

STATE OF SOUTH DAKOTA) IN CIRCUIT COURT
) :SS
 COUNTY OF MINNEHAHA) SECOND JUDICIAL CIRCUIT

M.W.D.; L.A.; R.W.T.; J.A.; J.W.; H.W.;)
 W.L.; C.B.; G.K.; P.W.; F.K.; L.L.;) CIV. NO. _____
 F.M.K.; H.R.; M.S.; C.C.A.; L.D.; M.A.;)
 C.S.J.; G.H.; F.W.; A.H.; U.A.; R.S.J.; ,) **COMPLAINT**

Plaintiffs,)

vs.)

THE CATHOLIC DIOCESE OF SIOUX)
 FALLS; TEKAKWITHA INDIAN)
 MISSION OF SISSETON, SOUTH)
 DAKOTA; U.S. PROVINCE OF THE)
 MISSIONARY OBLATES OF MARY)
 IMMACULATE, INC.; OBLATES OF)
 MARY IMMACULATE; SISTERS OF)
 THE DIVINE SAVIOR; BROTHER)
 HENRY BUSMAN; SISTER THERESA;)
 SISTER LAGENDA; SISTER JOHN;)
 FATHER FITZGERALD; FATHER)
 JOHN POHLEN, O.M.I.; BROTHER)
 TIM; SISTER BOGANINA; SISTER)
 LUCY MARIE; BROTHER LEROY;)
 SISTER KATHERINE; FATHER)
 EDWARD HESS, O.M.I.; SISTER)
 GABRINI; FATHER BALDEN; AND)
 FATHER GREGORY CHOLEWA,)
 O.M.I.,)

Defendants.)

COMPLAINT

COMES NOW Plaintiffs M.W.D.; L.A.; R.W.T.; J.A.; J.W.; H.W.; W.L.; C.B.; G.K.;
 P.W.; F.K.; L.L.; F.M.K.; H.R.; M.S.; C.C.A.; L.D.; M.A.; C.S.J.; G.H.; F.W.; A.H.; U.A.; and
 R.S.J. and for causes of action against Defendants THE CATHOLIC DIOCESE OF SIOUX
 FALLS; TEKAKWITHA INDIAN MISSION OF SISSETON, SOUTH DAKOTA; U.S.

PROVINCE OF THE MISSIONARY OBLATES OF MARY IMMACULATE, INC.; OBLATES OF MARY IMMACULATE; SISTERS OF THE DIVINE SAVIOR; BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I., and DOES 1 through 50, inclusive, alleges the following:

1. The above-named Plaintiffs are individuals.
2. Plaintiffs are members of a recognized Native American tribe.
3. As children, Plaintiffs were boarders/residents at the Tekakwitha Orphanage, located within the Tekakwitha Indian Mission in Sisseton, South Dakota on the Lake Traverse Indian Reservation (“TEKAKWITHA”).
4. At all relevant times, the TEKAKWITHA Orphanage was operated under the auspices of the Defendant CATHOLIC DIOCESE OF SIOUX FALLS (“DIOCESE”).
5. The DIOCESE operates and controls Catholic institutions located in South Dakota east of the Missouri River.
6. At all relevant times mentioned herein, Defendant TEKAKWITHA INDIAN MISSION OF SISSETON, SOUTH DAKOTA (“MISSION”), located on the Lake Traverse Reservation in South Dakota, was a Roman Catholic non-profit organization, organized and existing under and by virtue of the laws of South Dakota.
7. Defendant the U.S. PROVINCE OF THE MISSIONARY OBLATES OF MARY IMMACULATE, INC. (“OMII”) is a religious non-profit incorporated organization of Catholic brothers and priests affiliated with Defendant OBLATES OF MARY IMMACULATE.

8. Defendant OBLATES OF MARY IMMACULATE (“OMI”) is an organization of Catholic brothers and priests headquartered in Washington, D.C.

9. Defendants OMII and OMI were at all times relevant herein, were and are private, Roman Catholic, non-profit organizations that, by virtue of their agents working at the TEKAKWITHA Orphanage, were and are subject to the laws of South Dakota.

10. Defendant SISTERS OF THE DIVINE SAVIOR (“SDS”) is an organization of Catholic sisters (nuns) headquartered in Milwaukee, Wisconsin.

11. Defendant SISTERS OF THE DIVINE SAVIOR was at all times relevant herein, was and is a private, Roman Catholic, non-profit organization that, by virtue of its agents working at the TEKAKWITHA Orphanage, was and is subject to the laws of South Dakota.

12. TEKAKWITHA Orphanage has been operated by OMII continuously since 1931.

13. At all times relevant to this matter, OMII, OMI, SDS, MISSION, and DIOCESE, provided child care and education for Native American children at the facility in Sisseton, SD.

14. At all times relevant, hereto said perpetrators were acting within the course and scope of their employment as administrators, educators, staff and employees of Defendants OMII, OMI, SDS, MISSION, and DIOCESE, and the wrongful acts hereinafter described flow from the very exercise of authority. In doing the acts herein alleged, each perpetrator was acting with the permission, consent, ratification and authority of the aforementioned Defendants.

15. At all relevant times, Defendants OMII, OMI, SDS, MISSION, and DIOCESE were and are responsible for the acts of their administrators, clergy members, officers, agents and employees, including, but not limited to, the perpetrators mentioned herein, BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA;

SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.

16. At all relevant times herein, Defendants, OMII, OMI, SDS, MISSION, and DIOCESE, operated and controlled the TEKAKWITHA Orphanage by providing its agents to serve as administrators, educators, and other staff at the TEKAKWITHA Orphanage.

17. At all times relevant, hereto said perpetrators were acting within the course and scope of their employment as administrators, educators, staff and employees of Defendants OMII, OMI, SDS, MISSION, and DIOCESE, and the wrongful acts hereinafter described flow from the very exercise of authority. In doing the acts herein alleged, each perpetrator was acting with the permission, consent, ratification and authority of the aforementioned Defendants.

18. All Defendants are subject to personal jurisdiction under SDCL § 15-7-2. SDCL § 16-6-9 vests the circuit court with jurisdiction over cases in actions at law and in equity.

Common Factual Allegations

19. Upon arrival at the TEKAKWITHA Orphanage, Defendants' agents attempted to strip Plaintiffs and their classmates of their Native American family values, religious beliefs and culture in an effort to Americanize the young children.

20. Upon information and belief, the Bishop of Sioux Falls was aware of widespread abuse within his jurisdiction during the time frame herein alleged and feigned ignorance.

21. Upon information and belief, the Bishop of Sioux Falls had a continuous and systematic policy to actively conceal the facts of childhood sexual abuse, contrary to South Dakota civil and criminal law. This conduct was, and is, a part of an ongoing policy to conceal

from the public, law enforcement, victims, and others, the serious problems with priests well known in the Catholic hierarchy, including the Diocese of Sioux Falls.

22. Upon information and belief, the Diocese' policy of obstruction and secrecy is ongoing even today.

23. Upon information and belief, the Bishop of Sioux Falls did in fact conceal childhood sexual abuse by clergy during the same time frame in the specific instances of Father Bruce Duncan Macarthur, Father William Lambert, and Mathew L. Miles.

24. Upon information and belief, OMII, OMI and SDS did in fact conceal childhood sexual abuse by clergy and lay persons at the TEKAKWITHA Orphanage, including Brother Henry Busman, Sister Lagenda, Father John Pohlen, O.M.I., Sister Lucy Marie, Father Edward Hess, O.M.I., Sister Gabrini and Father Gregory Cholewa, O.M.I.

25. Upon information and belief, the Bishop of Sioux Falls enacted, followed, and mandated the operative policy of the Pope found in the 1922 and 1962 documents entitled 'Crimines Solicitationes,' which command that cases of sexual abuse are to be handled "in the most secretive way ... restrained by a perpetual silence ... and everyone ... is to observe the strictest secret which is commonly regarded as a secret of the Holy Office ... under the penalty of excommunication."

