

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT- LAW DIVISION

JANE DOE 125,

Plaintiff,

v.

THE CHICAGO PROVINCE OF THE
SOCIETY OF JESUS a/k/a THE JESUITS and
FATHER JOHN POWELL, S.J.

Defendants.

Trial by Jury Demanded

Case No.

2008L012385
CALENDAR/ROOM J
TIME 00100
PI Other

COMPLAINT

NOW COMES Plaintiff Jane Doe 125, by and through her attorneys, KERNS, FROST & PEARLMAN, and for his causes of action against Defendants, states as follows:

PARTIES

1. Plaintiff Jane Doe 125 was born in October 1950 and is a resident of the state of Florida. The identity of Plaintiff has been made known to Defendants by separate cover letter.

2. At all times material, Defendant the Chicago Province of the Society of Jesus (the "Order" or the "Jesuits") was and is a world-wide Roman Catholic religious order of priests and brothers. Defendant Order does business in the state of Illinois, with its principal place of business located at 2050 N. Clark St., Chicago, IL 60614. The Order and its agents and employees were and continue to be responsible for the selection and assignment of clergy, supervision of clergy activities, the exercise of authority over various members of its religious order, and the maintenance of the well-being of its members.

3. At all times material, Father John Powell (hereinafter "Powell") was a priest and member of Defendant Order. Powell was educated by and ordained by Defendant Order. At all

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times relevant to the incidents complained of, Powell was a nationally recognized theologian and best-selling author. Powell also served as a professor, teacher, counselor and advisor at various universities, including Loyola University in Chicago, Illinois. At all times material, Powell's secular and non-secular activities were under the direct supervision, employ and control of Defendant Order. Powell was an adult and designated holy figure at the time of the sexual abuse alleged herein.

FACTS

4. During Powell's tenure as a priest, he served in and/or was transferred by the Jesuits to several positions within the Defendant Order. These assignments included positions at West Baden University from 1961 to 1965, Bellermine School of Theology of Loyola University from 1965 to 1968, Loyola University of Chicago from 1968 to 1979, and the Jesuit Community at Loyola University from 1979 to 2001.

5. Powell's duties in these positions included providing pastoral care, teaching, counseling Catholics, and providing spiritual guidance and leadership. Because of these duties, Powell routinely interacted with children. At all times relevant to the Complaint, Defendant Order has monitored, supervised, trained, counseled, employed or otherwise exercised control over Powell's secular and non-secular activities.

6. During the years that he was assigned to Loyola University, Powell frequently travelled and gave spiritual retreats on behalf of himself and the Jesuits. Jesuit officials in Chicago encouraged Powell to conduct spiritual retreats and were aware of these retreats prior to and at the time that Powell conducted them. As a result of these retreats and other activities encouraged by the Jesuits, Powell came into contact with, and received unsupervised access to, numerous minor children.

7. Powell engaged in a pattern and practice of sexually abusing Loyola University students and other minor and adult students prior to and during the years that he taught at the school. Upon information and belief, Defendant Order had been apprised of Powell's pedophilic behavior and his propensity to engage in sexual abuse before he began abusing Plaintiff. Upon information and belief, Defendant Order had actual or constructive knowledge of material facts regarding Powell's individual pedophile impulses and behavior before he abused Plaintiff, but failed to act on that knowledge thereby increasing the likelihood that Plaintiff would be harmed.

8. Upon information and belief, despite its knowledge of Powell's behavior, the Jesuits did not remove Powell from ministry or otherwise restrict his ministry or access to children in any meaningful way during the time that it controlled his activities. Defendant Order did not report Powell to law enforcement or otherwise warn its members or the public at large that Powell posed a significant risk to children. The Jesuit Order represented that Powell was a priest in good standing and allowed Powell to continue in ministry and conduct numerous retreats where he could have access to and abuse children, including Plaintiff.

9. Plaintiff was raised in a devout Roman Catholic family, was baptized, confirmed, and regularly celebrated mass, received the sacraments and participated in church related activities. As a result, Plaintiff developed great admiration, trust, reverence, and respect for, and obedience to Roman Catholic priests, including Powell. It was through this position of trust, respect and reverence that Powell gained access to Plaintiff.

