trust the abusive Clergy and/or the Catholic Church. The general public

also cannot trust Defendants to, *inter alia*, (i) prohibit and prevent abusive Clergy from supervising, caring for, or having any contact with children, (ii) warn parents of the presence of abusive Clergy, (iii) identify abusive Clergy so as to protect children in the neighborhoods where the abusive Clergy work and live, and (iv) report the abusive Clergy to law enforcement or other responsible authorities as required by law, so they will be criminally prosecuted and identified to the general public as registered sex offenders. Defendants' secretive conduct also interferes with and causes harm to the general public's right to know that Defendants have concealed (and continue to conceal) decades of sexual abuse by Roman Catholic Clergy.

**160.** Defendants' wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence regarding the sexual misconduct of abusive Clergy has caused (and will continue to cause) injury to the general public and seriously imperil children where Defendants have protected and concealed their predatory Clergy from criminal prosecution and registration as sex offenders in situations where the abusive Clergy voluntarily left Defendants' employ and/or where Defendants expelled such Clergy from the Catholic Church and disavowed any responsibility for the abusive Clergy's wrongful conduct even though Defendants shielded them. As a result of Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence, when Defendants' former abusive Clergy have sought employment in positions of trust with children, Defendants are the only ones aware of the risk posed by the former abusive Clergy, and potential employers, childcare custodians, and parents have no means of identifying the risk to their children posed by former Clergy who should be convicted of child sexual abuse and registered as sex offenders.

**161.** Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of

silence has endangered the welfare of children by placing them in harm's way, interfered with the interests of the community, and caused damage to the general public—and continues to do so. Defendants' wrongful conduct also has interfered with public health and safety by victimizing thousands of minor children and causing them severe harm and trauma, both physically and emotionally, as well as severe harm and trauma to their family members and friends—and continues to do so. Defendants' wrongful conduct also has interfered with the public morals by breaching the trust of Catholic Church parishioners and community members and holding themselves up as paragons of virtue and spiritual purity while simultaneously concealing and facilitating the criminal acts of its Clergy—and continue to do so.

**162.** As a direct and proximate result of Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence, Defendants have created a public nuisance whereby Plaintiffs and Class Members were placed in the custody, care, and control of abusive Clergy and suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, compensatory, and economic damages.

**163.** As a direct and proximate result of Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence, Defendants have created a public nuisance whereby children in the general public were (and are) unknowingly placed in the custody, care, and control of abusive Clergy, unaware of the ongoing danger and at a much higher risk than other children for being sexually abused (and, perhaps, sexually abused by such Clergy).

**164.** Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence regarding Clergy child sex abuse and abusive Clergy furthered (and continue to further)

Defendants' interests by, *inter alia*, (i) suppressing negative publicity so as to maintain the "Christian" reputation of Defendants and the Catholic Church, maintain their membership and tithing base, maintain the flow of contributions from their parishioners and other donors, and (ii) avoiding the payment of compensation to Clergy child sex abuse victims.

**165.** The ongoing and continuing public nuisance created by Defendants was, and continues to be, the proximate cause of the above-described injuries and harm to the general public and the above-described special injuries suffered (and continuing to be suffered) by Plaintiffs and Class Members. Defendants' above-described wrongful conduct constitutes the tort of public nuisance at common law.

## **COUNT VII**

### **CONSPIRACY**

#### **(On Behalf of the Nationwide Class Against Both Defendants)**

**166.** The preceding factual statements and allegations are incorporated by reference.

**167.** Defendants, the Clergy, and possibly others, either working together as a combined group or in sub-combinations of two or more, affirmatively conspired to engage in the wrongful conduct set forth above. Defendants conspired to commit the wrongful conduct outlined in Counts I-VI, above; to wit, Defendants, the Clergy, and possibly others, either working together as a combined group or in sub-combinations of two or more, entered into one or more agreements to not (i) safeguard and protect Plaintiffs and Class Members from Clergy sexual predators, (ii) properly hire, direct, supervise, and/or control the abusive Clergy, (iii) discipline known offenders (rather than harboring them, protecting them, and moving them from parish to parish and covering up and further facilitating their abhorrent behavior), (iv) report sexual predator Clergy to law enforcement or other responsible authorities as required by law, (v) institute policies of transparency, disclosing in the public record the names of all known

Clergy with plausible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employ, (vi) publicly admit their wrongdoing, (vii) personally apologize to Plaintiffs and Class Members, and (viii) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Clergy going forward.