26. In maintaining a policy of silence and active concealment of these crimes, the Diocese ratified the conduct of their agents and is therefore vicariously liable.

27. Upon information and belief, the Provincials and/or Superiors of OMII, OMI and SDS enacted, followed, and mandated the operative policy of the Pope found in the 1922 and 1962 documents entitled 'Crimines Solicitationes,' which command that cases of sexual abuse are to be handled "in the most secretive way ... restrained by a perpetual silence ... and everyone

... is to observe the strictest secret which is commonly regarded as a secret of the Holy Office ... under the penalty of excommunication.”

28. In maintaining a policy of silence and active concealment of these crimes, OMII, OMI and SDS ratified the conduct of their agents and is therefore vicariously liable.

29. During all times relevant herein, Defendants’ agents affiliated with the TEKAKWITHA Orphanage directed, allowed and/or executed customs, patterns, policies and practices of sexual and physical abuse by failing to supervise, monitor, discipline and otherwise protect Plaintiffs, ultimately leading to the abuse alleged herein.

30. Plaintiffs, at all times relevant herein, were under the supervision and total control of Defendants’ and their agents at the TEKAKWITHA Orphanage.

31. Plaintiffs suffered physical, mental and emotional abuse at the hands of Defendants’ agents, leading to psychological concealment of all abuse at the school.

32. The perpetrators of the wrongful acts complained of herein communicated with Plaintiffs, that if they disclosed the facts alleged herein to anyone, Plaintiffs and/or their family would be humiliated, denied food and/or spiritual blessings or otherwise harmed.

33. Since Plaintiffs have suffered abuse by the agents of Defendants herein, they have been in fear of retaliation by agents of the Catholic Church and by Defendants’ agents. Plaintiffs were and continue to be in fear of retaliation and embarrassment for disclosing the physical and sexual abuse in the form of filing a lawsuit or pursuing a claim.

34. After suffering the wrongful acts complained of herein, Defendants’ agents discouraged Plaintiffs from communicating the facts alleged herein with parents and family members.

35. Defendants are equitably estopped from asserting a statute of limitations defense because they and/or their agents knowingly intimidated Plaintiffs and told Plaintiffs that if they were to come forward with the truth about the abuse, they would face humiliation, ridicule, and/or be retaliated against.

36. Plaintiffs were under duress, due fear of retaliation, ridicule, humiliation and further harm, tolling the statute of limitations for childhood sexual abuse claims.

37. Plaintiffs' claims were commenced within the statute of limitations pursuant to SDCL 26-10-25, as the injuries and/or conditions caused by the wrongful sexual abuse acts complained of herein were discovered within three years of the commencement of this action.

38. Plaintiffs' claims were commenced within the statute of limitations pursuant to SDCL 26-10-25, as a reasonable person suffering the psychological injuries caused by child sexual abuse would not have discovered the causal connection between the injury and abuse sooner than within three years of the commencement of this action.

39. Plaintiffs' claims were commenced within the statute of limitations pursuant to SDCL 26-10-25, as a reasonable person suffering the psychological injuries caused by child sexual abuse would not have been on notice of the causal connection between the injury and abuse sooner than within three years of the commencement of this action.

Events Giving Rise to this Lawsuit

40. Plaintiffs repeat and re-allege Paragraphs 1 through 39.

41. Plaintiffs suffered physical, mental and emotional abuse at the hands of Defendants' agents. Plaintiffs also suffered sexual abuse at the TEKAKWITHA Orphanage, as set forth at length at length more fully herein.

PLAINTIFF M.W.D.

42. Plaintiff M.W.D. repeats and re-alleges paragraphs 1 through 39 and 41.

43. While a resident at the TEKAKWITHA Orphanage, Plaintiff M.W.D. was sexually abused by multiple nuns.

44. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 12, and during or about the years 1950 to 1958, multiple nuns sexually abused Plaintiff – On multiple occasions the nuns would fondle and grope Plaintiff's vagina while they were bathing her. Plaintiff was also forced to fondle the vagina of a nun and perform oral sex on this nun. One of the nuns had a doll that they forced Plaintiff to simulate sexual acts with, including kissing, fondling, groping, oral sex and intercourse.

45. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff M.W.D. has experienced significant harm and injury.

46. Plaintiff M.W.D. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

47. WHEREFORE, Plaintiff M.W.D. demands judgment against Defendants, OMII; OMI; SDS; MISSION; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF L.A.

48. Plaintiff L.A. repeats and re-alleges Paragraphs 1 through 39, 41 and 43 through 46.

49. While a resident at the TEKAKWITHA Orphanage, Plaintiff L.A. was sexually abused by BROTHER HENRY.

50. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 12, and during or about the years 1966 to 1973,

BROTHER HENRY sexually abused Plaintiff on numerous occasions. BROTHER HENRY would bring Plaintiff into his bedroom and force Plaintiff to sleep in his bed. BROTHER HENRY would caress, fondle, grope and kiss Plaintiff. BROTHER HENRY masturbated Plaintiff and forced Plaintiff to masturbate BROTHER HENRY.

51. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff L.A. has experienced significant harm and injury.

52. Plaintiff L.A. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

53. WHEREFORE, Plaintiff L.A. demands judgment against Defendants, OMII; OMI; SDS; MISSION; BROTHER HENRY; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF R.W.T.

54. Plaintiff R.W.T. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46 and 49 through 52.

55. While a resident at the TEKAKWITHA Orphanage, Plaintiff R.W.T. was sexually abused by SISTER THERESA.

56. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 11, and during or about the years 1947 to 1954, SISTER THERESA sexually abused Plaintiff on multiple occasions. SISTER THERESA would give Plaintiff baths and while doing so she would kiss Plaintiff all over and penetrate Plaintiff's vagina with her fingers. Plaintiff was also forced by the nuns to perform sexual acts on a doll

that was kept in the Mother Superior's office. The nuns would rub lotion on Plaintiff and force Plaintiff to lay on the doll and move in a sexual way on the doll, simulating intercourse.

57. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 11, and during or about the years 1947 to 1954, SISTER THERESA also routinely physically abused Plaintiff. Plaintiff recalls one particular occasion when SISTER THERESA, along with two other nuns, beat her with an iron shovel in the basement of the Orphanage.

58. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff R.W.T. has experienced significant harm and injury.

59. Plaintiff R.W.T. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

60. WHEREFORE, Plaintiff R.W.T. demands judgment against Defendants, OMII; OMI; SDS; MISSION; SISTER THERESA; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF J.A.

61. Plaintiff J.A. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52 and 55 through 59.

62. While a resident at the TEKAKWITHA Orphanage, Plaintiff J.A. was sexually abused by SISTER JOHN, SISTER LAGENDA, BROTHER HENRY AND FATHER FITZGERALD.

63. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 13, and during or about the years 1960 to 1970, SISTER

JOHN sexually abused Plaintiff on numerous occasions by penetrating Plaintiff's vagina with her fingers.

64. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 13, and during or about the years 1960 to 1970, SISTER LAGENDA sexually abused Plaintiff on numerous occasions by penetrating Plaintiff's vagina with her fingers. While SISTER LAGENDA was penetrating Plaintiff's vagina with her fingers, she would tell Plaintiff that Plaintiff "was nasty" and that Plaintiff "had the devil in her." SISTER LAGENDA also forced Plaintiff and another minor child to touch each other sexually while SISTER LAGENDA watched them.

65. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 13, and during or about the years 1960 to 1970, FATHER FITZGERALD sexually abused Plaintiff on numerous occasions. FATHER FITZGERALD came to Plaintiff's bed at night and penetrated Plaintiff's vagina to the point that she was bleeding vaginally and FATHER FITZGERALD told her that it was okay because "girls bleed sometimes." On numerous occasions FATHER FITZGERALD unzipped his pants and rubbed his penis on Plaintiff's vagina, as well as trying to penetrate Plaintiff's vagina with his penis. FATHER FITZGERALD would rub his penis on Plaintiff's vagina until he ejaculated. FATHER FITZGERALD also forced Plaintiff to masturbate him until he ejaculated.

66. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 13, and during or about the years 1960 to 1970, BROTHER HENRY sexually abused Plaintiff by on multiple occasions by fondling and rubbing her breasts and genitals.

67. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 13, and during or about the years 1960 to 1970, MOTHER SUPERIOR would call Plaintiff into her office and force Plaintiff to simulate sexual acts with a doll that MOTHER SUPERIOR kept in her office. MOTHER SUPERIOR would sit behind her desk and watch as Plaintiff was forced to fondle the dolls breasts and touch the doll between its legs.

68. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 13, and during or about the years 1960 to 1970, she was physically abused by multiple priests, brothers and nuns. Plaintiff was routinely beaten with a leather belt, forced to kneel for hours at a time, and woken up in the middle of the night for beatings.

69. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 13, and during or about the years 1960 to 1970, BROTHER HENRY sexually abused Plaintiff on numerous occasions by penetrating Plaintiff's vagina with her fingers.

70. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff J.A. has experienced significant harm and injury.

71. Plaintiff J.A. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

72. WHEREFORE, Plaintiff J.A. demands judgment against Defendants, OMII; OMI; SDS; MISSION; BROTHER HENRY; FATHER FITZGERALD; SISTER JOHN; SISTER

LAGENDA; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF J.W.

73. Plaintiff J.W. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59 and 62 through 71.

74. While a resident at the TEKAKWITHA Orphanage, Plaintiff J.W. was sexually abused by FATHER JOHN POHLEN, O.M.I. and a nun whose name Plaintiff does not recall.

75. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 6, and during or about the years 1958 to 1959, FATHER JOHN POHLEN, O.M.I. sexually abused Plaintiff on numerous occasions. FATHER POHLEN would come to Plaintiff's bed in the Papoose House and force Plaintiff to touch FATHER POHLEN'S penis and force Plaintiff to perform oral sex on him. FATHER POHLEN also inserted his finger into Plaintiff's anus. On at least 2 occasions, Plaintiff recalls that FATHER POHLEN inserted a long, thin object into his anus, causing Plaintiff great pain.

76. When Plaintiff was a minor child attending school at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 6, and during or about the years 1958 to 1959, a nun whose name Plaintiff does not recall forced Plaintiff to touch, fondle and suckle on her breasts.

77. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff J.W. has experienced significant harm and injury.

78. Plaintiff J.W. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

79. WHEREFORE, Plaintiff J.W. demands judgment against Defendants, OMII; OMI; SDS; MISSION; FATHER JOHN POHLEN, O.M.I.; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF H.W.

80. Plaintiff H.W. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71 and 74 through 78.

81. While a resident at the TEKAKWITHA Orphanage, Plaintiff H.W. was sexually abused by FATHER JOHN POHLEN, O.M.I. and nuns whose names Plaintiff does not recall.

82. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 7, and during or about the years 1956 to 1958, FATHER JOHN POHLEN, O.M.I. sexually abused Plaintiff on numerous occasions. FATHER POHLEN would fondle Plaintiff's genitals and force Plaintiff to fondle FATHER POHLEN'S genitals.

83. When Plaintiff was a minor child attending school at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 7, and during or about the years 1956 to 1958, he was sexually abused by multiple nuns whose name he does not recall. Plaintiff recalls a nun who would bring Plaintiff to her room and take off all of his clothes. The nun would also remove her clothes and rub her body against Plaintiff's body. She would force Plaintiff to touch and fondle her breasts, rub Plaintiff's face against her breasts, and force Plaintiff to touch and fondle her vagina. Plaintiff recalls another incident where a nun forced him to rub her vagina under her underwear, essentially masturbating the nun.

84. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff H.W. has experienced significant harm and injury.

85. Plaintiff H.W. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

86. WHEREFORE, Plaintiff H.W. demands judgment against Defendants, OMII; OMI; SDS; MISSION; FATHER JOHN POHLEN, O.M.I.; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF W.L.

87. Plaintiff W.L. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78 and 81 through 85.

88. While a resident at the TEKAKWITHA Orphanage, Plaintiff W.L. was sexually abused by BROTHER TIM (possibly BROTHER JIM) and SISTER BOGANINA.

89. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 9 and 10, and during or about the years 1944 to 1945, BROTHER TIM sexually abused Plaintiff on numerous occasions by touching, caressing and fondling Plaintiff's thighs, genital area and penis.

90. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 9, and during or about the years 1941 to 1944, SISTER BOGANINA sexually abused Plaintiff on numerous occasions while he resided in the Papoose House. SISTER BOGANINA would grab and hold Plaintiff's head and forcefully press his face and mouth against her naked breasts and nipples.

91. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff W.L. has experienced significant harm and injury.

92. Plaintiff W.L. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

93. WHEREFORE, Plaintiff W.L. demands judgment against Defendants, OMII; OMI; SDS; MISSION; BROTHER TIM; SISTER BOGANINA; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF C.B.

94. Plaintiff C.B. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85 and 88 through 92.

95. While a resident at the TEKAKWITHA Orphanage, Plaintiff C.B. was sexually abused by a nun whose name she does not recall.

96. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 6, and during or about the years 1950 to 1952, a nun whose name Plaintiff does not recall forced Plaintiff to suckle at her naked breast on multiple occasions.

97. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 7, and during or about the years 1952 to 1953, she was raped by an older boy working in the field at the Orphanage.

98. Plaintiff was also sexually abused by many of the potential adoptive families that FATHER JOHN POHLEN, O.M.I., in his capacity as the head of the Orphanage, sent her to visit.

99. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff C.B. has experienced significant harm and injury.

100. Plaintiff C.B. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

101. WHEREFORE, Plaintiff C.B. demands judgment against Defendants, OMII; OMI; SDS; MISSION; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF G.K.

102. Plaintiff G.K. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92 and 95 through 100.

103. While a resident at the TEKAKWITHA Orphanage, Plaintiff G.K. was sexually abused by BROTHER HENRY BUSMAN AND FATHER FITZGERALD.

104. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 10 and 11 and during or about the years 1965 to 1966, FATHER FITZGERALD would rub lotion on Plaintiff's penis and testicles on multiple occasions.

105. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 13 and 15, and during or about the years 1968 to 1970, Plaintiff was sexually abused by BROTHER HENRY BUSMAN on numerous occasions. BROTHER BUSMAN would grope and fondle Plaintiff's penis, masturbating him. BROTHER BUSMAN also forced Plaintiff to grope and fondle BROTHER BUSMAN'S penis. BROTHER HENRY

would masturbate Plaintiff and force Plaintiff to masturbate BROTHER HENRY while BROTHER HENRY watched other minor children engaging in sexual activity.

106. Plaintiff was also severely physically abused while he was a minor child residing at TEKAKWITHA Orphanage. A nun once broke a broom stick over his back and he was regularly beaten and whipped by the priests, brothers and nuns that worked at TEKAKWITHA.

107. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff G.K. has experienced significant harm and injury.

108. Plaintiff G.K. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

109. WHEREFORE, Plaintiff G.K. demands judgment against Defendants, OMII; OMI; SDS; MISSION; BROTHER HENRY BUSMAN; FATHER FITZGERALD; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF P.W.

110. Plaintiff P.W. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100 and 103 through 108.

111. While a resident at the TEKAKWITHA Orphanage, Plaintiff P.W. was sexually abused by FATHER JOHN POHLEN, O.M.I. AND SISTER LUCY MARIE (known to the children as MOTHER SUPERIOR).

112. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 9, and during or about the years 1955 to 1959, FATHER

POHLEN, O.M.I., sexually abused Plaintiff on a number of occasions. FATHER POHLEN had a separate house and he would call Plaintiff over to his house. FATHER POHLEN would force Plaintiff to sit in his lap and he would put his hand between her legs and fondle and grope her vagina. FATHER POHLEN penetrated Plaintiff's vagina with his fingers on multiple occasions. FATHER POHLEN also forced Plaintiff to touch and kiss his penis, performing oral sex on him, on multiple occasions. Over 50 years later, Plaintiff still cannot forget how FATHER POHLEN smelled when she was forced to perform oral sex on him. Plaintiff's sisters, also residents at TEKAKWITHA, were also abused by FATHER POHLEN in this same way.

113. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 9, and during or about the years 1955 to 1959, SISTER LUCY MARIE (known to the children as MOTHER SUPERIOR) sexually abused Plaintiff on numerous occasions. MOTHER SUPERIOR would call Plaintiff into her room and force Plaintiff to take off her clothes. MOTHER SUPERIOR would then force Plaintiff to rub lotion on herself and then rub lotion on the doll that MOTHER SUPERIOR kept in her office. MOTHER SUPERIOR would then force Plaintiff to rub her naked body against the doll, touch the doll between the legs and simulate sexual intercourse with the doll. Plaintiff was told by the nuns that she was "nasty" and that "the devil was in her."

114. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff P.W. has experienced significant harm and injury.

115. Plaintiff P.W. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

116. WHEREFORE, Plaintiff P.W. demands judgment against Defendants, OMII; OMI; SDS; MISSION; FATHER JOHN POHLEN, O.M.I.; SISTER LUCY MARIE; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF F.K.

117. Plaintiff F.K. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108 and 111 through 115.

118. While a resident at the TEKAKWITHA Orphanage, Plaintiff F.K. was sexually abused by BROTHER HENRY BUSMAN AND BROTHER LEROY.

119. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 12, and during or about the years 1964 to 1970, BROTHER HENRY BUSMAN sexually abused Plaintiff on numerous occasions. BROTHER BUSMAN would force Plaintiff to lie down on a table or couch and would grope and fondle Plaintiff's penis, masturbating him. BROTHER HENRY would also fondle Plaintiff while Plaintiff was in the shower.

120. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 12, and during or about the years 1964 to 1970, BROTHER LEROY sexually abuse Plaintiff on multiple occasions. BROTHER LEROY would take Plaintiff from his room at night and take Plaintiff to the TV Room, where BROTHER LEROY would fondle and grope Plaintiff's penis.

121. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 12, and during or about the years 1964 to 1970, Plaintiff

was also sexually and physically abused by other children residing at TEKAKWITHA. The sexual abuse included frequent incidents of abuse which entailed the minor child coming to Plaintiff's bed at night, lying down on top of Plaintiff, grinding against Plaintiff and ejaculating on Plaintiff. The physical abuse included frequent act of abuse by two minor children who would come to Plaintiff's bed and choke Plaintiff with a towel and other implements, choking Plaintiff until Plaintiff lost consciousness. This sexual and physical abuse was made possible by the negligent supervision of students by the priests, brothers and nuns and by the highly sexualized atmosphere created by the rampant sexual abuse of students by the priests, brothers and nuns that were in positions of authority at TEKAKWITHA.

122. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff F.K. has experienced significant harm and injury.

123. Plaintiff F.K. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

124. WHEREFORE, Plaintiff F.K. demands judgment against Defendants, OMII; OMI; SDS; MISSION; BROTHER HENRY BUSMAN; BROTHER LEROY; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF L.L.

125. Plaintiff L.L. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115 and 118 through 123.

126. While a resident at the TEKAKWITHA Orphanage, Plaintiff L.L. was sexually abused by a nun whose name he does not recall.

127. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 7, and during or about the years 1967 to 1968, a nun whose name Plaintiff does not recall sexually abused Plaintiff on an almost nightly basis. This nun was in charge of giving Plaintiff his bath and each time she bathed Plaintiff, she would force him underwater and fondle his penis and testicles for an extended period of time.

128. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff L.L. has experienced significant harm and injury.

129. Plaintiff L.L. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

130. WHEREFORE, Plaintiff L.L. demands judgment against Defendants, OMII; OMI; SDS; MISSION; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF F.M.K.

131. Plaintiff F.M.K. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123 and 126 through 129.

132. While a resident at the TEKAKWITHA Orphanage, Plaintiff F.M.K. was sexually abused by BROTHER HENRY BUSMAN.

133. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 9, and during or about the years 1970 to 1973, a nun

whose name Plaintiff does not recall forced Plaintiff to suckle at her naked breast on multiple occasions.

134. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 9, and during or about the years 1970 to 1973, Plaintiff was also sexually abused by other children residing at TEKAKWITHA, sexual abuse up to and including sodomy. This sexual abuse was made possible by the negligent supervision of students by the priests, brothers and nuns and by the highly sexualized atmosphere created by the rampant sexual abuse of students by the priests, brothers and nuns that were in positions of authority at TEKAKWITHA.

135. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff F.M.K. has experienced significant harm and injury.

136. Plaintiff F.M.K. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

137. WHEREFORE, Plaintiff F.M.K. demands judgment against Defendants, OMII; OMI; SDS; MISSION; BROTHER HENRY BUSMAN; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF H.R.

138. Plaintiff H.R. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129 and 132 through 136.

139. While a resident at the TEKAKWITHA Orphanage, Plaintiff H.R. was sexually abused by a nun whose name she does not recall.

140. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 7, and during or about the years 1959 to 1960, a nun whose name Plaintiff does not recall sexually abused Plaintiff on multiple occasions. This nun was in charge of giving Plaintiff his bath and each time she bathed Plaintiff, she would fondle his penis and testicles and masturbate him until he got an erection. The nun would rub his penis with such force and for such a long time that it caused Plaintiff pain and discomfort.

141. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff H.R. has experienced significant harm and injury.

142. Plaintiff H.R. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

143. WHEREFORE, Plaintiff H.R. demands judgment against Defendants, OMII; OMI; SDS; MISSION; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF M.S.

144. Plaintiff M.S. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136 and 139 through 142.

145. While a resident at the TEKAKWITHA Orphanage, Plaintiff M.S. was sexually abused by FATHER JOHN POHLEN, O.M.I. and a nun whose name he does not recall.

146. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 7, and during or about the years 1956 to 1958, Plaintiff was sexually abuse by FATHER JOHN POHLEN, O.M.I. on numerous occasions. One of the nuns would bring Plaintiff to FAHTER POHLEN'S private house and FATHER POHLEN would force Plaintiff to sit in his lap. FATHER POHLEN would then put his hand inside Plaintiff's pants and grope and fondle Plaintiff's penis.

147. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 7, and during or about the years 1956 to 1958, he was sexually abused by a nun whose name he does not recall. This nun was in charge of giving Plaintiff his bath and each time she bathed Plaintiff, she would fondle his penis and testicles and masturbate him.

148. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff M.S. has experienced significant harm and injury.

149. Plaintiff M.S. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

150. WHEREFORE, Plaintiff M.S. demands judgment against Defendants, OMII; OMI; SDS; MISSION; FATHER JOHN POHLEN, O.M.I.; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF C.C.A.

151. Plaintiff C.C.A. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95

through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142 and 145 through 149.

152. While a resident at the TEKAKWITHA Orphanage, Plaintiff C.C.A. was sexually abused by FATHER EDWARD HESS, O.M.I. and two nuns whose names she does not recall.

153. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 9 and 10, and during or about the years 1953 to 1954, two nuns whose names Plaintiff does not recall forced Plaintiff and another minor child to go to a private area where the nuns forced Plaintiff and the other child to undress. The nuns ordered Plaintiff and the other child to do sexual things to each other. When Plaintiff and her friend refused to touch each other sexually, the nuns sexually abused Plaintiff by touching, caressing and groping her naked body. The nuns also penetrated Plaintiff's vagina with her fingers.

154. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 7, and during or about the years 1953 to 1954, she was sexually abused by FATHER EDWARD HESS, O.M.I. While Plaintiff lay in bed at night in her dormitory, FATHER HESS would come to her bedside and sit down, then FATHER HESS would rub and caress Plaintiff all down her back, buttocks and legs.

155. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff C.C.A. has experienced significant harm and injury.