10. Plaintiff met Powell in or about 1967, while Plaintiff was approximately 16 or 17 years old and attending Rosarian Academy, at that time a Catholic school for girls located in West Palm Beach, Florida. At that time, Powell was a visiting priest who held a retreat at Rosarian Academy that Plaintiff and other students attended.

11. During this retreat, Powell conducted approximately four private “counseling session” with Plaintiff. During these sessions, Powell required Plaintiff to sit on his lap, forced her to kiss, and on at least one occasion required her to take her school uniform off from the waist up and then fondled her.

12. At various times, Defendant Order was informed about other acts of sexual abuse by Powell but failed to act on this information. At those times, Defendant Order did not inform law enforcement officials, students at Loyola University (where Powell was teaching), members of the Catholic community or the public at large of Powell’s wrongful and criminal conduct.

13. Defendant Order ratified Powell’s conduct by ignoring his incidents of abuse even though it was aware of the abuse and by not warning others, including law enforcement authorities and others in the community of Powell’s propensity to commit sexual abuse on minors.

14. As a result of the affiliation Plaintiff had with the Catholic Church, the Defendant Order and Powell, a special fiduciary relationship of human, religious and spiritual trust developed between Plaintiff, Powell and Defendant Order, with concomitant *in loco parentis* duties, including providing a safe haven for Plaintiff by providing for her physical and emotional care and safety. As a result of representations made by Defendant Order and Powell, and because the Order held itself out as counselors and instructors on matters that were spiritual, moral and ethical, Plaintiff placed great trust in the Defendant Order and its priests and teachers so that the Order gained control and influence over its priests and Plaintiff.

15. This fiduciary relationship with Plaintiff established a duty of good faith, fair dealing and the duty to act with the highest degree of trust and confidence. This fiduciary relationship includes the duty to warn and to disclose and the duty to protect children from

sexual abuse and exploitation by Catholic priests whom the Defendant Order promotes as being celibate and chaste representatives of God on earth. Defendant Order's fiduciary relationship with Plaintiff was based upon justifiable trust on Plaintiff's side and superiority and influence on Defendant Order's side.

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

17. Plaintiff was in a subordinate position of weakness, vulnerability, and inequality and was lacking in such knowledge. The ability of Plaintiff or her family to monitor the use or misuse of the power and authority of Defendant Order and Powell was compromised, inhibited or restricted by the Order and Powell.

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

19. Plaintiff was taught to hold priests in the highest esteem as earthly representatives of God, and that priests, unlike lay people, belong to a separate and higher state in life, the so called "clerical state," which they represent to be of divine origin and which they represent entitles them to special privileges. As part of her reverence of Church clergy, Plaintiff was instructed and indoctrinated as a child to show obedience to priests and was taught to believe and did believe that it would be "sinful" or wrong to make any kind of an accusation against a priest or Bishop. Additionally, Plaintiff was instructed and believed that priests and their Superiors followed their vow of celibacy and chastity and could not and would not engage in conduct considered sexual, evil or wrong. Plaintiff relied upon these teachings and incorporated them into her religious beliefs and practices. Plaintiff developed various coping mechanisms including shame, guilt, repression and denial.

20. Plaintiff had the right to rely, and did rely, on the representations and teachings of the Defendant Order including, but not limited to, representations regarding priests in general and Powell in particular (including the representation that Powell was a priest "in good standing"). Plaintiff also expected and believed that Defendant Order would not tolerate criminal misconduct that represented a known threat to children by any priest.

21. Because of Plaintiff's immaturity, religious and spiritual upbringing, the sexual pre-grooming by Powell, and the continual failure of any Order representative or other Catholic official aware of the abuse to help her, it never occurred to Plaintiff until recently that any priest or the Order would engage in criminal behavior, or knowingly actively be involved in a conspiracy to conceal criminal behavior. Even after Powell had sexually molested her, due to her feelings of denial, shame and guilt, Plaintiff did not view what occurred as sexual abuse. Defendant Order knew of Powell's misconduct and the overall problem of pedophile behavior in

the Church and the Defendant Order but failed to inform the Plaintiff, anyone else within the Catholic community or the criminal authorities of Powell's actions. As a result, Plaintiff was unable to understand the wrongfulness and illegality of Powell's abuse of her and the related injury until recently.

