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## Newark Priest Submits Affidavits in Lawsuit against Church

By Matt C. Abbott  
Renew America  
May 17, 2006

<http://www.renewamerica.us/columns/abbott/060517>

The following are two affidavits submitted by Father Robert Hoatson, who is suing the New York and Newark archdioceses and the Albany diocese. They are two of six documents filed in response to the defendants' motions to dismiss. The second affidavit is from Father Kenneth Lasch.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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FR. ROBERT M. HOATSON,

Plaintiff, AFFIDAVIT

-against- CIVIL ACTION

No.: 05-CV-10467

NEW YORK ARCHDIOCESE, CARDINAL EDWARD EGAN, (Hon. Paul A. Crotty)

THE NEWARK ARCHDIOCESE, ARCHBISHOP JOHN J. MYERS,

CONGREGATION OF CHRISTIAN BROTHERS, FR. JOHN

O'BRIEN, BR. LAURENCE BOSCHETTO, BR. PAUL KEVIN

HENNESSY, THE ROMAN CATHOLIC DIOCESE OF ALBANY

and BISHOP HOWARD J. HUBBARD,

Defendants

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### AFFIDAVIT IN OPPOSITION TO MOTION OF NEWARK ARCHDIOCESE

I, Father Robert Hoatson, do set out and swear to the following facts under the penalty of perjury.

1. I am the plaintiff in the above entitled matter, and I make this affidavit in response to and in opposition to the motions to dismiss. Due to the breadth and scope of the legal and factual claims made in the defendants' motions, I am compelled to respond to, supplement my amended complaint, clarify, particularize, and expand upon the facts, and set out errors and conclusions made by the defendants. I also have a good faith belief that the defendants have made factual claims about me and my claims without the benefit of affidavits, and not in any form that should be considered by this court.

2. I am compelled to make these detailed responses in this affidavit because I believe the defendants are trying to color this record of me in an unflattering light, and also use purported facts that are, in fact, not real facts, or facts that are in dispute or at issue. Since constitutional and other legal issues are so important, it seems obvious that an appeal will follow. My educational and practical experiences and credentials are impeccable. I have a bachelors degree, magna cum laude, in English, from Iona

College, a masters in English from Manhattan College, and a doctor of philosophy degree in Leadership and Educational Administration from Fordham University.

3. The defendants, including, but not limited to, the Newark Archdiocese and Archbishop Myers try to say that they can fire and retaliate against me because of the First Amendment separation of Church and State. This is specious for a number of reasons:

- a. Fr. Ken Lasch's affidavit states that he has personal knowledge of retaliatory action toward me and that the defendants' reliance on the separation of Church and State is wrong.
- b. My claims, my speech and my actions for which I am being retaliated against do not involve Church teachings.
- c. The law allows a Church to be sued for tortious acts.
- d. The church is not above our civil laws.
- e. Canon law says that the civil laws of our country supersede church or canon law, and,
- f. My memorandum of law supports my legal action and concerns employment, civil rights, and constitutional law.

4. The Newark Archdiocese and Archbishop John Myers described me as a disaffected priest. According to the dictionary, disaffected means "to cause or lose affection or loyalty." Defendants cite no actions or descriptions of such in their motion. They present no affidavits as evidence, and I am not a disaffected priest.

5. I have been obedient to every demand and assignment I have been given. My personal records and files in the possession of the defendants substantiate my outstanding work and career serving parishioners and the Church.

6. On page 2 of the defendant Newark's memorandum of law, the defendant Newark Archdiocese states that I am a self-professed activist. My response is that there is nothing in canon or civil law that negatively reflects on activism of any sort. In fact, the Constitution encourages active participation in all forms of life.

7. On page 2, I am described as being in opposition to church teachings and I am described as someone who brings disrepute on the church. My response is that there is no reference to any Church teachings that I have opposed. I have spoken out about sexual abuse by clergy and efforts to cover-up these crimes through illegal, unethical, and immoral behavior with respect to protecting, moving, or providing for those who have sexually abused children and others. The defendants have attempted to claim that I am a heretic when the amended complaint claims the retaliation and hostile work environment that I experienced does not involve church teaching and that I have not opposed church teaching. I also have spoken out on matters of public safety, my own abuse, and the abuse of children, and, as such, I have wide constitutional freedoms to express these beliefs. The defendants have not offered any reason for their severe adversarial employment action toward me except to say the Courts do not have jurisdiction.

8. On page 3, I am described as not agreeing with the church that homosexuality is a mental disorder. My response is that the Church refers to homosexuality as being objectively disordered, not a mental illness. The psychological associations of this country removed homosexuality from its list of illnesses several years ago. I have not preached or written in contradiction to the Church's teachings. I have only set out contradictions and hypocrisy.

9. If the Church insists on calling homosexuality a mental disorder, than many of our leaders, politicians, and bishops are mentally disordered, because a sizable number of them are homosexuals, including the three bishops mentioned in this lawsuit. These allegations have not been denied by way of affidavit, and these claims were made to help explain why the bishops have not been able to police or monitor themselves and others, or why they might be compromised by their own personal behavior.

10. On page 3, with regard to not being given positions I desired in the Archdiocese of Newark, the

following serves to explain. In 2001, interim administrator Bishop Paul Bootkoski refused to give me a position as Assistant Superintendent of Archdiocesan Schools because "I had not given parish life much of a chance" [even though I had been guaranteed the position by Archbishop Theodore Mc Carrick and already had worked at three parishes]. Bishop Bootkoski questioned whether I wanted to be a priest or not since I wanted to remain in the educational apostolate.

11. On page 3, as far as not being given desired living arrangements of my choice, the defendants have taken matters out of context. In the early stages of the clergy abuse crisis, I was living in a rectory of my choice when a self-admitted pedophile was moved in and that was done for retaliatory reasons and because I had complained about other predators. When I complained about this arrangement, I was instructed to move out. This is an example of retaliation at or about the onset of the clergy sexual abuse crisis. This retaliation has continued and gotten worse over the last 3-4 years.

12. On page 3, the defendant Myers' memorandum claims that "he was not assigned to perform advocacy work but instead." Any advocacy work done during my time at Good Counsel Schools was conducted outside regular work hours and on my days off. The defendants have advanced no legitimate reasons for my firing and they have not and cannot rebut that I performed advocacy work on my own time. In addition, I had 30 days of vacation owed to me when I was instructed by Bishop Bootkoski and Msgr. Fadrowski not to take vacation in the summer of 2001 so that I could supervise the rehabilitation of an important school building.

13. On page 3, as far as my being fired is concerned, the following serves to explain and further detail my claims. I testified at the request of the New York State Senate concerning clergy abuse on May 20, 2003. I was fired on May 23, 2003. This was not a coincidence as the defendants have attempted to explain. Bishop Arthur Serratelli, Vicar General, called me in and told me that Albany diocesan officials used the phone lines to complain about my comments before the legislature. He told me that the Archbishop requested that my language be toned down. Then, he slid a letter of termination across the table to me. My performance at Good Counsel (or lack thereof) was never mentioned as a reason for my firing. The letter of termination I received was back-dated to May 12, 2003, indicative of the fact that the defendants were acting improperly and disingenuously.

14. I also know from personal knowledge that from May 7 to May 20, 2003, Bishop Howard Hubbard and the Albany Diocese were receiving a tremendous amount of national attention and/or bad publicity regarding four priests who allegedly molested a child. The four were sued on May 7, 2003, a criminal investigation was started by the District Attorney on May 8, 2003, and the priests were removed or left ministry within one week of the suit. To say that Bishop Hubbard was incensed at my testimony in Albany, New York, on May 20, 2003, would be an understatement. These matters have not been denied, as my testimony was widely reported in the Albany media.

15. On or about May 20, 2003, and May 21, 2003, the defendant Albany Diocese phoned my employer and the purpose of the call was to have me fired due to my testimony.

16. My testimony was requested by the New York State Senate, and I testified on matters of public interest, safety, and matters concerning the prospective protection of children. Because of my testimony and the complaints by the Albany Diocese to the defendant Newark Archdiocese, I was immediately fired and retaliated against because of my appearance and testimony. None of what I said to the Senate was regarding Church teachings or doctrine, or the selection of clergy, or matters that entangle the government with religion. It is interesting to note on page 16 of his memorandum of law that Cardinal Egan states "after he delivered his speech in opposition to Church policy in Albany." This supposed policy is never articulated, nor are the plaintiff's words alleged to have been spoken.

17. I can prove the above, but my attorney advises me that, in a motion to dismiss, that same is based on the pleadings, and that my claims and allegations are given favorable weight, and that this affidavit may further amplify my pleadings.

18. On page 3, with regards to a supposed assertion that priests who are relieved of their duties should not receive the Church's care, the following serves to explain and further detail my claims. My response is that I never made such a claim. I did claim that I was being treated similarly to criminals.