**168.** Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence regarding Clergy child sex abuse and abusive Clergy furthered (and continue to further) Defendants' interests by, *inter alia*, (i) suppressing negative publicity so as to maintain the "Christian" reputation of Defendants and the Catholic Church, maintain their membership and tithing base, maintain the flow of contributions from their parishioners and other donors, and (ii) avoiding the payment of compensation to Clergy child sex abuse victims.

**169.** As a direct and proximate result of Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence, and violations of the above-listed statutes, canon law, international law, and human rights conventions, Plaintiffs and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. Defendants' above-described wrongful conduct—while the abusive Clergy were under Defendants' employ, command, supervision, direction, and/or control—constitutes conspiracy at common law.

## **COUNT VIII**

### **AIDING AND ABETTING (ASSISTING, ENCOURAGING, PARTICIPATING AND/OR CONCERT OF ACTION)**

**(On Behalf of the Nationwide Class Against Both Defendants)**

**170.** The preceding factual statements and allegations are incorporated by reference.

**171.** By failing to, *inter alia*, (i) safeguard and protect Plaintiffs and Class Members from Clergy sexual predators, (ii) discipline known offenders (rather than harboring them, protecting them, and moving them from parish to parish and covering up and further facilitating their abhorrent behavior), (iii) report sexual predator Clergy to law enforcement or other responsible authorities as required by law, (iv) institute policies of transparency, disclosing in the public record the names of all known Clergy with plausible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employ, (v) publicly admit their wrongdoing, (vi) personally apologize to Plaintiffs and Class Members, and (vii) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Clergy going forward, Defendants have aided, abetted, assisted, facilitated, encouraged, participated in, and engaged in a concert of action with the Clergy (and possibly others) to commit child sex abuse, cover it up, wrongfully protect the abusive Clergy, wrongfully protect the reputations, commercial activities, and financial interests of Defendants and the Catholic Church in the United States, and in the process, inflict severe physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, compensatory, and economic damages on Plaintiffs and Class Members and put the general public in danger—and continue to do so.

**172.** Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence regarding Clergy child sex abuse and abusive Clergy furthered (and continue to further) Defendants' interests by, *inter alia*, (i) suppressing negative publicity so as to maintain the "Christian" reputation of Defendants and the Catholic Church, maintain their membership and tithing base, maintain the flow of contributions from their parishioners and other donors, and (ii) avoiding the payment of compensation to Clergy child sex abuse victims.

**173.** As a direct and proximate result of Defendants' (and the Clergy's) above-described wrongful conduct, Plaintiffs and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. Defendants' above-described wrongful conduct—while the abusive Clergy were under Defendants' employ, command, supervision, direction, and/or control—constitutes aiding and abetting under common law.

## **COUNT IX**

### **MEDICAL MONITORING**

#### **(On Behalf of the Nationwide Class Against Both Defendants)**

**174.** The preceding factual statements and allegations are incorporated by reference.

**175.** As a direct and proximate result of Defendants' (and the Clergy's) above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence, Plaintiffs and Class Members have suffered (and will continue to suffer) severe and traumatic pain, suffering, and emotional, psychological, and mental health issues, including, without limitation, depression, fear, anxiety, nightmares, Post Traumatic Stress Syndrome (PTSD), alcohol and substance abuse disorders, loss of friends and family, other negatively impacted personal relationships, loss of consortium, loss of employment, suicidal tendencies, and other serious emotional, psychological, and mental health issues.

**176.** Plaintiffs and Class Members require specialized testing, diagnosis, treatment, and monitoring for these serious emotional, psychological, and mental health issues. The available monitoring regime is reasonably necessary according to contemporary scientific principles within the mental health community specializing in the diagnosis and treatment of these emotional, psychological, and mental health issues.



177. By monitoring and testing Plaintiffs and Class Members, any existing emotional, psychological, and mental health issues may be diagnosed and treated, and the risk they will suffer long-term emotional, psychological, and mental health issues will be significantly reduced.