22. The applicable statutes of limitations are tolled because the Defendant Order and others fraudulently concealed Powell's exploitation and misconduct from Plaintiff, her family, law enforcement, and other Catholics. Upon information and belief, in an attempt to avoid scandal in the Order and to protect the reputation of the Church and Defendant Order at any cost, Defendant Order concealed the nature of Powell's abuse by denying the wrongfulness of Powell's behavior, hiding the wrongfulness of his behavior from Plaintiff and others, and by improperly retaining Powell as a priest, teacher and spiritual advisor despite being aware of Powell's criminal conduct.

23. Upon information and belief, after learning of Powell's pedophilic tendencies, Defendant Order and others ratified his conduct by failing to report him to law enforcement authorities and failing to notify parishioners, members of the community and the laity after Powell committed the criminal acts against Plaintiff and those before and after her. Defendant Order's conduct suggested to Plaintiff that Powell's actions were proper. Therefore, Defendant Order knew, or should have known, that its actions would silence the Plaintiff, prevent her from discovering her injuries, and ultimately exacerbate her emotional distress and trauma. The Jesuits should therefore be estopped from asserting any defense that Plaintiff's action is not timely under Illinois law because the Order and Powell fraudulently concealed the wrongfulness of Powell's conduct and did nothing to stop the wrongful behavior of Powell.

24. Due to Defendant Order's representations, its concealment of its knowledge of Powell's sexual molestation of children, and Plaintiff's religious teachings and beliefs, Plaintiff was further unable to appreciate (1) the wrongful nature of the Defendant Order and Powell's conduct, (2) that she was a victim of sexual abuse committed upon her by Powell, (3) that Defendant Order knew or had reason to know that Powell was a pedophile prior to her abuse; (4) that the Defendant Order and Powell were responsible for the abuse, and (5) that the injuries she suffered were the result of the abuse.

25. Due to these same psychological coping mechanisms, Plaintiff was incapable of recognizing that she experienced injuries that were causally related to this sexual abuse. In addition, Plaintiff did not know or have any reason to know through the exercise of due diligence that the Defendant Order knew of Powell's sexual misconduct and the problem of pedophile priests in general, yet both before and after Powell's sexual abuse of Plaintiff negligently continued to employ those priests and failed to adequately investigate or supervise Powell's activity at Order.

26. The sexual abuse of the Plaintiff and the circumstances under which the abuse occurred, as well as recently learning of the secretive and fraudulent acts by Defendant Jesuits that enabled and aided this abuse, has caused Plaintiff to develop various physical injuries and psychological injuries, including but not limited to, symptoms of psychological distress, great shame, guilt, self-blame, confusion, depression, repression, loss of self-esteem, humiliation, loss of enjoyment of life, loss of religious faith, severe psychological injury and will be deprived of earning capacity, and has and/or will in the future incur expenses for psychological treatment, therapy and counseling.

COUNT I: SEXUAL ABUSE (POWELL)

Plaintiff Jane Doe 125 incorporates Paragraphs 1 through 26 of this Complaint as if fully set forth under this count and further alleges that:

27. In approximately 1967, Powell engaged in the aforementioned un-permitted, harmful and offensive sexual molestation of Plaintiff.

28. As a direct result of this sexual abuse, Plaintiff has suffered the physical and psychological injuries and damages described herein.

WHEREFORE, Plaintiff Jane Doe 125 demands judgment against Powell in an amount in excess of \$50,000, plus costs, disbursements, reasonable attorney's fees, interest and such other relief as the court deems just and equitable.

COUNT II: NEGLIGENCE (JESUITS)

Plaintiff Jane Doe 125 incorporates Paragraphs 1 through 26 of this Complaint as if fully set forth under this count and further alleges that:

29. As specified herein, Powell sexually abused Plaintiff in 1967.

30. By holding Powell out as a fit agent, the Order was responsible for the supervision, care and physical safety of Plaintiff. As such, Defendant Jesuits owed Plaintiff a duty to provide for the supervision, care, and physical safety of Plaintiff in a reasonable manner, including the obligation to inform Plaintiff of Powell's known dangerous propensities.

31. Defendant Jesuits knew or should reasonably have known of Powell's dangerous and exploitative propensities as a child sexual abuser and/or an unfit agent. Prior to the time that Powell abused Plaintiff; Defendant Jesuits had actual or constructive notice that Powell was sexually abusing other minors. Despite such knowledge, Defendant Jesuits negligently retained

and/or failed to supervise Powell in his position of trust and authority as a priest, counselor and teacher, where he was able to commit the wrongful acts against Plaintiff.