19. On page 4, as far as my alleging that I am being retaliated against for testifying about clergy sexual abuse, the following serves to explain and further detail my claims. My support of victims of

abuse and language at the legislative testimony on May 20, 2003, centered on discussing legislation that would help victims of sexual abuse, as well as my call for the removal of any bishop who has denied, covered up, or lied about clergy sexual abuse. That was the language for which Bishop Serratelli admonished me at the meeting on May 23, 2003 and about which Archbishop Myers had the most difficulty. He also reminded me, "You know, Bob, not all bishops are bad," and other similar words, which I considered threatening and retaliatory.

20. On page 4, as far as my assertion that "he attributes the alleged retaliation to the failure of the defendants to wholly abandon priests who may have been accused of sexual improprieties," the following serves to explain and further detail my claims. I never made such a claim, but it is clear that I was being treated worse than men who had broken the law or who admitted to crimes against children. Even twenty priests removed from ministry by the Albany Diocese for having sexual contact with children are all kept on the payroll with all of their benefits, insurance, room and board, and pensions.

21. On page 4, as far as my challenge to Archbishop Myers' breach of celibacy is concerned, the following serves to explain and further detail my claims. I have independent evidence that Myers is an active homosexual who engages in consensual adult relationships, which I do not condemn him for. I have never said that he abused children. I believe he hypocritically espouses the church's position while violating it himself. As I have made a claim and the defendants deny it (only in a memorandum of law), there exists genuine triable issues material which should, respectfully, not be decided as a matter of law. Consensual adult behavior is of no concern to me, and is nothing that I personally oppose.

22. On page 4, as far as the motion's assertion that I "have attempted to supersede the higher Church authorities," I categorically deny this claim made in the defendant Myers' memorandum of law. There is nothing of fact to back this statement and most of the other claims of the defendants. This Court should respectfully consider how I will be treated and damaged should the Court dismiss the actions.

23. On page 5, the defendants claim that the court will be passing upon "doctrinal" matters. This is false. There is nothing doctrinal being challenged by me or my lawsuit. A doctrine is a set or body of principles of a religion or religious practices. I ascribe to the doctrines of the church and never violated them. These claims by the defendants are contradicted by me, the affidavit of Rev. Kenneth Lasch, and the plaintiff's memorandum of law, so there are material issues of fact that are in dispute. The defendants have failed to say which doctrine or Scripture or part of Church teachings that the Court will involve itself. When my lawsuit was made public, the Newark Archdiocese put out a lengthy and scathing press release about me. It did not discuss doctrinal matters of faith, the selection of clergy, or issues concerning the separation of church and state. Neither did a front page Village Voice article of February 8, 2006, discuss any of these issues as a defense to this case from any of the four moving defendants.

24. On page 6, the quote from Mc Kelvey talks about "purely" ecclesiastical matters. My response is that the matters I am suing over are not purely ecclesiastical matters, nor do they relate to Church teachings, nor would allowing this suit create excessive entanglement with religion.

25. On page 6, as far as "for government action to be permissible, it must have a 'secular' purpose," the following serves to explain and further detail my claims. My employment and the harassment/retaliation and discrimination surrounding same are a secular enterprise since the church pays me, pays for my health insurance and travel allowance, and holds me to the tax laws of the states and country. The matter of my abuse and of the historic sexual abuse of children is not related to religion or church practices. My personal involvement in this crisis goes back over thirty (30) years. My speaking out on this subject and taking actions to give comfort to victims of abuse are not only a freedom of speech issue, but they also involve the protection of children. My speaking out on this subject also does not infringe on or contradict church teaching.

26. On page 7, with regard to the quote from Id. at 42, the following serves to explain and further detail my claims. It is not relevant to my case since I am claiming that my speaking out for the protection of children, teenagers, and vulnerable adults is a societal and governmental issue, not the "propagation of religious beliefs." I have spoken on matters concerning the safety of children and the public's interest in children and the protection of the vulnerable. The laws always show deference for the safety and care of the public against an employer's right to privately retaliate against and illegally terminate an employee.

27. The defendants have not set out any alleged statements which they claim support their motion that the Court would be infringing on religious practice. It is crucial that the defendants do not point to the Bible or any Scripture that they claim I have denounced.

28. On page 7, with regard to the assertion that the "Church's own system of hierarchical authority and its ecclesiastical processes relating to the assignment of priests," the following serves to explain and further detail my claims. I have not refused an assignment or questioned the Archbishop's authority to assign me to ministry. For example, from 1998-2001, in one parish, I was full-time associate pastor, principal of the parish school, part-time youth minister, and chaplain of the local fire department, to name a few of my duties. I also celebrated 30 of the 60 weddings in the parish that year despite the fact that there were three other full-time priests on the staff. I believe the basis of this issue is retaliation for being a whistle-blower and for speaking out on behalf of victims, and my criticisms to officials outside of the Church that the Church has not done enough to protect children and have coddled and hidden predators, which seems to be common knowledge in the country and local community. My efforts to give comfort to victims of abuse and to speak out on their behalf are undertaken in order to right wrongs.

29. On page 7, as far as the church autonomy doctrine is concerned, the following serves to explain and further detail my claims. Grand jury report after grand jury report (which the Court may take judicial note of) has concluded that the church is incapable of governing itself in matters of clergy sexual abuse. The John Jay Report, commissioned by the Church, also indicated such, and the Court may take judicial notice of these documents and the mea culpas of Church leaders over the past 4-5 years. Besides, the primary issue argued by the plaintiff is not a matter of faith, doctrine, church governance or policy; it is a free speech and civil rights matter with whistle-blowing and retaliatory implications, and a violation of my civil and first amendment rights, as well as a hostile work environment and sexual discrimination.

30. On page 7, with regard to Gonzalez and "purely" ecclesiastical decisions, the following serves to explain and further detail my claims. It is clear that ecclesiastical matters are not part of this lawsuit. I have never challenged church teachings or doctrine. Rather, I argue that personnel, employment, retaliatory, and abuse matters are relevant. I have specifically stated that my suit does not involve church matters or church teachings, and there is not admissible evidence to the contrary.

31. On page 8, with regard to Gonzalez and the church's right to judge the qualifications for a position in the church, the following serves to explain and further detail my claims. I have already been found to be highly qualified for my priestly position and all functions relative thereto. Otherwise, I would not have been ordained. My qualifications were already judged and found worthy of employment, even though I have also alleged discrimination and retaliation. I have bachelors, masters, and doctoral degrees, and the doctoral degree had a concentration in leadership.

32. On page 8, with regard to the church's "selection of its own clergy," the following serves to explain and further detail my claims. This case does not argue about the selection of clergy. This is a red herring offered by the defendants to support their motion. We are arguing treatment of an employee already hired and qualified, and then unequal treatment, retaliation, and violation of my civil and constitutional rights. This is a failed attempt to argue facts that are not true, so as to fit into conduct which may not be infringed upon by the Court.

33. On page 8, with regard to a church's right to "decide appropriate assignments," the following serves to explain and further detail my claims. The plaintiff has not refused an assignment or questioned the decision surrounding an assignment. Archbishop Myers refused the plaintiff employment for four months in 2003 when he was supposed to be reassigned after a vacation.

34. On page 9, with regard to the defendants' claim that the Supreme Court protects the church from interference regarding the decisions of the highest judicatories of a religious organization on matters of discipline, and faith, the following serves to explain and further detail my claims. The Supreme Court does not prevent interference in matters regarding whistle-blowing, employment retaliation, civil rights, and constitutional violations. The Courts have repeatedly protected individual rights over the ability to harass, retaliate against, and violate the civil rights of individuals.

35. On page 9, with regard to "breach of fiduciary duty," the following serves to explain and further detail my claims. The Archbishop of Newark has denied me employment opportunities by placing me

on administrative leave and withdrawing my faculties to function as a priest for no articulated legitimate reason. My earning power has been cut substantially by not being able to say weekend Masses and collect fees for baptisms, weddings, etc. This damage to my property or business goes directly to my claim of damages in the RICO claim.

36. On page 10, with regard to a hostile work environment in the Archdiocese of Newark, the following serves to explain and further detail my claims. My response is that I have been in a hostile work environment for a long period of time and it has gotten much worse in the last three years as result of my legitimate "whistle-blowing." A chronology of some of these specific events follows:

- A. From 1996-1997, I was assigned as a deacon to St. Margaret's Parish, Little Ferry, NJ. The very first words out of the mouth of the pastor when I arrived were, "What are you doing here...I need a priest, not a deacon." I became anxious and depressed as a result of his workplace abuse.
- B. From 1997-1998, I was assigned to St. Andrew's Parish, Bayonne, my first priestly assignment. The pastor continually disparaged a family that had been sexually abused by a St. Andrew's priest and offered no help to them. Pastor also led the FARTS (Fraternal Association of Rectory Trouble Shooters), a male society that met in the rectory to smoke cigars and get drunk. Fr. Kenneth Martin abused at least two boys in the parish and was never disciplined. These were crimes that were known about by the defendants, and they concealed them and failed to report same to law enforcement, despite having a duty to do so.
- C. From 1998-2001, I was assigned to Holy Trinity Parish and School, Hackensack, New Jersey. I replaced a sexual abuser but was never made aware of it until parishioners informed me of such. The pastor, an auxiliary bishop, worked with another auxiliary bishop to conceal the abuse of the priest I replaced, and the pastor did not wish the accused priest to be transferred. The pastor of Holy Trinity continues his retaliation by ordering that I not be paid for weddings, funerals, and baptisms when I act in the role of visiting priest. Instead, the priests who are assigned to the parish share in what is owed to me.
- D. The pastor screamed at and harassed me. He promised to hire a youth minister to "lessen my workload." When I reminded him of such at a staff meeting of clergy, he responded, "You are the youth minister, and if you don't like it, go down to the Archbishop and get a transfer." I went and asked for a transfer. The pastor intended to make my life a living hell while assigning church payroll funds and bonuses to others who were his "gay" favorites and informants.
- E. When I challenged a scout master to return thousands of dollars belonging to the troop (which would have been stolen property had I not challenged him), the pastor told me that I had treated him badly. When I fired a convicted felon who worked in our school aftercare program with small children as soon as I learned about her past, the pastor criticized me for mistreating a faithful parishioner.
- F. This discriminatory conduct was due to my heterosexuality and my complaints about the sexual abuse of children.
- G. From 2001-2002, I resided in the rectory of Our Lady of Lourdes Parish, West Orange, New Jersey. I was forced to live with a sexual abuser which was done as a retaliatory action. When I reported the presence of the abuser in my rectory, I was told to move out. As soon as I was informed of his being moved in, I became very sick with acute gastritis and needed emergency treatment. I was very nervous about having to live with an abuser, since I had previously been sexually abused and worked with survivors and children. I was fearful of the pedophile's presence and could not rest knowing that he was not being held accountable.
- H. For part of 2002, I resided in the rectory of St. Mary's Parish, Closter, New Jersey. Three nuns in the parish asked me for help regarding an abusive superior. When the pastor found out I was speaking to the nuns, he began harassing me, forcing me to flee the rectory for my safety and well-being. Not only did the pastor harass me for helping abused nuns, he also harassed me because I am heterosexual and he was a promiscuous gay man. The pastor refused to pay me my salary for my final week in the parish and I have yet to be paid for my services.
- I. From December, 2002 to May, 2003, I resided in the rectory of Our Lady of Good Counsel

Parish in Newark, New Jersey. I was also director of schools in that parish, and, throughout my time there, I was harassed by archdiocesan personnel on a regular basis and retaliated against when I reported it. Persons in the chancery were receiving illegal kickbacks from companies involved in a school construction project that I was asked to supervise.

- J. The defendants have not rebutted these claims, and as such my claim of discrimination based on sexual orientation is at issue.

37. On page 11, Count One — with regard to employee/employer relationship, the following serves to explain and further detail my claims. My response is that a catholic diocesan priest is employed by his diocese. I pay taxes and must support myself on my salary and benefits. For a time, I was also employed by Catholic Charities, a Catholic Church agency that accepts state and federal funds, which may make a difference in some of my claims. My employer was also Catholic Charities of the Archdiocese from 2004 to 2005.

38. On page 12, Count One — with regard to the assertion by the defendants that the relationship between a priest and his church is governed by Canon Law, the following serves to explain and further detail my claims. Canon law does not preclude or supersede civil law. A bishop may not treat a priest as he wishes simply because he can. A bishop is bound by the civil laws of the country relating to hiring, firing, promoting, and assigning. I was not asked to surrender my civil rights when I was ordained, or else I would never have agreed to be ordained. The defendants' argument can be demonstrated as false by the following hypotheticals. If a priest commits a crime, a church may not interfere to avoid prosecution. If a priest commits a tort while driving his car in a funeral procession, the church cannot use the first amendment to avoid a civil suit.

39. On page 12, Count One — with regard to the four conditions under which a prima facie cause of action may proceed, the following serves to explain and further detail my claims. As for condition number one, the Archdiocese of Newark created, supported, and abetted illegal, unjust, and unhealthy actions toward me under which I was forced to serve in assignment after assignment, and repeated attempts to report such activities were spurned and ignored by officials. I was ultimately retaliated against for reporting illegal and criminal behavior.

40. In Hackensack (Holy Trinity), I spent thousands of dollars on meals because I could not dine in the parish rectory because of verbal and workplace abuse by the pastor, and because:

- A. he consistently demeaned and badgered me;
- B. he refused to decrease my workload after promising to do so;
- C. he consistently protected gay men who were acting out in non-celibate ways. The pastor was chairperson of the Archdiocesan board that reviewed allegations of clergy sexual abuse from 1993 to 2000 and harbored guilty priests. Since I am and was heterosexual, he demeaned me;
- D. he protected a gay custodian who became his informant. He increased his salary substantially through the years.
- E. even though I was performing several tasks at once, I was denied just compensation.

41. In West Orange, New Jersey, I was living in a comfortable rectory (Our Lady of Lourdes) until the pastor (and the Archdiocese) allowed a self-admitted sexual abuser to move in. I objected to his moving in, but the pastor, his best friend, allowed it anyway. There was a school a few hundred feet from the rectory, and there was a regulation that abusers were not allowed to live on church properties. I ended up in a hospital emergency room with acute gastritis and was never comfortable living in that rectory again because of the constant fear I had for vulnerable children and myself. When I complained about the fact that an abuser was living in my rectory, the Archdiocese instructed me to move.

42. With regard to condition number two, I have been subjected to retaliation for trying to speak out for and to try to protect children and the vulnerable, and for speaking out about my abuse and the cover-up of same. The following serves to explain other examples and further details of my claims.

- A. When I blew the whistle on my sexual abusers with the co-defendant Archdiocese of New York, a clerical official (Director of Priest Personnel) phoned officials of the Newark Archdiocese on or about April 28, 2003, without my consent, and reported that I had been in to see him and that I had engaged in consensual sex with two men when I was a member of the Congregation of Christian Brothers. The Archdiocese of Newark reported to the media false information that I had engaged in consensual sex without ever speaking to me or conducting an investigation. These statements were false as I did not engage in consensual sex but was sexually assaulted.
- B. When I blew the whistle on the abusive "nun" superior in Closter, the Archdiocese refused to assist me, and the sisters' order told me to mind my own business.
- C. When I blew the whistle on the "moving in" of a sexually abusive priest into my rectory, I was told in May, 2003, to move and received no support from the Archdiocese. My trauma had been triggered by his presence, and I was further retaliated against and traumatized by the response of the Archdiocese: "Father Hoatson, you move out."
- D. When I began to blow the whistle in general on sexual abuse and, specifically, my own abuse, in the Archdiocese and greater Church, I received retaliation. I reported by e-mail the alleged arrest of a top Archdiocesan official for soliciting a male prostitute. My report was refused.
- E. In Hackensack, I blew the whistle on the scout leader who had stolen the parish troop's money (approximately \$7,000.00). When I held him accountable and took all necessary steps to retrieve the money, I was told by the pastor that I was an insensitive person and did not treat the scout master fairly.

43. With regard to conditions 3 & 4, "adverse employment action" and "causal connection," the following serves to explain and further detail my claims. In 1998, I was not assigned to any of the parishes I had requested. Instead, I was ordered to go to Hackensack (Holy Trinity), where I replaced a priest who had been accused of sexual abuse. I was being punished for asking for a transfer after my first year as a priest.

44. In 2003, I was fired from my ministry as Director of Schools for Our Lady of Good Counsel Parish in Newark three days after I testified before the New York State Legislature about my own abuse, the criminal cover-up of same, and called for the resignations of bishops who were complicit in the abuse of children. My request for due process was denied. My priest/successor as Director of Schools was removed four months after he was assigned to the position for inappropriately touching an eighth grade boy.

45. In 2003, I was not given employment for four months after I was granted a three-month vacation. I was fired in May, effective immediately, but then was told to conduct the graduation ceremonies for the two schools in June. I was given a three-month vacation (June, July, and August) but was never re-assigned in September, October, November, and December of 2003.

46. On November 18, 2005, I was issued a threatening letter by the Archbishop of Newark claiming I was not fulfilling my duties as a chaplain for Catholic Charities and that I had begun a business of my own. A warning is supposed to be issued only after extensive dialogue takes place with the persons involved. It was issued because of and after I had written extensively in the media about the case of Msgr. Peter Cheplic, who had abused many children, and spoken out strongly about the horrors of childhood sexual abuse.

47. On December 13, 2005, I filed a lawsuit against the Archdiocese of Newark. On December 20, 2005, I was placed on administrative leave with no faculties to function as a priest. This was done in further retaliation for my other legal and legitimate actions and because of the filing of a lawsuit. No other reason was given and no other reason existed.

48. In the early months of 2006, I wrote and requested payment of my continuing education expenses. I was told, at first that I would receive a check as I had in the past. Then, in retaliation for my outspokenness, I was told I would have to present receipts for such activities, a policy that I had never followed in my previous eight years as a priest. I have been denied

this stipend to the present day; in other words, blatant retaliation continues and is ongoing. The Vicar General admitted to me that the general policy used in the Archdiocese of Newark for payment for continuing education stipends is the one that I have been used to for eight years.