178. Plaintiffs, for themselves and Class Members, therefore, seek an injunction creating a Court-supervised, medical monitoring program funded by Defendants, which will facilitate the diagnosis and treatment of Plaintiffs' and Class Members' emotional, psychological, and mental health issues directly and proximately resulting from Defendants' (and the Clergy's) above-described wrongful conduct. Such program should include a trust fund to pay for the monitoring and treatment of Plaintiffs and Class Members as frequently and appropriately as necessary. Plaintiffs and Class Members have no adequate remedy at law in that monetary damages alone cannot (and would not) compensate them for continuing to suffer from serious emotional, psychological, and mental health issues and economic losses due to the wrongful conduct of individuals claiming to be persons of faith in whom Plaintiffs and Class Members placed their trust and confidence. Without such Court-directed medical monitoring, Plaintiffs and Class Members will continue to suffer serious emotional, psychological, and mental health issues that, in fact, could (and probably will) worsen.

## COUNT X

### RESTITUTION

**(On Behalf of the Nationwide Class Against Both Defendants Directly and Under the Doctrine of *Respondeat Superior*, Agency Theory, and/or the Command Responsibility Doctrine)**

179. The preceding factual statements and allegations are incorporated by reference.

180. As a direct and proximate result of Defendants' (and the Clergy's) above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence, negligence, and gross

negligence—while the abusive Clergy were under Defendants’ employ, command, supervision, direction, and/or control—Plaintiffs and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. As a matter of justice, equity, and good conscience, therefore, Defendants should be compelled to make full restitution to Plaintiffs and Class Members in the form and in an amount to be determined by the trier of fact.

## COUNT XI

### **DECLARATORY AND INJUNCTIVE RELIEF**

**(On Behalf of the Nationwide Class Against Both Defendants Directly and Under the Doctrine of *Respondeat Superior*, Agency Theory, and/or the Command Responsibility Doctrine)**

**181.** The preceding factual statements and allegations are incorporated by reference.

**182.** Under the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, the Court is authorized to enter a judgment declaring the Parties’ rights and legal relations and grant further necessary relief based upon such a judgment.

**183.** An actual controversy exists regarding Defendants’ duty to (i) safeguard and protect Plaintiffs and Class Members from Clergy sexual predators, (ii) discipline known offenders (rather than harboring them, protecting them, and moving them from parish to parish and covering up and further facilitating their abhorrent behavior), (iii) report sexual predator Clergy to law enforcement or other responsible authorities as required by law, (iv) institute policies of transparency, disclosing in the public record the names of all known Clergy with plausible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants’ employ, (v) publicly admit their wrongdoing, (vi) personally apologize to Plaintiffs and Class Members, and (vii) institute comprehensive protocols and procedures to compensate victims and protect

children and their families from abusive Clergy going forward. As a direct and proximate result of Defendants' (and the Clergy's) above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence, negligence, and gross negligence—while the abusive Clergy were under Defendants' employ, command, supervision, direction, and control—Plaintiffs and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages unless and until the Court enters judgment against Defendants and awards Plaintiffs and Class Members their requested relief.

**184. DECLARATORY RELIEF.** Pursuant to the Court's authority under the Declaratory Judgment Act, Plaintiffs and Class Members request the Court to enter a judgment declaring, *inter alia*, (i) Defendants owed (and continue to owe) a legal duty to (a) safeguard and protect Plaintiffs and Class Members from Clergy sexual predators, (b) discipline known offenders (rather than harboring them, protecting them, and moving them from parish to parish and covering up and further facilitating their abhorrent behavior), (c) report sexual predator Clergy to law enforcement or other responsible authorities as required by law, (d) institute policies of transparency, disclosing in the public record the names of all known Clergy with plausible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employ, (e) publicly admit their wrongdoing, (f) personally apologize to Plaintiffs and Class Members, and (g) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Clergy going forward; (ii) by their above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence, negligence, and gross negligence, Defendants breached (and continue to breach) such duty; (iii) Defendants' breach of such duty directly and

proximately caused Plaintiffs, Class Members, and the general public to suffer (and continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and/or damages; (iv) Plaintiffs and Class Members are legally entitled to recover compensation from Defendants for such physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages; and (v) Defendants' above-referenced wrongful conduct forming the basis of Defendants' public nuisance and Plaintiffs' request for declaratory relief actually occurred.

**185. INJUNCTIVE RELIEF.** Defendants' failure to report and account for the rape and sexual abuse of children by its Clergy is a direct violation of the reporting statutes set forth in Count IV, above, which require Defendants to report any known or suspected child abuse. Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence also constitute a public nuisance throughout the United States that must be remedied. Defendants' failure to notify law enforcement or other responsible authorities about known or suspected child predators as required by law constitutes a clear and present threat to public safety, an unreasonable interference with rights, and a public nuisance (as set forth above) that can, and should, be remedied by this Court via injunctive relief.