32. Despite what it knew or should have known about Powell, the Jesuits did not impose any meaningful restrictions on Powell's conduct. The Jesuits did not warn anybody about Powell's behavior. Defendant Jesuits breached its duty of care by exposing Plaintiff to unsupervised contact with Powell, permitting him to sexually abuse Plaintiff.

33. As a direct result of this negligent conduct, Plaintiff has sustained and continues to sustain the injuries and damages alleged herein.

WHEREFORE, Plaintiff Jane Doe 125 demands judgment against Powell in an amount in excess of \$50,000, plus costs, disbursements, reasonable attorney's fees, interest and such other relief as the court deems just and equitable.

COUNT III: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(POWELL)

Plaintiff Jane Doe 125 incorporates Paragraphs 1 through 26 of this Complaint as if fully set forth under this count and further alleges that:

34. Defendant Powell's conduct described herein is extreme and outrageous.

35. Defendant Powell knew that there was a high probability that his conduct would inflict severe emotional distress upon Plaintiff.

36. Defendant Powell recklessly disregarded the high probability that its conduct would inflict severe emotional distress upon Plaintiff and its conduct, did, in fact, cause Plaintiff severe emotional distress.

37. Plaintiff suffered medically significant and diagnosable distress as a result of Defendant Jesuits' actions as set forth in the facts above.

WHEREFORE, Plaintiff Jane Doe 125 demands judgment against Powell in an amount in excess of \$50,000, plus costs, disbursements, reasonable attorney's fees, interest and such other relief as the court deems just and equitable.

COUNT IV: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(JESUITS)

Plaintiff Jane Doe 125 incorporates Paragraphs 1 through 26 of this Complaint as if fully set forth under this count and further alleges that:

38. Defendant Jesuits' conduct described herein is extreme and outrageous.

39. Defendant Jesuits knew that there was a high probability that its conduct would inflict severe emotional distress upon Plaintiff.

40. Defendant Jesuits recklessly disregarded the high probability that its conduct would inflict severe emotional distress upon Plaintiff and its conduct, did, in fact, cause Plaintiff severe emotional distress.

41. Plaintiff suffered medically significant and diagnosable distress as a result of Defendant Jesuits' actions as set forth in the facts above.

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

COUNT V: FRAUD (JESUITS)

Plaintiff Jane Doe 125 incorporates paragraphs 1 through 26 of the Complaint as if fully set forth under this count.

42. Prior to Plaintiff's abuse, Defendant Jesuits knew that Powell had sexually abused minor children.

43. By holding Powell out as a fit employee and priest, by allowing Powell to travel and by giving him unfettered access to minor children, Defendant Jesuits represented to Plaintiff that Powell did not have a history of molesting children, that Defendant Jesuits did not know that Powell had a history of molesting children, and that Defendant Jesuits did not know that Powell was a danger to children.

44. Defendant Jesuits knew that Powell had a history of sexually molesting children and that he was a danger to children.

45. Defendant Jesuits knew that its misrepresentations were false or at least were reckless without care of whether these representations were true or false.

46. Defendant Jesuits made the misrepresentations with the intent to deceive Plaintiff and to induce her to act on the misrepresentations to his detriment.

47. Additionally, as an order of priests, Defendant Jesuits is in a position of trust with its followers and supporters, including Plaintiff. Because of its position of trust, Defendant Jesuits owed Plaintiff a duty to disclose to her that Powell had a history of sexually molesting minor children.

48. Defendant Jesuits breached their duty of disclosure to Plaintiff by failing to disclose to her or others that Powell had a history of sexually molesting minor children.

49. Plaintiff could not have discovered that Powell had a history of sexually molesting minor children through reasonable inquire or inspection as the Defendant Jesuits intentionally concealed this fact from the public.

50. Defendant Jesuits intentionally omitted this material fact to Plaintiff to induce her to act to her detriment.

51. Plaintiff believed that Powell did not pose a danger to children and relied on Defendant Jesuits' affirmative misrepresentations and omissions of a material fact by agreeing to private counseling sessions with Powell.

52. As a result of this reliance, Plaintiff was sexually molested by Powell and suffered the damages described herein.

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



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