49. On page 13, with regard to "Myers' celibacy," the following serves to explain. If Archbishop Myers is acting out sexually, he violates no laws unless he is acting out with minors. However, he is a hypocrite if he expects others to live celibate lives while he acts out. I have independent evidence that he has acted out sexually with males; in particular, the plaintiff has evidence that Myers engaged in sex with a male vendor connected with the Diocese of Peoria, IL. The defendants have not denied these claims by way of affidavit or admissible evidence.

50. On page 13, with regard "to give written notice to his employer," the following serves to explain. On December 4, 2002, I wrote to the Vicar for Priests and asked him to help rectify my harassment/ retaliation. I also spoke to the Archbishop on January 14, 2003. The defendants repeatedly used the United States mail and the telephone lines to conspire with each other to retaliate against me.

51. On page 13, the defendants claim my case is "time-barred." My response is that the harassment and workplace abuse have been ongoing, up until December, 2005, and even beyond. (See also my affidavit in opposition to the motion for sanctions).

52. On page 15, with regards to "if the employee reports the alleged violation," the following serves to explain. My response is that I have consistently reported violations of laws and policies. I requested and was denied due process by Bishop Serratelli when I was fired.

53. On page 15, with regard to the conditions claiming infliction of emotional distress, the following serves to explain. Dr. William Richardson will testify to the effects of the emotional distress inflicted on me. I never received any negative job performance evaluations, but the defendants continued to harass and inflict distress on me, and they do not deny firing me as and for retaliation. I also refer the Court to the Affidavit of Fr. Kenneth Lasch and the plaintiff's memorandum of law.

54. On page 16, with regard to "the extreme degree of plaintiffs' conduct," the following serves to explain. My response is that the John Jay report, the grand jury reports and national studies of Philadelphia, Suffolk County, New York, Boston, and elsewhere concluded that diocesan leadership engaged in ongoing and outrageous behavior regarding the sexual abuse of minors. With respect to me, the defendants do not deny taking extreme and severe sanctions and firing me.

55. On page 16, with regard to the statement, "from his position as a director of a school to parish duties," the following serves to explain. These are not factual items. I was director of two schools, and I was not assigned to parish duties after I was fired.

56. On page 17, with regard to the assertion by defendants that I was a Christian Brother "all during the seventies," the following serves to clarify and further particularize my continuing claims. My response is that I was not a Christian Brother throughout the seventies. I left the Christian Brothers in 1972 because of sexual abuse by the novice master from 1971-1972.

57. On page 17, with regard to defendants' claim that sexual abuse was limited to my time as a Christian Brother, the following serves to explain. I reported an act of sexual abuse by a seminarian of Immaculate Conception Seminary in 2005 to the Archdiocese of Newark. I never got to explain my case, but the accused was allowed a hearing. The accused was instructed by Archdiocesan leadership to communicate with me without my consent or instruction. That was unjust, discriminatory, and retaliatory on a number of levels.

58. On page 17, with regard to a RICO claim, the following serves to explain. My response is that the New York Archdiocese, Albany Diocese, and Archdiocese of Newark engaged in repeated acts of communication, retaliation and a conspiracy between and among each other that were meant to silence me, discredit me, disparage my status as a victim of abuse, and retaliate against me. My anonymity was deliberately compromised by the Archdiocese of New York who phoned the Newark Archdiocese after I reported my abuse by New York Archdiocesan priest Fr. John P. O'Brien. The Archdiocese of Newark used the print media to

indicate that I was lying about my abuse even though no one from the Archdiocese spoke to me about it. The Albany Diocese reported my testimony in Albany, New York to my Archbishop in an attempt to punish or retaliate against me, and I was fired three days later because of the acts and phone call of the Albany Diocese.

59. All three (arch)dioceses traded, transferred, hid, and protected abusive priests, including priests and brothers who abused me, over a period of decades, and at various times in my career I tried to stop or complain about these incidents.

60. On page 23, with regard to the claim by the defendants that a charge of discrimination must be brought to the EEOC before a suit may be filed, the following serves to explain. My response is that the defendants are inconsistent in their arguments. First, they wish to deny the plaintiff's right to sue based on separation of church and state, and then they criticize the plaintiff for not following particular secular steps to receive justice. They can't have it both ways.

61. I have specifically set out a claim that I have been discriminated against because of my sexual orientation of being a heterosexual male in a profession dominated by homosexual men. I have made credible complaints substantiated by Fr. Kenneth Lasch that my career has suffered because I am not homosexual.

#### OPPOSITION TO MOTION OF NEW YORK ARCHDIOCESE

62. I add these responses in opposition to the motion to dismiss of the Archdiocese of New York. Due to the breadth and scope of the legal and factual claims made in the defendants' motion, I am compelled to respond, clarify, particularize, amplify and expand upon the facts, and set out errors and conclusions made by the defendants.

63. The defendants New York Archdiocese and Cardinal Edward Egan try to say that there is no basis for some claims under federal law and state causes of action in this lawsuit. However, they present no affidavits proving otherwise, and the Court is aware the federal claims allow pendant state law claims.

64. Under the section entitled "Preliminary Statement," the defendants claim that my lawsuit is, "at best, a wrongful termination claim that cannot apply to the New York Archdiocesan Defendants." My response is that the Archdiocese of New York participated with Archbishop John J. Myers and the Archdiocese of Newark, New Jersey, and Bishop Howard Hubbard and the Diocese of Albany, in retaliation against me for reporting my own abuse, testifying before the New York State Legislature, and speaking out about the criminal behavior of sexual abuse by priests and religious, and all three bishops who covered up, defended, and misled the public and me about sexual abuse by clergy of all three dioceses. When I reported my abuse to the Archdiocese of New York in 2003, it took weeks and follow-up phone calls and letters from me before I was granted a hearing. At the hearing in 2003, I was summarily dismissed as being a victim simply because I was an adult when my abuse took place.

65. I have alleged that I was sexually abused by a New York Archdiocesan priest, and that the defendant New York Archdiocese had notice and prior notice of same. The defendant New York Archdiocese made representations to me that my claims would be fairly and promptly investigated and I believed, to my detriment, these representations.

66. The defendant New York Archdiocese knows that one can be a victim of sexual abuse and sexual assault as an adult, as when a woman is raped. The defendant New York Archdiocese tried to question my credibility for making a claim against a New York Archdiocesan priest for a multitude of reasons. I was thereafter retaliated against by the New York and Newark Archdioceses for reporting a New York Archdiocesan priest for his crimes against me.

67. Under the section entitled "Argument," the defendants take issue with my RICO claim as not having a "road map." My response is that the defendants participated in more than one predicate act that qualifies under the RICO statute.

- A. Covering up of clergy sexual abuse by the Church and bishops, in particular, has been confirmed by the John Jay Report, commissioned by the Church itself, and numerous

grand jury reports from places such as Philadelphia, Suffolk County, New York, and Boston. The John Jay Report is particularly accusatory of Catholic bishops whose incompetence and complicity in not protecting children, teenagers, and vulnerable adults was a glaring finding. The former Chairperson of the United States Conference of Catholic Bishops' National Review Board, Governor Frank Keating, resigned from his position after referring to the bishops of the United States as the Mafia. Cardinal Edward Egan refused to welcome the review board when it met in New York in 2004.

- B. The sexual abuse and criminal acts perpetrated upon me were covered up, hidden and not referred to law enforcement in violation of law. Immediately after reporting this abuse, I was retaliated against by officials of all three (arch) dioceses. I was abused on many occasions including 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, and 1982, and these criminal acts and the cover-up of same after I reported this are predicate criminal acts.
- C. Another predicate act regarding my claims concerns the defendants' refusal to investigate my charges of abuse by a New York Archdiocesan priest, Rev. John P. O'Brien. The defendants refused to speak with health care professionals who treated me, and witnesses. They would have confirmed that, indeed, I was sexually assaulted. In addition, the defendants New York Archdiocese and Albany Diocese used the telephone lines and the United States mail to retaliate against my testimony and comments before the New York State Legislature and report without my permission or knowledge, my highly painful and personal story of sexual abuse. All three defendant (arch)dioceses used the print media to disparage and discount my claims, in order to discredit me as a way of retaliating against me for my work and statements in support of victims of abuse.
- D. Another act involves the homosexual acting out of Cardinal Edward Egan, Archbishop John Myers, and Bishop Howard Hubbard. For example, the plaintiff has independent evidence that Cardinal Egan had a homosexual affair with a major superior of a religious order. He has conspired with Archbishop Myers and Bishop Hubbard to protect the Church's credibility and assets, their own reputations and, consequently, sacrificed a heterosexual priest who has lived his promise of celibacy. They have waged a battle against the plaintiff who has spoken and fought for the truth for fear that their own sexual promiscuity would become public. Although private consensual homosexual activity is not criminal and not condemned by the plaintiff, the use of telephone lines and the mail to make false accusations against me due to my claims of criminal activity and the cover-up of same is an illegal and/or immoral act.

68. On page 3, the defendants claim that the facts as alleged in my amended complaint are to be deemed true. I agree with the defendants and the acceptance of the truth of my statements warrants the denial of these motions.