156. Plaintiff C.C.A. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

157. WHEREFORE, Plaintiff C.C.A. demands judgment against Defendants, OMII; OMI; SDS; MISSION; FATHER EDWARD HESS, O.M.I.; AND THE DIOCESE, jointly and

severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF L.D.

158. Plaintiff L.D. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149 and 152 through 156.

159. While a resident at the TEKAKWITHA Orphanage, Plaintiff L.D. was sexually abused by BROTHER HENRY BUSMAN.

160. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 14 and 15, and during or about the years 1980 to 1981, BROTHER HENRY BUSMAN sexually abused Plaintiff on numerous occasions. BROTHER BUSMAN would take every available opportunity to sexually abuse Plaintiff and did so in Plaintiff's dormitory, in BROTHER BUSMAN's car, the playgrounds at TEKAKWITHA, and even locations outside of TEKAKWITHA where BROTHER BUSMAN would drive Plaintiff to for the purpose of abusing him. Initially BROTHER BUSMAN's abuse of Plaintiff consisted of hugging and kissing Plaintiff and fondling Plaintiff's penis and testicles, but the sexual abuse escalated and ultimately BROTHER BUSMAN would sexually abuse Plaintiff by penetrating Plaintiff's anus with his fingers.

161. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff L.D. has experienced significant harm and injury.

162. Plaintiff L.D. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

163. WHEREFORE, Plaintiff L.D. demands judgment against Defendants, OMII; OMI; SDS; MISSION; BROTHER HENRY BUSMAN; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF M.A.

164. Plaintiff M.A. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156 and 159 through 162.

165. While a resident at the TEKAKWITHA Orphanage, Plaintiff M.A. was sexually abused by BROTHER HENRY BUSMAN.

166. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 10 and 11, and during or about the years 1970 to 1971, BROTHER HENRY BUSMAN sexually abused Plaintiff by kissing her, touching and fondling her breasts and vagina. Two nights in a row during the summer when Plaintiff was alone in the dormitory, BROTHER BUSMAN came to her bed and engaged in sexual intercourse with Plaintiff. The sexual intercourse was extremely painful for Plaintiff and BROTHER BUSMAN ejaculated on Plaintiff when he was finished – Plaintiff remembers being all wet and in a great deal of pain.

167. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff M.A. has experienced significant harm and injury.

168. Plaintiff M.A. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

169. WHEREFORE, Plaintiff M.A. demands judgment against Defendants, OMII; OMI; SDS; MISSION; BROTHER HENRY BUSMAN; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF C.S.J.

170. Plaintiff C.S.J. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156, 159 through 162 and 165 through 168.

171. While a resident at the TEKAKWITHA Orphanage, Plaintiff C.S.J. was sexually abused by an employee at TEKAKWITHA named Connie.

172. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, approximately age 6, and during or about the 1980 to 1981 school year, Connie took Plaintiff upstairs to an office in the dormitory and forced Plaintiff to undress. Connie then took of her own shirt and forced Plaintiff to touch her naked breasts while she stared at Plaintiff's naked body. Connie also routinely beat and whipped Plaintiff.

173. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff C.S.J. has experienced significant harm and injury.

174. Plaintiff C.S.J. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

175. WHEREFORE, Plaintiff C.S.J. demands judgment against Defendants, OMII; OMI; SDS; MISSION; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF G.H.

176. Plaintiff G.H. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156, 159 through 162, 165 through 168 and 171 through 174.

177. While a resident at the TEKAKWITHA Orphanage, Plaintiff G.H. was sexually abused by SISTER KATHERINE.

178. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 11 and during or about the years 1947 to 1953, SISTER KATHERINE, who was in charge of bathing Plaintiff, would caress, touch and fondle Plaintiff's penis, masturbating Plaintiff until Plaintiff got an erection. When Plaintiff got an erection, SISTER KATHERINE would roughly hit Plaintiff's penis with a scrub brush, causing Plaintiff pain and discomfort.

179. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff G.H. has experienced significant harm and injury.

180. Plaintiff G.H. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

181. WHEREFORE, Plaintiff G.H. demands judgment against Defendants, OMII; OMI; SDS; MISSION; SISTER KATHERINE; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF F.W.

182. Plaintiff F.W. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156, 159 through 162, 165 through 168, 171 through 174 and 177 through 180.

183. While a resident at the TEKAKWITHA Orphanage, Plaintiff F.W. was sexually abused by FATHER EDWARD HESS, O.M.I. AND SISTER GABRINI.

184. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 8, and during or about the years 1946 to 1950, FATHER EDWARD HESS, O.M.I. sexually abused Plaintiff by coming to Plaintiff's bed in the dormitory at night, sitting on Plaintiff's bed and groping and fondling Plaintiff's penis. FATHER HESS would also give Plaintiff wine at the church after services on Sunday and would grope and fondle Plaintiff's penis in the church.

185. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 4 and 8, and during or about the years 1946 to 1950, SISTER GABRINI, who was in charge of bathing Plaintiff, would caress, touch and fondle Plaintiff's penis, masturbating Plaintiff until Plaintiff got an erection. When Plaintiff got an erection, SISTER GABRINI would roughly hit Plaintiff's penis causing Plaintiff pain and discomfort.

186. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff F.W. has experienced significant harm and injury.

187. Plaintiff F.W. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

188. WHEREFORE, Plaintiff F.W. demands judgment against Defendants, OMII; OMI; SDS; MISSION; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF A.H.

189. Plaintiff A.H. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156, 159 through 162, 165 through 168, 171 through 174, 177 through 180 and 183 through 187.

190. While a resident at the TEKAKWITHA Orphanage, Plaintiff A.H. was sexually abused by FATHER JOHN POHLEN, O.M.I.

191. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 7 and 9, and during or about the years 1957 to 1959, FATHER JOHN POHLEN, O.M.I. sexually abused Plaintiff on numerous occasions. FATHER POHLEN would take Plaintiff to a private office and he would remove Plaintiff's underwear and touch and fondle Plaintiff's vagina. FATHER POHLEN also penetrated Plaintiff's vagina with his fingers

on multiple occasions. Plaintiff was also sexually abuse by other priests whose name she does not recall – these priests fondled Plaintiff and touched and groped Plaintiff between her legs.

192. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff A.H. has experienced significant harm and injury.

193. Plaintiff A.H. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

194. WHEREFORE, Plaintiff A.H. demands judgment against Defendants, OMII; OMI; SDS; MISSION; FATHER JOHN POHLEN; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF U.A.

195. Plaintiff U.A. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156, 159 through 162, 165 through 168, 171 through 174, 177 through 180, 183 through 187 and 190 through 193.

196. While a resident at the TEKAKWITHA Orphanage, Plaintiff U.A. was sexually abused by BROTHER HENRY BUSMAN and nuns whose name he does not recall.

197. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 9, and during or about the years 1965 to 1968, BROTHER HENRY BUSMAN would come to the showers, undress and get in the shower area with the other minor children that were showering. BROTHER BUSMAN would then masturbate in front of the minor children, showing off his erection.

198. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 6 and 9, and during or about the years 1965 to 1968, he was abused by nuns whose name he does not recall, though he believes that SISTER LAGENDA was one of the nuns that sexually abused him. The nuns would come get Plaintiff for his bath. While bathing Plaintiff, the nuns would touch, caress and fondle his penis, testicles and buttocks, sometimes pulling his foreskin back.

199. As a result of the abuse he suffered at the hands of clergy members working as Defendants' agents, Plaintiff U.A. has experienced significant harm and injury.

200. Plaintiff U.A. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

201. WHEREFORE, Plaintiff U.A. demands judgment against Defendants, OMII; OMI; SDS; MISSION; BROTHER HENRY BUSMAN; SISTER LAGENDA; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

PLAINTIFF R.S.J.

202. Plaintiff R.S.J. repeats and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156, 159 through 162, 165 through 168, 171 through 174, 177 through 180, 183 through 187, 190 through 193 and 196 through 200.