**186.** As a direct and proximate result of Defendants' (and the Clergy's) above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence, negligence, and gross negligence, Plaintiffs and Class Members have suffered (and will continue to suffer) irreparable harm in the form of, *inter alia*, physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. Such irreparable harm will not cease unless and until enjoined by this Court.

**187.** Plaintiffs, therefore, on behalf of themselves and Class Members, request the Court to enter an injunction compelling Defendants to:

- (i) immediately comply with the above-referenced statutory reporting requirements for all past and future cases of Clergy child sex abuse;
- (ii) terminate the above-described ongoing and continuing public nuisance created by Defendants' failure to (a) safeguard and protect Plaintiffs and Class Members from Clergy sexual predators, (b) discipline known offenders (rather than harboring them, protecting them, and moving them from parish to parish and covering up and further facilitating their abhorrent behavior), (c) report sexual predator Clergy to law enforcement or other responsible authorities as required by law, (d) institute policies of transparency, disclosing in the public record the names of all known Clergy with plausible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employ, (e) publicly admit their wrongdoing, (f) personally apologize to Plaintiffs and Class Members, and (g) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Clergy going forward;
- (iii) make a full and complete disclosure of all records and information in their possession, custody or control, from 1940 to the present regarding the rape and sexual abuse of children by the Clergy. Plaintiffs further request the Court to (a) appoint a special master to ensure that sensitive information about the Clergy abuse victims remains confidential (unless such information is authorized to be released by a victim), and (b) establish protocols and procedures for Clergy abuse victims to review Defendants' or others' records pertaining to them to verify that they exist, are complete and accurate, and are available to be reviewed by law enforcement and other government officials;
- (iv) issue notice approved by Plaintiffs and the Court to Clergy child sex abuse victims of their right and opportunity to provide additional information as victims or witnesses of Clergy child sex abuse, such notice to be paid for by Defendants. Plaintiffs further request the Court to establish protocols and procedures for Clergy child sex abuse victims and witnesses to provide such information and place such protocols and procedures under the authority of the special master; and
- (v) establish a medical monitoring fund as set forth above.

**188.** The injunctive relief sought by Plaintiffs will fill in the gaps in the public record by the immediate, complete, and accurate disclosure of sexual predators known to be dangerous to children, and provide a critical source of information for parents and childcare providers to best protect the children for whom they are responsible, as well as allow them to freely enjoy community and church activities without fear of being exposed to sexual predator Clergy with a

known history of abusing children. The disclosure of the identities of persons who Defendants know are dangerous child predators also will provide some redress for the injury and harm Clergy abuse victims have suffered (and will continue to suffer) because of Defendants' (and the Clergy's) wrongful conduct. Defendants' failure to take responsibility for their wrongful conduct and ongoing and continuing cover-up causes additional injury and harm to Clergy abuse victims each day over and above the injury and harm they already have suffered at the hands of Defendants and the abusive Clergy.

**189.** Plaintiffs and Class Members have no adequate remedy at law in that monetary damages alone cannot (and would not) compensate them for the physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages directly and proximately caused by Defendants' (and the Clergy's) above-described wrongful conduct.

**190.** The hardship to Plaintiffs and Class Members if an injunction does not issue exceeds the hardship to Defendants if an injunction is issued. Defendants' longstanding failure and refusal to report and release evidence proving a victim's accusations of Clergy child sex abuse is undeniably punitive. It pits Clergy sexual abuse victims against the denials of formidable authority figures and leads to years of emotional and psychological harm. If, however, the facts are made public, victims are somewhat protected against the inevitable torment and self-blame rises to the surface when memories of sexual abuse are disputed by powerful perpetrators. Better yet, it insures victims the right to proper mental health treatment. Accurate diagnosis and suitable treatment are precluded when accusations remain purposely unverified and the truth is suppressed. On the other hand, Defendants' cost of complying with the requested injunction requiring, for example, Defendants to report Clergy child sex abuse to law enforcement or other responsible authorities (which they are already required to do), is relatively minimal.

**191.** Issuance of the requested injunction will not disserve the public interest. To the contrary, it would end the above-described public nuisance, protect children and their families from Clergy child sex abuse going forward, and be a major step in the right direction toward the healing of Clergy sex abuse victims.