69. With regard to showing injury to business or property in a RICO claim, my response is as follows. I was fired from my ministry in 2003 shortly after I testified before the New York State Legislature and soon after I reported my own abuse by two different Christian Brothers. My earning power was seriously harmed as were my career and reputation. In addition, the ongoing harassment by the Archdioceses of Newark and New York and the Diocese of Albany restricted my ability to earn income. My career has been harmed and my income has been adversely affected.

70. As far as the personal injury to me is concerned, I was diagnosed in November of 2004 with a chronic, life-threatening disease called C1Q Nephropathy. It is an autoimmune kidney disease that is progressive. It is most often diagnosed in children and teenagers. It is rare in adults, and its cause is not specific, but overly-stressful lifestyles cannot be ruled out as a mitigating factor. Medical evidence, I believe, will link my illness as being caused by the hostility and retaliation that I have experienced.

71. On December 20, 2005, I was placed on involuntary administrative leave by defendant Myers and the Newark Archdiocese which stripped me of my priestly faculties and prevented me from necessary earnings. This action was taken in abject retaliation for my filing of a lawsuit on December 13, 2005. I believe the other defendants joined and participated in this action. This further damaged my career and adversely affected my income and ability to earn a living.

Since I am only trained to work as a priest, there are few if any other fields or jobs for which I am trained or qualified. The defendants have not and cannot explain to this Court or anyone that there exists a legitimate reason or rationale for placing me on leave other than for my actions in speaking out about my abuse and the abuse of other victims.

72. With regard to mail and wire fraud, my response follows. As soon as I reported my abuse by Fr. O'Brien to the Archdiocese of New York in 2003, officials of the Archdiocese used the wires to contact Archbishop Myers of Newark and inform him of my report. As a result, the Archdiocese of Newark reported my confidential and personal sexual abuse history to the New Jersey media where it was printed in the most widely read newspaper in the State. The wires were used by the Archdiocese of New York to add to and enhance the harassment of me for speaking out against abuse of children, teenagers, and vulnerable adults. It is clear that the Archdioceses of New York and Newark were attempting to silence me from my first amendment rights and to further retaliate against me for speaking out on the safety of children.

73. The defendants used the mail to repeatedly send out press releases and letters to discredit me and try to portray me as lacking in credibility. On June 3, 2003, the Newark Archdiocesan newspaper featured an article that disparaged my character. It contained numerous factual fabrications. I was prevented from issuing a rebuttal of such by the Archbishop of Newark who controls the Archdiocesan press. Immediately after my suit was served, the defendant Newark Archdiocese sent out over the wires a false, defamatory, and mean-spirited lengthy press release designed to humiliate and disparage me.

74. On page 1, the defendants Archdiocese of New York claim that I simply lost my job, not that I was deprived of money or property. It is clear that the defendants intended to cause me harm. My loss of job was embarrassing, humiliating, unjust, and damaging to my business career and income. It seriously harmed my ability to advance my career as a priest and pastor, or in any subsequent field or endeavor which I may have to move into, and cost me substantial income.

75. On page 15, the defendants Archdiocese of New York claim that "a Plaintiff in a RICO action must allege either an 'open-ended' pattern of racketeering activity...or a 'closed-ended' pattern of racketeering activity." In 1961, the Vatican issued a document entitled "Crimen Solicitationes" which ordered bishops to keep secreted documents and information relating to the sexual abuse of minors. The Church has had a long-standing regulation that crimes are not to be reported or adjudicated so as not to cause the church public scandal. My attempts to report my own abuse and abuse of children, teenagers, and vulnerable adults were thwarted by a culture of secrecy, cover-up, and lying. My attempts to report the criminal sexual abuse perpetrated upon me were made in the following years (or decades): in or about 1982, I told the Deputy Provincial of the Christian Brothers based in New Rochelle, New York, that I had been sexually abused by Br. John P. O'Brien.

76. On page 16, the defendants Archdiocese of New York claim that the plaintiff "delivered his speech in opposition to Church policy in Albany." The plaintiff did not oppose Church policy and did not deliver a speech. The plaintiff was invited to offer testimony before the Senate of New York State, and he did so. In his testimony, he supported the protection of children, teenagers, and vulnerable adults from abusive clergymen and complicit bishops.

77. On page 18, the defendants Archdiocese of New York claim that the Newark Archdiocese has the right to fire plaintiff for any reason. The plaintiff claims that his rights to due process were denied by the Newark Archdiocese and that he does not surrender civil or constitutional rights by virtue of his being a priest. The termination was illegal and in violation of Title VII of the Civil Rights Laws and illegal retaliatory discharge. I was repeatedly discriminated against due to my sexual orientation. I have also set out a hostile work environment, and the Courts have allowed priests to file and proceed with these cases,

#### OPPOSITION TO MOTION TO DISMISS OF DIOCESE OF ALBANY

78. The motion by the Albany Diocese begins with a series of personal attacks against me and my attorney, none of which has anything to do with legal argument or the facts of the case at hand. The defendants also attached a number of irrelevant and prejudicial pages and materials that violate the orders of the Court relative to exhibits and relevancy in a motion to dismiss. In

addition, many of the responses to the Albany motion are contained in previous paragraphs.

79. On page 3, the defendant Albany Diocese claims that our arguments must be "simple, concise, and direct." My simple, concise, and direct pleading is amplified by the following:

- A. On May 20, 2003, I was invited to offer testimony about clergy sexual abuse before the New York State Senate which is located in Albany, New York. My reason for testifying was to promote legislation and speak on my abuse and the abuse of children with the hope that it would provide protection for children, teenagers, and vulnerable adults from sexual predators.
- B. Within minutes of my testimony, officials of the Albany Diocese used the telephone wires to complain about the testimony and to contact my employee, Newark Archdiocese, to begin this phase of retaliation against me.
- C. On May 21, 2003, I received a telephone call from the secretary to the Vicar General summoning me to a meeting on Friday, May 23, 2003.
- D. On May 23, 2003, Bishop Arthur Serratelli, Vicar General, representing Archbishop John J. Myers, told me that my testimony before the New York State Legislature was reported to the Newark Archdiocese by officials of the Albany Diocese and that my language was deemed inflammatory. He then slid a letter of termination across the table and told me I was fired as Director of Schools of Our Lady of Good Counsel Parish, effective immediately.

Bishop Serratelli then reminded me that "not all Bishops are bad," and other comments intended to intimidate me, which I considered a threat and retaliatory. Serratelli was warning me not to impugn or accuse bishops of hypocritical sexual behavior but rather to keep my mouth shut. The only matter Serratelli referred to during the meeting was my testimony in Albany, New York. My work at Good Counsel Schools was never referenced, and I was terminated only because of my testimony and the complaint of the Albany Diocese.

80. I have independent evidence that Bishop Howard Hubbard, Bishop of the Albany, New York, diocese, has participated in ongoing homosexual behavior, and three different men have memorialized their sexual acting with Bishop Hubbard in statements and on videotape. Hubbard joins defendants Egan and Myers in espousing a policy of celibacy but hypocritically living his own gay lifestyle. I have set that out to further explain why these persons are unable to properly police their own employees, and why there still are ongoing efforts to keep quiet a person like me.

81. It is clear that the defendant Albany Diocese prevented me from being a "whistleblower," one of the bases for my testimony before the New York Senate.

82. Cardinal Edward Egan is the metropolitan bishop of New York State. As such, he is Bishop Howard Hubbard's superior. Defendants Egan and Hubbard participated together in retaliating against the plaintiff by providing information to Archbishop John Myers about the testimony of one of his priests. Myers used that information to fire the plaintiff from his job without any reason or explanation other than my truthful testimony to the New York State Senate.

83. This is an essential component of my claim. If persons such as me are not allowed to testify to a legislative body empowered to make laws without protection, then our judicial system will have failed to protect free speech.

#### OPPOSITION TO MOTION TO DISMISS OF CHRISTIAN BROTHERS

84. An unfavorable ruling in *Zumpano v. Quinn* does not preclude the plaintiff from suing for damages, as alleged by the defendant Christian Brothers. There are clauses in the ruling that allow cases to move forward, especially those that concern the timely reporting of abuse to authorities or leaders. In the early 1980's, the plaintiff reported his abuse to a leader of the Brothers while it was going on. The Court is respectfully requested to refer to my second affidavit, which speaks more specifically to the defendant Christian Brothers' motion for sanctions.

85. On page 3, the defendant Christian Brothers argues that the plaintiff has no course of action under the "Conscientious Employee Protection Act." From the time I was accepted into the Congregation of Christian Brothers in 1970 as a teenager, I was exposed to a culture of sexual promiscuity and homosexual acting out. Br. Paul K. Hennessy, superior of the first community to which I was assigned, targeted me for sexual grooming, and abuse. I had just graduated from my high school class of nearly 600 male students and received the "foremost senior" award, the most prestigious commencement award. I was an above-average student with extensive involvement in school life.

86. In 1969, I was entering senior year of high school. A Christian Brother, Salvatore Anthony Ferro, told me that he was transferring me into his senior year honor's English class because I was smart. I protested his action, telling him that I was satisfied being in regular college preparatory classes. I was transferred into Br. Ferro's class against my will, and he began grooming me for sex. He took me to Broadway shows, movies, dinners, and other events that brought me closer to him.