203. While a resident at the TEKAKWITHA Orphanage, Plaintiff R.S.J. was sexually abused by FATHER BALDEN, FATHER GREGORY CHOLEWA, O.M.I. AND a priest whose name she does not recall

204. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 11 and during or about the years 1975 to 1982, FATHER BALDEN sexually abused Plaintiff on numerous occasions. The sexual abuse by FATHER BALDEN started with FATHER BALDEN touching and fondling Plaintiff's body and genitals. It progressed to FATHER BALDEN forcing Plaintiff to fondle his penis and perform oral sex on him and penetrating Plaintiff's vagina with his fingers.

205. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 11 and during or about the years 1975 to 1982, FATHER GREGORY CHOLEWA, O.M.I. sexually abused Plaintiff by forcing Plaintiff to sit in his lap while he had an erection, pressing his erection against Plaintiff's body. FATHER CHOLEWA would also fondle and grope Plaintiff's vagina while he held her on his lap.

206. When Plaintiff was a minor child residing at the TEKAKWITHA Orphanage, between the approximate ages of 5 and 11 and during or about the years 1975 to 1982, she was sexually abused by a priest working at the Orphanage whose name she does not recall. The priest would force Plaintiff to sit in his lap while he touched and fondled her genitals and body. The priest would give Plaintiff a butterscotch candy after he sexually molested her.

207. As a result of the abuse she suffered at the hands of clergy members working as Defendants' agents, Plaintiff R.S.J. has experienced significant harm and injury.

208. Plaintiff R.S.J. began to perceive the connection between the conduct of clergy members and lay people at the TEKAKWITHA Orphanage within 3 years of the commencement of this action.

209. WHEREFORE, Plaintiff R.S.J. demands judgment against Defendants, OMII; OMI; SDS; MISSION; FATHER BALDEN; FATHER GREGORY CHOLEWA, O.M.I.; AND THE DIOCESE, jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

COUNT I

BREACH OF FIDUCIARY DUTY

210. Plaintiffs repeat and re-allege Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156, 159 through 162, 165 through 168, 171 through 174, 177 through 180, 183 through 187, 190 through 193 and 196 through 200 and 203 through 208.

211. Defendants each had a fiduciary relationship of trust and confidence with Plaintiffs.

212. Plaintiffs, by virtue of their status as minors under the care of administrators, educators, clergy members and staff at a residential boarding school, were compelled to put their trust and faith in Defendants and/or Defendants' agents.

213. Defendants had complete and unfettered control of Plaintiffs and undertook a fiduciary duty to protect the health, safety and physical and psychological well being of the children in their care. Defendants' duty extended to their agents, BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA;

SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I., among others.

214. Defendants owed a fiduciary duty to Plaintiffs to:

- A. Investigate and warn Plaintiffs of the violent and abusive policies and practices of the TEKAKWITHA Orphanage;
- B. Disclose their awareness of these facts, policies and practices that created a likely potential for harm at the TEKAKWITHA Orphanage;
- C. Disclose their own breaches of duty with regard to hiring, supervising and retaining educators, clergy and staff who would cause harm to Plaintiffs at the TEKAKWITHA Orphanage;
- D. Provide a safe environment for Plaintiffs where they would be free from abuse at the TEKAKWITHA Orphanage;
- E. Protect Plaintiffs from exposure to clergy, educators and staff who could reasonably be expected to cause harm to Plaintiffs at the TEKAKWITHA Orphanage; and
- F. Disclose the acts of abuse and abusive practices of which Defendants knew or should have known regarding the misconduct of educators and staff at the TEKAKWITHA Orphanage.

215. Defendants breached their fiduciary duties to Plaintiffs by failing to:

- A. Investigate and warn Plaintiffs of the dangers and risks of abuse at the TEKAKWITHA Orphanage;

- B. Provide a reasonably safe environment for residents and students at the
TEKAKWITHA Orphanage;
- C. Disclose facts of which Defendants knew or should have known regarding
the dangers and risks of abuse at the TEKAKWITHA Orphanage;
- D. Disclose facts which Defendants knew or should have known regarding
the misconduct of the educators and staff at the TEKAKWITHA
Orphanage; and
- E. Disclose their own negligence and fault regarding the abuse and abusive
practices at the TEKAKWITHA Orphanage.

216. Defendants and/or their agents breached their trust relationship to Plaintiffs by remaining silent as to the facts of the abuse alleged herein. As a result, Plaintiffs' claims are not barred by the statute of limitations pursuant to SDCL 26-10-25.

217. By breaching their fiduciary duties and trust relationship to Plaintiffs and by failing to make necessary disclosures to Plaintiffs or Plaintiffs' family, Defendants and Defendants' agents intentionally and fraudulently concealed the facts complained of herein in an attempt to minimize Defendants' liabilities.

218. When Plaintiffs or Plaintiffs' family members told authorities about the abuse, Defendants' and/or their agents failed to take the proper measures necessary to prevent further wrongful acts from developing into a pattern, custom, policy, and practice of abuse at the TEKAKWITHA Orphanage.

219. WHEREFORE, Plaintiffs demand judgment against Defendants, THE CATHOLIC DIOCESE OF SIOUX FALLS; TEKAKWITHA INDIAN MISSION OF SISSETON, SOUTH DAKOTA; U.S. PROVINCE OF THE MISSIONARY OBLATES OF MARY IMMACULATE,

INC.; OBLATES OF MARY IMMACULATE; SISTERS OF THE DIVINE SAVIOR;
BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN;
FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER
BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER
EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER
GREGORY CHOLEWA, O.M.I., jointly and severally, for compensatory damages, costs and
such other and further relief as this Court deems proper.

COUNT II

NEGLIGENCE

220. Plaintiffs repeat and re-allege Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156, 159 through 162, 165 through 168, 171 through 174, 177 through 180, 183 through 187, 190 through 193 and 196 through 200, 203 through 208 and 211 through 218.

221. At all material times, Defendant entities, undertook a responsibility to act *in loco parentis*, causing Plaintiffs to rely on that relationship, giving rise to a special relationship between Defendant entities and Defendant perpetrators and/ or a special relationship between the Plaintiffs and Defendants thereby imposing a duty to use reasonable care to protect and ensure the safety, care, well being and health of the minors under their care and custody at the TEKAKWITHA Orphanage.

222. At all relevant times, Defendants had a duty to exercise due care in the hiring, retention and supervision of educators and staff at the TEKAKWITHA Orphanage.

223. At all relevant times, Defendants knew or in the exercise of reasonable care should have known that the perpetrators alleged herein were unfit, dangerous and a threat to the health, safety and welfare of the minors entrusted to their counsel, care and protection.

224. At all relevant times, Defendants created and maintained an environment which fostered physical and sexual abuse against the children it had a duty to protect, thereby facilitating such abuse.

225. At all relevant times, Defendants maintained inadequate policies and procedures to protect the children it was entrusted to care for and protect.

226. Defendants breached their aforementioned duties by failing to use reasonable care to protect the children under their care custody and control from abusive practices at the TEKAKWITHA Orphanage and by creating or increasing the risk of harm to Plaintiffs.

227. Defendants breached their aforementioned duties by failing to exercise due care in the hiring, retention and supervision of educators and staff at the TEKAKWITHA Orphanage.

228. As a direct and proximate result of Defendants' negligence, Plaintiffs suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and/or the inability to lead a normal life.

229. WHEREFORE, Plaintiffs demand judgment against Defendants, THE CATHOLIC DIOCESE OF SIOUX FALLS; TEKAKWITHA INDIAN MISSION OF SISSETON, SOUTH DAKOTA; U.S. PROVINCE OF THE MISSIONARY OBLATES OF MARY IMMACULATE, INC.; OBLATES OF MARY IMMACULATE; SISTERS OF THE DIVINE SAVIOR; BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER

EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I., jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

COUNT III

RESPONDEAT SUPERIOR/VICARIOUS LIABILITY

230. Plaintiffs repeat and re-alleges Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156, 159 through 162, 165 through 168, 171 through 174, 177 through 180, 183 through 187, 190 through 193 and 196 through 200, 203 through 208, 211 through 218 and 221 to 228.