**RESPONDEAT SUPERIOR/AGENCY**

**192.** The preceding factual statements and allegations are incorporated by reference.

**193.** Defendants also are liable for their current and former Clergy's above-described wrongful conduct and child sex abuse committed by the Clergy during the course and scope of their employment and while the Clergy was under Defendants' employ, command, supervision, direction, and control and the Clergy's respective representation of Defendants under the doctrine of *respondeat superior* and/or agency theory; to wit, such wrongful conduct was committed (i) within the Clergy's general authority while the Clergy was under Defendants' employ, command, supervision, direction, and/or control, (ii) in furtherance of Defendants' operations and commercial activity in the United States, and (iii) while accomplishing the objectives for which the Clergy were hired.

**194.** Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence regarding Clergy child sex abuse and abusive Clergy furthered (and continue to further) Defendants' interests by, *inter alia*, (i) suppressing negative publicity so as to maintain the "Christian" reputation of Defendants and the Catholic Church, maintain their membership and tithing base, maintain the flow of contributions from their parishioners and other donors, and (ii) avoiding the payment of compensation to Clergy child sex abuse victims.

**195.** Defendants' above-described wrongful conduct—while the abusive Clergy were under Defendants' employ, command, supervision, direction, and/or control—directly and

proximately caused Plaintiffs and Class Members to suffer (and continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages.

**COMMAND RESPONSIBILITY DOCTRINE**

**196.** The preceding factual statements and allegations are incorporated by reference.

**197.** Defendants also are liable for their current and former Clergy's above-described wrongful conduct and Clergy child sex abuse committed while the Clergy was under Defendants' command, supervision, direction, and/or control under the command responsibility doctrine. The command responsibility doctrine holds superiors liable for their subordinates' wrongful conduct where, as here, with effective and/or *de facto* control over their subordinates, the superiors knew or should have known about such wrongful conduct and failed to respond appropriately or punish their subordinates in the face of an affirmative duty.

**198.** As set forth above, and under the hierarchy, management, and operations of the Catholic Church, including Defendant Holy See's command, supervision, direction, and/or control of Defendant USCCB and the Catholic Church in the United States, and Defendant USCCB's command, supervision, direction, and/or control of the Catholic Church in the United States, Defendants had (and continue to have) command, supervision, direction, and/or control of the abusive Clergy. As further set forth above, Defendants know and, in fact, have known for decades about the above-described rampant child rape and sexual abuse committed by Catholic Clergy in the United States. As further set forth above, Defendants had (and continue have) an affirmative duty to protect children in Catholic Church parishes and the surrounding communities, yet failed (and continue to fail) to take reasonable and necessary measures to, *inter alia*, (i) safeguard and protect Plaintiffs and Class Members from Clergy sexual predators, (ii) discipline known offenders (rather than harboring them, protecting them, and moving them from



parish to parish and covering up and further facilitating their abhorrent behavior), (iii) report sexual predator Clergy to law enforcement or other responsible authorities as required by law, (iv) institute policies of transparency, disclosing in the public record the names of all known Clergy with plausible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employ, and (v) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Clergy going forward.

**199.** Defendants, therefore, are liable for their current and former Clergy's above-described wrongful conduct and child sex abuse under the command responsibility doctrine.

### **TOLLING OF THE STATUTES OF LIMITATION**

**200.** The preceding factual statements and allegations are incorporated by reference.

**201. FRAUDULENT CONCEALMENT.** Defendants took active steps to conceal their (and the Clergy's) above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence. The details of Defendants' efforts to conceal their (and the Clergy's) above-described unlawful conduct are in their possession, custody, and control, to the exclusion of Plaintiffs, and await further discovery. When some of this material information was revealed to Plaintiffs, they exercised due diligence by investigating the situation, retaining counsel, and pursuing their claims. Defendants fraudulently concealed their (and the Clergy's) above-described wrongful conduct. Should such be necessary, therefore, all applicable statutes of limitation (if any) are tolled under the fraudulent concealment doctrine.

**202. EQUITABLE ESTOPPEL.** Defendants took active steps to conceal their (and the Clergy's) above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence. The details of

Defendants' efforts to conceal their (and the Clergy's) above-described unlawful conduct are in their possession, custody, and control, to the exclusion of Plaintiffs, and await further discovery. When some of this material information was revealed to Plaintiffs, they exercised due diligence by investigating the situation, retaining counsel, and pursuing their claims. Defendants intentionally concealed their (and the Clergy's) above-described wrongful conduct. Should such be necessary, therefore, all applicable statutes of limitation (if any) are tolled under the doctrine of equitable estoppel.