87. Ferro's best friend, Br. Jerome Heustis, had already sexually abused my first cousin, James Craig Hoatson, in 1964-5. In 1978, James Hoatson shot himself in the head and died as a result of the sexual abuse of Br. Heustis. Ferro targeted me partly because my cousin had been abused, and because the "pedophiles" Ferro and Heustis had targeted the Hoatson family for a variety of reasons.

88. When I entered the Congregation of Christian Brothers two months after graduating from high school, Br. Hennessy acted as if he knew me well, telling me that I was a "cold person" and needed to be warmed up. Hennessy told me that he would be the one to warm me up. This grooming exercise continued the entire year.

89. Because I was trained to respect authority and "do what they say," I embarked on a serious and lengthy period of intense introspection, trying to comprehend and understand what Hennessy meant and wanted. This caused me emotional distress and harm, and I suffered from guilt and shame from not being "adequate" for the religious life. Hennessy's pattern of reminding me of my inadequacies was an act of grooming, and it was unjust, manipulative, and designed to sexually abuse me.

90. I left my supportive and nurturing home as a teenager to pursue what I considered to be a dream of a lifetime; namely, to be in the service of the Church. What I found in religious life was anything but religious, beginning with Br. Paul Hennessy's grooming, alcoholism, psychological manipulation, and pursuit of good-looking young men for sexual purposes. I never received the fiduciary care that I sought and relied on as a new member of the Christian Brothers.

91. Toward the end of that first year, 1970-71, Br. Hennessy told me that I "barely" passed the evaluation to enter the next stage of formation because I did not become warm enough. His pursuit of me was relentless.

92. It was widely known and discussed that Br. Hennessy pursued and "conquered" certain young brothers for sex. In fact, among the two hundred fifty members of the Eastern American Province, certain young brothers were known as the "Hennessy boys." Not one province leader did anything about his behavior, even though it was well known and created significant divisiveness throughout the Order.

93. When I was passed on to the novitiate, my new superior, Br. Joseph Mark Clark, continued grooming and sexually abusing me. I was given the keys to the tractor and jeep, signs that I was "favored" by Br. Clark. At the end of each monthly conference with Clark, I would stand to leave, at which point Br. Clark would place me in a bear hug, hug me "extra tightly," and rub his face up and down my face. Clark was clearly getting sexually stimulated by the act. I froze in place and anxiously awaited his release. It was during this year that I suffered my first serious anxiety attack and ongoing attacks of gastrointestinal discomfort. Br. Clark was also an alcoholic whose behavior was erratic and unpredictable, which added to my terror. I left the novitiate on February 29, 1972, because of Clark's behavior and went home to New Jersey. There is no question that I left because of Clark's sexual abuse, alcoholism, and emotional and

psychological manipulation.

94. Br. Brian Reilly, who was two years ahead of me in the novitiate, was exposed to similar sexual abuse by Clark, culminating in Reilly's suicide a few years after leaving the brothers. I have received information from a very reliable source that Brian Reilly was abused by Clark.

95. In 1974, Br. Laurence Boschetto commenced his sexual abuse of me. Boschetto was a good friend of Br. Paul Hennessy and intimated that he and Hennessy were sexually involved. The abuse began at the New Jersey shore when Boschetto assaulted the near-naked body of the plaintiff as he attempted to fall asleep. The plaintiff froze in place and was paralyzed with fear.

96. Boschetto told me that he had been sexually abused by Br. John Mark Egan, a psychologist by profession and professor of psychology at Iona College and St. Joseph's Seminary, the seminary of the Archdiocese of New York. Boschetto offered me illegal drugs during the time of the abuse which I refused.

97. In 1979, I made the decision to end the abuse by Boschetto when my emotional, psychological, and bodily health deteriorated severely. I sought out what I thought was a trusted friend and superior, Br. John P. O'Brien. I reported to O'Brien my entire story of abuse by Laurence Boschetto. He agreed that what I described to him was abuse and that I was not complicit in any way with it. Later that day, my parents invited O'Brien to spend the night in their West Orange, New Jersey home. O'Brien and I were in adjacent rooms for sleeping purposes, when, during the night, as I slept, I felt someone crawling into my bed. It was O'Brien. Once again, I froze in place and was consumed with terror. O'Brien removed my undergarments and began abusing me in the same manner as Boschetto. This was not consensual sexual activity as the defendant Newark Archdiocese has publicly stated, contrary to my privacy and confidentiality.

98. The abuse by John O'Brien lasted for nearly two years. In 1982, when I was stationed in Boston, I experienced overwhelming anxiety, depression, and gastrointestinal discomfort. I was not able to function normally. When I traveled to New Jersey for spring holidays, my family was so concerned, they were about to have me committed to a psychiatric clinic. Instead, Br. O'Brien accompanied me back to Boston where he abused me for the final time.

99. Later that summer, my guilt and shame became too overpowering, and I sought the assistance of the leadership of the Christian Brothers. I met with Br. Robert Mc Dermott, Deputy Provincial, and told him about the O'Brien abuse. I pleaded for help. Mc Dermott told me to get into therapy because I was accused of being troubled. Mc Dermott never followed through on any report, and thus there was no discipline or findings made. The discussion took place in the Provincial headquarters in New Rochelle, New York.

100. In the midst of extreme turmoil, I made the decision in 1982 never to have anything to do with Br. John O'Brien. However, the damages I sustained from the sexual grooming and abuse of Brothers Paul Hennessy, Joseph Clark, Laurence Boschetto, and John O'Brien were life-long and life threatening. For a significant time of my life, I contemplated suicide and suffered from severe bouts of depression, anxiety, and panic. The defendant Christian Brothers' concealing of these crimes and sexual abuse continued and were repeated on occasions where I would question if these men were harming others.

101. The defendant Christian Brothers retaliated against me during my nearly twenty-five years in the Order because I was a heterosexual male who attempted to stave off repeated acts of homosexual grooming and acting out, spoke out about it, reported it, and condemned it. For example:

- A. From the time I entered the Christian Brothers, I was groomed, "hit on," and sexually assaulted. When I refused to participate in first superior Br. Paul Hennessy's sexual overtures, I was criticized, maligned, threatened with expulsion, and blackballed. Hennessy continued his behavior toward me throughout most of my time in the Christian Brother when he served in a number of leadership positions.
- B. When I was being sexually assaulted by Br. Joseph Clark, there was no one to come to

- my rescue since all the staff members were alcoholics and covered-up his and their behavior. It was well-known that Clark was a predator of young, good-looking brothers and he used a ritual (the passing on of the keys to the jeep and the tractor) as a way of grooming his victims. I had only one option to get away from the abuse, so I left the Order in the middle of my novitiate year.
- C. During the novitiate year of 1973-74, novice Br. Laurence Boschetto used illegal drugs and offered me the same. I refused.
- D. Br. Paul Hennessy held power positions in the Christian Brothers during most of the years I spent in the Order. Because I refused his grooming and sexual advances, I was refused positions of pastoral and educational leadership. In fact, I was forced to seek employment outside the order. Hennessy prevented me from professional and personal advancement in the order because I refused to engage in sex with him. This discrimination based on sexual orientation continued until I left the order in approximately 1996.
- E. When I was stationed at Blessed Sacrament High School in New Rochelle, New York, I spoke out about the superior and principal who was abusing young, good-looking males in the parish and school (this man was later arrested for abuse). I feared for the students, and complained constantly about the predator. Br. Paul Hennessy, who was a member of the leadership council of the Christian Brothers, threatened me with a transfer and harm to my career if I did not stop complaining. I did not cease and desist, so I was transferred as an act of retaliation. Pursuant to the Zumpano decision, I was prevented from going forward or public with these complaints.
- F. When I finished my doctoral studies in educational administration and leadership in 1987-88, I was asked by a member of the leadership council, Br. John W. Casey, what I wanted to do with my degree. I responded, "I want to be a secondary school principal." The leader, who is gay, responded, "As long as I am on the council, you will never be a secondary school principal." I was denied employment as a principal because I am heterosexual and in retaliation for reporting sexual abusers.
- G. I was forced to seek employment outside the confines of the Christian Brothers in order to utilize my talents as an educational leader and religious brother. In one case, I was one of thirty candidates for a high school principalship in Yonkers, New York, and was hired. In another case, I was hired to be an Assistant Dean in the School of Education of the largest Catholic university in the country. However, I was denied similar positions in the Christian Brothers because I refused the sexual advances of Br. Hennessy and spoke out about sexual abuse in general.
- H. In 1975, Br. Paul Hennessy had me transferred to New Rochelle, New York, from New York City, so I could be closer to him. On the day I moved to New Rochelle, Hennessy phoned to invite me to the seminary to play handball, use the steam room, and go out to dinner. I refused the offer, and Hennessy accelerated his discrimination, retaliation and hostility. One of my Christian Brother colleagues commented to me in the early 1980's: "Had you said yes to Hennessy, you would have gone far in the brothers. But you said no."
- I. In or about 1988, Rice High School in Harlem, New York City, had a vacancy for principal. By that time, I had completed a doctoral degree, founded a national organization of urban educators that was recognized by national educational associations, and became a national spokesperson for inner-city schools. Instead of offering the principalship of Rice High School to me, Br. Hennessy, who had become Provincial of the Christian Brothers, offered the position to Br. Robert Mc Dermott, the same person who refused to help me with my abuse. At the time, Mc Dermott was dating a nun and was seriously confused about his vocation.
- J. In or about 1986, the headmaster of Catholic Memorial High School, Boston, was finishing his term of office. He recommended to the leadership of the Christian Brothers that I be appointed to take his place. I was refused the position for no other reason than retaliation because of my protests of homosexual acting out. Br. Hennessy was

Provincial at the time.