231. Plaintiffs are informed and believe, and based thereon allege, that educators and staff at the TEKAKWITHA Orphanage were at all relevant times hereto employees, appointees and/or agents of one or more of the Defendants.

- A. BROTHER HENRY BUSMAN WAS AN AGENT OF OMII, OMI, MISSION AND THE DIOCESE;
- B. BROTHER HENRY BUSMAN WAS AN AGENT OF OMII, OMI, MISSION AND THE DIOCESE;
- C. SISTER THERESA WAS AN AGENT OF SDS, MISSION AND THE DIOCESE;
- D. SISTER LAGENDA WAS AN AGENT OF SDS, MISSION AND THE DIOCESE;

- E. SISTER JOHN WAS AN AGENT OF SDS, MISSION AND THE DIOCESE;
- F. FATHER FITZGERALD WAS AN AGENT OF OMII, OMI, MISSION AND THE DIOCESE;
- G. FATHER JOHN POHLEN, O.M.I. WAS AN AGENT OF OMII, OMI, MISSION AND THE DIOCESE;
- H. BROTHER TIM WAS AN AGENT OF OMII, OMI, MISSION AND THE DIOCESE;
- I. SISTER BOGANINA WAS AN AGENT OF SDS, MISSION AND THE DIOCESE;
- J. SISTER LUCY MARIE WAS AN AGENT OF SDS, MISSION AND THE DIOCESE;
- K. BROTHER LEROY WAS AN AGENT OF OMII, OMI, MISSION AND THE DIOCESE;
- L. SISTER KATHERINE WAS AN AGENT OF SDS, MISSION AND THE DIOCESE;
- M. FATHER EDWARD HESS, O.M.I. WAS AN AGENT OF OMII, OMI, MISSION AND THE DIOCESE;
- N. SISTER GABRINI WAS AN AGENT OF SDS, MISSION AND THE DIOCESE;
- O. FATHER BALDEN WAS AN AGENT OF OMII, OMI, MISSION AND THE DIOCESE; AND

P. FATHER GREGORY CHOLEWA, O.M.I. WAS AN AGENT OF OMII,
OMI, MISSION AND THE DIOCESE;

232. Defendants are vicariously liable for the acts of their agents named in Paragraph 231, A-P.

233. Defendants directly and/or indirectly, through their failure to prevent abuse, expressly or impliedly authorized the acts of abuse complained of herein.

234. The acts of abuse committed by Defendants' agents were committed in the actual or apparent course and scope of their employment or agency, and were incidental to the boarding school enterprise.

235. The acts of abuse committed by Defendants' agents were reasonably foreseeable to each named Defendant, as an employer/principal.

COUNT IV

CHILDHOOD SEXUAL ABUSE PURSUANT TO STATUTE

236. Plaintiffs repeat and re-allege Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156, 159 through 162, 165 through 168, 171 through 174, 177 through 180, 183 through 187, 190 through 193 and 196 through 200, 203 through 208, 211 through 218, 221 to 228 and 231 through 235.

237. Plaintiffs are informed and believe and based thereon allege BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA;

SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. had, prior to their abuse of Plaintiffs, had engaged in acts of child sexual molestation and abuse, and/or had a known proclivity to engage in wrongful sexual conduct with minors, and that such other or prior acts, and/or their proclivity was or should have been known to defendants and each of them.

238. Plaintiffs are informed and believe that before or during the time of BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.'s sexual abuse of Plaintiffs, Defendants were or should have been aware of both acts and circumstances which placed them on notice of BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.'s acts, propensities and disposition to engage in unlawful sex acts with minors such that they knew that it was reasonably foreseeable, if not a virtual certainty, that BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER

GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. would commit or continue to commit wrongful sexual acts with minors, including plaintiffs.

239. Plaintiffs are informed and believe, and on that basis allege, that the Defendants, and each of them, conspired to and did, once having actual and/or constructive knowledge that BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I., were child molesters, failed to report, hide and conceal from the parishioners, parents, care givers, and staff, the public and law enforcement authorities the true facts and relevant information necessary to bring BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. to justice as well as protect minors, including Plaintiffs.

240. Plaintiffs are informed and believe, and on that basis allege, that the Defendants, and each of them, had an obligation/duty under law to not hide material facts and information about BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.'s deviant sexual behavior and propensities. Additionally,

Defendants, and each of them, had an affirmative duty to inform, warn, and institute appropriate protective measures to safeguard students who were reasonably likely to come in contact with BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. Plaintiffs further allege that the Defendants, and each of them, willfully refused to notify, give adequate warning and/or to implement appropriate safeguards and thereby created the peril that ultimately damaged students, including Plaintiffs.

241. As part of Defendants' conspiratorial and fraudulent attempt to hide BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.'s identity and acts from public scrutiny and criminal investigation, Defendants, and each of them, implemented various measures designed to make BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.'s conduct harder to detect including, but not limited to, the conduct described in this Complaint.

242. As set forth more fully above, BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. did sexually molest and abuse Plaintiffs, who were minors at the time.

243. Plaintiffs are informed and believe, and on that basis allege, that such conduct by BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. was for their sexual gratification.

244. These actions upon Plaintiffs were performed by BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. without the free consent of Plaintiffs, who were minors.

245. These actions upon Plaintiffs constitute conduct in violation of South Dakota Codified Laws, including but not limited to SDCL chapter 22-22 and SDCL 26-10-29.

246. Plaintiffs are informed and believe, and on that basis allege, that Defendants and each of them were or should have been aware of BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN

POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.'s prior wrongful conduct, their wrongful conduct at or about the time it was occurring, and thereafter, but took no action to obstruct, inhibit or stop such continuing conduct, or to help plaintiffs to endure the trauma from such conduct. Despite the authority and ability to do so, Defendants negligently and/or willfully refused to, and/or did not, act effectively to stop the sexual assaults on the Plaintiffs, to inhibit or obstruct such abuse, or to protect them from the results of that trauma.

247. Plaintiffs are informed and believe, and on that basis allege, that after Plaintiffs were molested by BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I., Defendants utilized their authority and influence to fail to disclose and to conceal the alleged wrongful and/or criminal behavior of BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I., as set forth herein.

COUNT V

FRAUDULENT CONCEALMENT

248. Plaintiffs repeat and re-allege Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156, 159 through 162, 165 through 168, 171 through 174, 177 through 180, 183 through 187, 190 through 193 and 196 through 200, 203 through 208, 211 through 218, 221 to 228, 231 through 235 and 237 through 247.

249. Plaintiffs are informed and believe, and on that basis allege, that prior to and after the events referred to in this Complaint, through the present, Defendants had actual knowledge that BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. had on numerous occasions sexually, physically, and/or mentally abused minors, including Plaintiffs.

250. Plaintiffs are informed and believe, and on that basis allege, that Defendants were apprised, knew, and/or were specifically put on notice of BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.'s propensities and disposition to engage in unlawful sex acts with minors, such that Defendants knew that it was reasonably foreseeable, if not a virtual certainty, that BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER

FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. would commit and continue to commit wrongful sexual acts with minors, including Plaintiffs.

251. Plaintiffs are informed and believe, and on that basis allege, that Defendants had knowledge of material facts regarding BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.'s propensities. Such knowledge was not known or reasonably available to Plaintiffs before Plaintiffs were molested by BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.

252. Defendants misrepresented, concealed or failed to disclose information relating to sexual misconduct of BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I., as described herein, and continued

to misrepresent, conceal and fail to disclose information relating to sexual misconduct of BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.

253. Plaintiffs justifiably relied upon Defendants for information relating to any sexual risk to Plaintiffs posed by BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.