**203. EQUITABLE TOLLING.** Defendants took active steps to conceal their (and the Clergy's) above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence. The details of Defendants' efforts to conceal their (and the Clergy's) above-described unlawful conduct are in their possession, custody, and control, to the exclusion of Plaintiffs, and await further discovery. When some of this material information was revealed to Plaintiffs, they exercised due diligence by investigating the situation, retaining counsel, and pursuing their claims. Defendants intentionally concealed their (and the Clergy's) above-described wrongful conduct. Should such be necessary, therefore, all applicable statutes of limitation (if any) are tolled under the doctrine of equitable tolling.

### **RELIEF REQUESTED**

**204.** The preceding factual statements and allegations are incorporated by reference.

**205. ACTUAL, CONSEQUENTIAL, COMPENSATORY, AND ECONOMIC DAMAGES AND/OR RESTITUTION.** As a direct and proximate result of Defendants' (and the Clergy's) above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence, Plaintiffs and Class Members have suffered (and continue to suffer) physical and/or mental injury, pain, suffering, and other

actual and consequential injury, harm, and economic damages—for which they are entitled to compensation. Alternatively, Plaintiffs and Class Members are entitled to equitable relief in the form of restitution. All damages, injury, and harm suffered (and to be suffered) by Plaintiffs and Class Members were reasonably foreseeable by Defendants. All conditions precedent to Plaintiffs' and Class Members' claims for relief have been performed or occurred.

**206. PUNITIVE DAMAGES.** Defendants' (and the Clergy's) above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, conspiracy of silence were committed willfully, wantonly, and with reckless disregard for Plaintiffs' and Class Members' rights and interests. Accordingly, Plaintiffs and Class Members also are entitled to punitive damages from Defendants as punishment and to discourage such wrongful conduct in the future. All conditions precedent to Plaintiffs' and Class Members' claims for relief have been performed or occurred.

**207. DECLARATORY AND INJUNCTIVE RELIEF.** Plaintiffs and Class Members also are entitled to the declaratory and injunctive relief set forth above, including, without limitation, a medical monitoring fund for the testing, diagnosis, and treatment of their emotional, psychological, and mental health issues directly and proximately resulting from Clergy child sex abuse and Defendants' above-described wrongful conduct. All conditions precedent to Plaintiffs' and Class Members' claims for relief have been performed or occurred.

**208. ATTORNEYS' FEES, LITIGATION EXPENSES AND COSTS.** Plaintiffs and Class Members also are entitled to recover their attorneys' fees, litigation expenses, and court costs in prosecuting this action. All conditions precedent to Plaintiffs' and Class Members' claims for attorneys' fees, litigation expenses, and court costs have been performed or occurred.

**WHEREFORE,** Plaintiffs, for themselves and Class Members, respectfully request that (i) Defendants be cited to appear and answer this lawsuit, (ii) this action be certified as a class action,

(iii) Plaintiffs be designated the Class Representatives, and (iv) Plaintiffs' counsel be appointed Class Counsel. Plaintiffs, for themselves and Class Members, also request that upon final trial or hearing, judgment be awarded against Defendants in Plaintiffs' favor for:

- (i) actual, consequential, and compensatory damages (or, in the alternative, restitution) in an amount to be determined at trial;
- (ii) economic damages in the form of medical expenses, out of pocket expenses, lost earnings, and other economic damages in an amount to be determined at trial;
- (iii) punitive damages;
- (iv) declaratory and injunctive relief (as set forth above), including, without limitation, the establishment of a medical monitoring fund for the testing, diagnosis, and treatment of Plaintiffs' and Class Members' emotional, psychological, and mental health issues directly and proximately resulting from Clergy child sex abuse and Defendants' wrongful conduct;
- (v) pre- and post-judgment interest at the highest legal rates;
- (vi) attorneys' fees, litigation expenses, and court costs through the trial and any appeals of this case; and
- (vii) such other and further relief the Court deems just and proper.

**JURY DEMAND**

Plaintiffs, for themselves and all others similarly situated, respectfully demand a trial by jury on all claims so triable.

Date: March 27, 2019

Respectfully submitted,

By: /s/ Henry C. Quillen  
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