#### SUMMARY OF OPPOSITION TO MOTIONS TO DISMISS

102. The defendants committed fraud on me on several occasions. When I approached the New York Archdiocese in 2003, to report being sexually molested and the victim of a crime committed by Fr. John O'Brien, I was promised the matter would be handled properly and swiftly. I relied on this promise to my detriment, and I tried to let Fr. O'Brien's employer handle these serious accusations. I went to the New York Archdiocese without a lawyer, in good faith, and I revealed personal and confidential matters that were not kept confidential and ultimately used against me.

103. The Archdiocese of New York engaged in fraud when they made their promise to thoroughly investigate my case, and then utilized confidential information in my personnel file and in my background from my time as a Christian Brother and a Newark Archdiocesan priest to try to discredit me.

104. The defendant New York Archdiocese acted in the interest of protecting now Fr. O'Brien despite mine and other credible complaints of sexual abuse against him. Rather than pull from ministry a dangerous sexual predator whom I have not seen in fifteen years, and have no axe to grind against, the New York Archdiocese instead chose to continue the Newark and Albany Dioceses' practice of trying to discredit me or call me a liar, in order to protect the Church, its assets and one of its dangerous priests.

105. It is not a stretch for the court to see that the defendants all conspired with and between each other because they have a fear that an ordained priest who speaks out against abuse and about his own abusive past presents some type of public relations or some other type of problem.

106. In the past three years, I have been repeatedly threatened and extorted by my employer and officials in the Church. Some examples include, but are not limited to,

- A. being issued written official warning after official warning by the Archbishop of Newark, John J. Myers, to shut up about the cover-up of clergy sexual abuse or be disciplined;
- B. being fired from my job as Director of Schools at Our Lady of Good Counsel Parish in Newark, New Jersey, for testifying before the New York State Senate about my own sexual abuse and the protection of children, teenagers, and vulnerable adults.
- C. being made to live in a rectory with a self-admitted sexual abuser, Msgr. Peter Cheplic, and being told to move out when I complained about it.
- D. being placed on administrative leave by Archbishop John J. Myers with no faculties to function in my priesthood because I filed a lawsuit against the Archdiocese of Newark, and being told that I would not be able to function as a priest again until my lawsuit is settled. I took this as a threat to drop my lawsuit and resume my priesthood or continue to live in exile.

107. These threats rise to the level of being extortionist because of my being threatened to quiet my rhetoric or else I would experience adverse employment repercussions, which I have experienced.

108. I have made a claim that because of my heterosexuality and being a whistle blower, I have been discriminated against, harassed, retaliated against, and my civil and other rights have been violated. I am not and have never expressed animosity or negative beliefs about homosexuality; however, I have credibly alleged that in my experiences of nearly 25 years in the Christian Brothers and the Newark Archdiocese, there are far more homosexual than heterosexual men. Because the hierarchy and the positions of authority and power are dominated by homosexual men, I have personally witnessed and experienced discrimination due to my being heterosexual.

109. I believe that the Court need not rule on issues involving homosexuality of the defendants. I have claimed that a majority of present bishops are homosexual. The defendants have not denied this. Major Church agents/agencies have agreed with this position and it helps explain my claim of sexual discrimination, retaliation, a hostile work environment, and a violation of my civil rights.

110. Ordinarily, a claim for discrimination based on sexual preferences would be made by a homosexual who alleged discrimination, but in my profession active homosexuality far outweighs heterosexuality. Heterosexuality in the Christian Brothers and Newark Archdiocese is not only in the minority based on my experiences, but the retaliation and discrimination I have described above has been repeated due to my sexual preferences being outside the norm in the field in which I have worked.

111. I have specifically alleged that despite my qualifications and extraordinary record, other men less qualified have advanced due to their sexual preferences and often because of their sexual involvement with a person in a position of authority. One recent and specific example is that of a Christian Brother who obtained or received a job as Headmaster of Catholic Memorial High School in Boston because he was sexually involved with the Provincial of the Order.

112. I have also alleged that I have experienced retaliation for speaking out in general about sexual abuse, and none of my statements have been contrary to Church teachings.

113. I have alleged that the retaliation has been severe, and it has resulted in two specific terminations and a multitude of other adverse employment actions.

114. There has existed at both the Christian Brothers and the Newark Archdiocese an unwritten policy that an active homosexual priest or brother would and does advance, or obtain preferred assignments due to his sexual orientation and/or sexual involvement with a person in a position of authority.

115. I have suffered repeated adverse employment actions for discriminatory and retaliatory reasons. The defendants have not and cannot articulate to the contrary.

116. The defendants have made false claims against me, such as claiming I am a malingerer and not a hard working person. The defendant Newark Archdiocese also stated that I was deficient as a director of schools and chaplain of Catholic Charities, even though they presented no evidence of such.

117. In paragraph 68 of my amended complaint, I set out specifically:

"The plaintiff does not concede nor argue that Church teachings or canon law is applicable or controlling to the claims in this suit."

118. In fact, the defendants have not cited any canon law that would support their arguments that Church law is or would be infringed upon or even affected if the Courts were to pass judgment on the alleged firing, retaliation, discrimination, and or harassment claims I have made.

119. The defendants also point to no case law directly on point which states a diocese or Church has exclusive control over punishing or disciplining a priest.

120. My claim for infliction of emotional distress is also valid and properly pled. Assuming the truth of the facts that I have set out, what can be more outrageous and shocking to the consciences of reasonable persons than the actions that have been conducted upon me?

#### CHRONOLOGY OF MAJOR POINTS OF THE CASE

121. I provide a further chronology of events and incidents that speak to my case of

abuse, retaliation, and discrimination:

- A. Between 1963 and 1967, my first cousin, James C. Hoatson, was sexually abused by Christian Brother Jerry Heustis, at Essex Catholic High School, Newark, New Jersey.
- B. In the summer of 1969, when I was 17 years of age, I was moved against my will into the English class of a serial sexual abuser, Christian Brother Anthony Ferro, at Essex Catholic High School, Newark, New Jersey. He began grooming me for sex at that time.
- C. In September of 1970, I entered the Congregation of Christian Brothers and began to be sexually groomed by my superior, Br. Paul Hennessy.
- D. In August, 1971, I entered the novitiate of the Christian Brothers where my novice master, Br. Joseph M. Clark, sexually abused me. I began speaking out about my concerns of homosexuality within the brothers at this time.
- E. In August, 1974, Br. Laurence Boschetto began sexually abusing me at the New Jersey shore.
- F. In the spring of 1976, Br. Paul Hennessy had me transferred to New Rochelle, New York, to be near him so he could have the opportunity to and commence sexual abuse. It was well known at this time that Br. Hennessy was a sexual abuser of young brothers. It was at this time that retaliation and discrimination began against me for speaking out about crimes of abuse and homosexual acting out in the Christian Brothers.
- G. In October, 1978, James C. Hoatson, sexual abuse victim of a Christian Brother, shot himself to death leaving a wife and two sons.
- H. In August, 1979, I reported my past sexual abuse to Br. John O'Brien who began sexually abusing me.
  - I. In or about the summer of 1982, I reported my sexual abuse by Br. O'Brien to the Christian Brothers' Deputy Provincial, Br. Robert Mc Govern. He did nothing about it.
- J. In 1983, I began consistent psychotherapy to recover from ongoing sexual abuse.
- K. In 1995, a seminarian from the Newark Archdiocese told me that in order to be his friend, I would have to be his bitch, and the sexual abuse continued.
- L. In January, 2002, the clergy sexual abuse crisis in Boston exploded. I began working with survivors of abuse and further retaliation against me began by Church authorities.
- M. In March, 2002, the Archdiocese of Newark allowed a priest-pedophile to reside in my rectory against my wishes. It placed my safety at risk. I was forced to live with a criminal.
- N. In June, 2002, I moved into a rectory in Closter, New Jersey. Three nuns asked me to help rescue them with an abusive superior.
- O. In November, 2002, I wrote to the Archbishop of Newark to ask for a transfer since my work at Good Counsel Schools was completed. He never responded.
- P. In early December, 2002, I fled the rectory in Closter, New Jersey, out of fear for my safety.
- Q. On December 18, 2002, I phoned the office of the Archbishop of Newark because he never responded to my request for a transfer by January 1, 2003. I

received an appointment date of January 14, 2003.