254. Plaintiffs are informed, believe and allege thereon that the Defendants, and each of them, with the intent to conceal and defraud, did misrepresent, conceal or fail to disclose information relating to the sexual misconduct and propensities of BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. Said intentional and deliberate suppression and concealment of facts included, but was not limited to:

- A. Making no or inadequate investigations of BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN;

FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.;
BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE;
BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD
HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER
GREGORY CHOLEWA, O.M.I.;

- B. Issuing no warnings about BROTHER HENRY BUSMAN; SISTER
THERESA; SISTER LAGENDA; SISTER JOHN; FATHER
FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM;
SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY;
SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER
GABRINI; FATHER BALDEN; AND FATHER GREGORY
CHOLEWA, O.M.I.;
- C. Permitting BROTHER HENRY BUSMAN; SISTER THERESA; SISTER
LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN
POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER
LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER
EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND
FATHER GREGORY CHOLEWA, O.M.I. to routinely be alone and in
control of minors, unsupervised;
- D. Not having adopted a policy to prevent BROTHER HENRY BUSMAN;
SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER
FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM;
SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY;

SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. from routinely having minors, parishioners, and minor students in his unsupervised control;

- E. Making no reports of any allegations of BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.'s abuse of students, parishioners, or of minors; and
- F. Assigning and continuing to assign BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. to duties which placed him in positions of authority and trust over minors, positions in which BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER

GABRINI; FATHER BALDEN; AND FATHER GREGORY

CHOLEWA, O.M.I. could easily isolate and sexually abuse them.

255. Defendants' conduct created a situation of peril that was not and could not be appreciated by the Plaintiffs. By virtue of Defendants' conspiratorial and fraudulent conduct, and in keeping with their intent to fail to disclose and hide BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.'s past and present conduct from the school and church community, the public at large, and law enforcement, Defendants allowed known child molesters BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. to remain in a position of influence where their unsupervised or negligently supervised conduct with minors made the molestation and abuse of minors possible

256. Plaintiffs are further informed and believe, and on that basis allege, that Defendants, and each of them, willfully refused to notify, give adequate warning and/or to implement appropriate safeguards and thereby created the peril that ultimately damaged Plaintiffs.

257. Plaintiffs are informed and believe, and on that basis allege, that Defendants, and each of them, did suppress and conceal the true facts, and continue to do so, with the intent to: prevent Plaintiffs and others from learning that BROTHER HENRY BUSMAN; SISTER

THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I. had been and were continuing to molest minors; to prevent further reports and outside investigations into BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I.'s misconduct and Defendants misconduct; to prevent discovery of Defendants' own fraudulent conduct; to avoid damage to the reputations of Defendants; to protect Defendants' power and status in the community; to avoid damage to the reputation of the CATHOLIC CHURCH; and to avoid the civil and criminal liability of Defendants.

258. Plaintiffs are informed and believe, and on that basis allege, that as a direct and proximate result of the wrongful concealment by Defendants, Plaintiffs were sexually, physically, and mentally abused by BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER GREGORY CHOLEWA, O.M.I., and by the conduct of Defendants.

259. As a direct and proximate result of the above-described conduct, Plaintiffs have suffered and continue to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations,

and loss of enjoyment of life; have suffered and continue to suffer and were prevented and will continue to be prevented from performing daily activities and obtaining the full enjoyment of life; and/or have incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

260. In addition, when Plaintiffs finally discovered the fraud of Defendants, and continuing thereafter, Plaintiffs experienced recurrences of the above-described injuries as a direct and proximate result of such discovery. In addition, when Plaintiffs finally discovered the fraud of Defendants, and continuing thereafter, Plaintiffs experienced extreme and severe mental anguish and emotional distress that Plaintiffs had been the victim of Defendants' fraud; that Plaintiffs had not been able to help other minors being molested because of the fraud, and that Plaintiffs had not been able because of the fraud to receive timely medical treatment needed to deal with the problems Plaintiffs have suffered and continue to suffer as a direct and proximate result of the molestations and sexual abuse.

COUNT VI

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

261. Plaintiffs repeat and re-allege Paragraphs 1 through 39, 41, 43 to 46, 49 through 52, 55 through 59, 62 through 71, 74 through 78, 81 through 85, 88 through 92, 95 through 100, 103 through 108, 111 through 115, 118 through 123, 126 through 129, 132 through 136, 139 through 142, 145 through 149, 152 through 156, 159 through 162, 165 through 168, 171 through 174, 177 through 180, 183 through 187, 190 through 193 and 196 through 200, 203 through 208, 211 through 218, 221 to 228, 231 through 235, 237 through 247 and 249 through 260.

262. Defendants engaged in extreme and outrageous conduct as identified in this Complaint with the intent to cause, or with reckless disregard of the probability of causing, Plaintiffs emotional distress.

263. Plaintiffs suffered resulting severe emotional distress from Defendants' conduct. Defendants' conduct was the actual and proximate cause of Plaintiffs' emotional distress.

264. As a result of Defendants' conduct, Plaintiffs have suffered and continue to suffer mental and emotional injuries, which include distress, anxiety, anguish, fright, shock, shame, humiliation, embarrassment, indignity, as well as other undesirable mental and emotional responses and other non-economic damages.

265. As a further result of Defendants' conduct, Plaintiffs have suffered other incidental and consequential damages.

266. Defendants and each of them acted for the purpose of causing Plaintiffs to suffer severe emotional distress and are guilty of oppression and malice, justifying an award of exemplary and punitive damages.

PRAYER

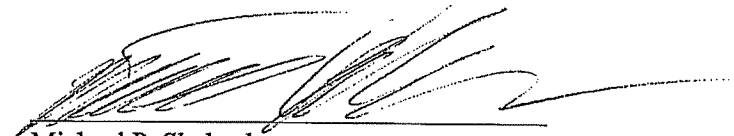
267. WHEREFORE, Plaintiffs demand judgment against Defendants, THE CATHOLIC DIOCESE OF SIOUX FALLS; TEKAKWITHA INDIAN MISSION OF SISSETON, SOUTH DAKOTA; U.S. PROVINCE OF THE MISSIONARY OBLATES OF MARY IMMACULATE, INC.; OBLATES OF MARY IMMACULATE; SISTERS OF THE DIVINE SAVIOR; BROTHER HENRY BUSMAN; SISTER THERESA; SISTER LAGENDA; SISTER JOHN; FATHER FITZGERALD; FATHER JOHN POHLEN, O.M.I.; BROTHER TIM; SISTER BOGANINA; SISTER LUCY MARIE; BROTHER LEROY; SISTER KATHERINE; FATHER EDWARD HESS, O.M.I.; SISTER GABRINI; FATHER BALDEN; AND FATHER

GREGORY CHOLEWA, O.M.I., jointly and severally, for compensatory damages, costs and such other and further relief as this Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial in this action.

Dated this 19th day of July, 2010.



Michael P. Shubeck
LAW OFFICES OF GREGORY A. YATES
550 North 5th Street
Rapid City, SD 57701
Telephone: (605)718-2069
Facsimile: (605)718-2070
Attorneys for Plaintiff

PROOF OF SERVICE

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 4220 Von Karman Avenue, Suite 200, Newport Beach, CA 92660.

On July 19, 2010, I served the foregoing document described as COMPLAINT on all parties in this action by placing: ___/ the original /_X_/ a true copy thereof enclosed in a sealed envelope addressed as follows:

Jim McMahon, Esq.
Murphy, Goldammer & Prendergast, LLP
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Sioux Falls, SD 57101
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Attorneys for Defendant the Catholic Diocese of Sioux Falls

Sisters of the Divine Savior
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Milwaukee, WI 53222
Defendant in pro per

Corporation Service Company
503 South Pierre Street
Pierre, SD 57501
Registered Agent for Service of Process for Tekakwitha Indian Mission of Sisseton, South Dakota

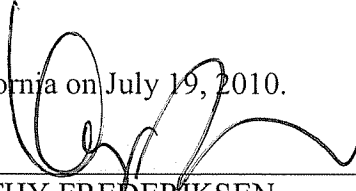
Corporation Service Company
503 South Pierre Street
Pierre, SD 57501
Registered Agent for Service of Process for U.S. Province of the Missionary Oblates of Mary Immaculate, Inc.

 /_X_/ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Encino, California.

 /___/ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed at Newport Beach, California on July 19, 2010.



KATHY FREDERIKSEN