- R. On January 14, 2003, at a meeting with the Archbishop of Newark, I reported about my having to live with an abuser (the Archbishop refused to act on my complaint), and my workplace abuse in Hackensack and Closter. He refused to act on any of my reports. In addition, he instructed me to remain at Good Counsel Schools until June, 2003 as Director. I agreed to do so.
- S. In February, 2003, I formally requested the Archbishop of Newark to investigate allegations of workplace abuse against Bishop Charles Mc Donnell and Rev. James Mc Kenna.
- T. On April 9, 2003, I reported my history of abuse in the Christian Brothers to its Provincial Superior, Br. Brian M. Walsh. He apologized for the abuse and asked me to speak to the attorney for the Christian Brothers. I spoke to an attorney named Anthony Dougherty, who is now the attorney for the Christian Brothers.
- U. On April 28, 2003, I reported my abuse by Rev. John O'Brien to officials of the Archdiocese of New York. Shortly thereafter, they used the phone wires to report my highly confidential and personal case to my superiors in the Archdiocese of Newark, New Jersey without my permission. They also used the phone wires to commence other retaliatory actions against me.
- V. On May 23, 2003, Archdiocese of Newark officials refused to act on my reports of workplace abuse that I had reported in February. There was no explanation and I was not interviewed.
- W. On May 29, 2003, I was ordered by the Vicar General of the Archdiocese of Newark to remain at Good Counsel Schools despite my termination being effective immediately (May 23). The letter ordered me to remain silent about my firing.
- X. On June 3, 2003, the Archdiocese of Newark used its newspaper to print scurrilous and untrue accusations against me, and then refused to allow me to write a rebuttal.
- Y. On January 1, 2004, I was appointed Chaplain of Catholic Charities of the Archdiocese of Newark with the agreement that I could continue working with survivors of clergy sexual abuse.
- Z. On April 21, 2004, the Archdiocese of Newark announces to its clergy that Pro-Bono attorney services would be provided any priest who is accused of a sexual abuse crime.
- AA. On July 20, 2004, the Archbishop of Newark wrote to me to tell me that he valued my work with clergy abuse survivors and that I would be able to continue my work as a member of the newly-formed Catholic Charities.
- AB. On February 19, 2005, I wrote to Archbishop Myers detailing the sexual abuse of a seminarian classmate, Rev. Marc Vicari.
- AC. On March 7, 2005, I received a letter from Rev. Marc Vicari ordering me to attend a meeting at the Chancery about my report of allegations of sexual abuse.
- AD. On March 15, 2005, I sent a letter to the Archbishop protesting the fact that my abuser, Fr. Vicari, was in contact with me against all norms of protocol. This was a violation of my privacy. I also protested that I was not offered a hearing while Fr. Vicari was.
- AE. On May 13, 2005, Archbishop Myers dropped the case against Fr. Marc Vicari without addressing my concerns and needs.

- AF. On September 9, 2005, I wrote to the Interim Director of Priest Personnel, Rev. Michael Andreano, asking for payment of my continuing education stipend.
- AG. On September 20, 2005, Rev. Michael Andreano responded to my September 9 letter by saying that he would facilitate my request from reimbursement in a timely fashion.
- AH. On October 4, 2005, I wrote to Fr. Andreano to remind him of my continuing education stipend. He responded by demanding receipts and refusing payment, in contradiction to prior policies I was aware of.
- AI. On November 18, 2005, I was issued a warning by Archbishop Myers to shape up or else.
- AJ. On December 13, 2005, I filed a lawsuit against a number of individuals and agencies.
- AK. On December 20, 2005, I was placed on involuntary administrative leave by Archbishop John Myers as retaliation against the filing of my lawsuit.

Sworn before me on the 15th of May, 2006

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REV. ROBERT M. HOATSON, PH.D.  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FR. ROBERT M. HOATSON,

Plaintiff, AFFIDAVIT

-against- CIVIL ACTION

No.: 05-CV-10467

NEW YORK ARCHDIOCESE, CARDINAL EDWARD EGAN, (Hon. Paul A. Crotty)

THE NEWARK ARCHDIOCESE, ARCHBISHOP JOHN J. MYERS,

CONGREGATION OF CHRISTIAN BROTHERS, FR. JOHN

O'BRIEN, BR. LAURENCE BOSCHETTO, BR. PAUL KEVIN

HENNESSY, THE ROMAN CATHOLIC DIOCESE OF ALBANY

and BISHOP HOWARD J. HUBBARD,

Defendants

\_\_\_\_\_

I, Fr. Kenneth E. Lasch, JCD, do hereby swear to the following under the penalty of perjury.

1. I, Kenneth E. Lasch, received a bachelor of arts with a major in classical languages from Seton Hall University in 1958 and completed theological studies for the Roman Catholic priesthood at Immaculate Conception Seminary at Darlington in Mahwah, New Jersey, in May of 1962. In June of 1966, I earned a doctorate in Canon Law at St. John Lateran University, Rome, Italy.

2. I have served in the following assignments:

Vice Chancellor of the Diocese of Paterson, New Jersey

Priest Secretary to the Most Rev. Lawrence B. Casey, Bishop of Paterson

Executive Secretary for Pastoral Ministry for the Diocese of Paterson

Member, Board of Trustees, Immaculate Conception Seminary

Member, Board of Trustees, Catholic Family and Community Services

Member, Board of Social Services of Morris County, New Jersey

Member, Ethics Committee, Morris View Nursing Home

Adjunct Staff Member of Management Design Consultant Services

Pastor, St. Joseph's Parish, Mendham, New Jersey

3. I am enrolled as a member of the following organizations:

Canon Law Society of America

Association for Psychological Type

4. I have known Rev. Robert M. Hoatson for approximately four years and have served as his canonical consultant and advisor for at least three years in matters pertaining to his relationship with the Archdiocese of Newark, with particular reference to his canonical status in the light of his advocacy for victims of sexual abuse by clergy and religious.

5. Not only has Father Hoatson, himself a victim of sexual abuse by his superiors and classmates in the Christian Brothers, spoken out against abuse, but he has also defended victims' rights in the Church. In this capacity, he has exposed the continuing cover-up by Church officials not only of credible allegations of abuse but also of the reassignment of priests whose history of sexual misconduct is well documented.

6. I have seen Father Hoatson as a loyal, dedicated and competent employee of the defendant Archdiocese of Newark. He is undeserving of punishment.

7. I believe that Father Hoatson has paid a high price for his advocacy and has been the victim of subtle retaliatory measures effectively limiting and in fact virtually eliminating his ministry as a priest by placing him on administrative leave.

8. Canon law protects the rights of those accused of sexual abuse, but does not protect rights of victims such as Father Hoatson. This places victims at an obvious disadvantage and so the pursuit of justice within the ecclesiastical system redounds to the initiative of advocates such as Father Hoatson.

9. Moreover, the Church can and does use the law in subtle ways that convey a

sense of propriety for the institution and protection for the accused instead of justice for victims such as Father Hoatson. Therefore, though Church authorities may abide by the letter of the law, they can also use the law as a weapon to silence the prophet, such as Father Hoatson.

10. Three years ago, Father Hoatson was removed from his assignment as Director of Schools at Our Lady of Good Counsel Parish in Newark, New Jersey, shortly after he testified before the legislature in Albany on behalf of victims of sexual abuse. During that testimony, Father Hoatson was critical of church authorities and the manner in which they mishandled allegations of sexual abuse by clergy, similar to Church officials' own public admissions.

11. Last year, Father Hoatson was threatened with canonical suspension for failing to maintain residency in the parish rectory to which he was assigned for weekend assistance. The threatened suspension also cited neglect of his responsibilities as "chaplain" at Catholic Charities, the umbrella agency for social services for the Archdiocese of Newark.

12. In the absence of a formal job description and based on his prior conversation with Archbishop Myers, Father Hoatson had assumed that his outreach to victims of sexual abuse fell within his responsibilities to Catholic Charities.

13. Prior to the lapse of the time required for the imposition of a penalty, Father Hoatson initiated a legal suit against Archbishop Myers and the Newark Archdiocese and was immediately placed on administrative leave, and this action was the direct result of the lawsuit being filed.

14. Being placed on administrative leave. Father Hoatson has been the victim of a pattern of the unjust application of laws in order to curtail his advocacy and virtually silence him.

15. Father Hoatson has consistently and repeatedly leveled accusations that he has been discriminated and retaliated against because he did not go along with homosexual advances and activities of superiors, priests, and brothers throughout his career.

16. Father Hoatson has exercised his freedom of speech rights, and has been retaliated against because of this. None of what Father Hoatson has done or been punished for regards teachings of the Church or religious doctrine.

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Sworn to before me this 15th day of May, 2006

Rev. Kenneth E. Lasch, JCD

Matt C. Abbott is a Catholic journalist and commentator. He is a columnist for and/or contributor to [RenewAmerica.us](http://RenewAmerica.us), [TheConservativeVoice.com](http://TheConservativeVoice.com), [MichNews.com](http://MichNews.com), [Catholic.org](http://Catholic.org), [Opeds.com](http://Opeds.com), and [Speroforum.com](http://Speroforum.com). He can be reached at [mattcabbott@gmail.com](mailto:mattcabbott@gmail.com).