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## Priest Continues Court Battle with Bishops, Alleged Abusers

By Matt C. Abbott  
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The following is the text of an amended complaint filed on behalf of Father Robert Hoatson, who informs me that "[the RICO charges \[in his original lawsuit\] were dismissed](#), but the other charges stood, and were most likely going to be assigned to state court. So, we appealed the federal judge's ruling and filed in the New York State Supreme Court. This is the amended complaint from the State Supreme Court. We are still engaged in the appeal of the federal charges, but we have dropped the RICO appeal. However, we have not dropped the appeal of the recusal of the judge (we may win that) and the appeal of the fine assigned to my attorney (which we may win as well)."

**(It should be noted that I do not necessarily agree with every assertion/conclusion made in the complaint.)**

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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FR. ROBERT M. HOATSON,

Plaintiff,

-against-

**AMENDED**

**VERIFIED COMPLAINT**

Index No.: 07-102959

NEW YORK ARCHDIOCESE, CARDINAL EDWARD EGAN,

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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The plaintiff, FATHER ROBERT HOATSON, by and through his attorney, JOHN A. ARETAKIS, does hereby state as and for an Amended Complaint against the defendants the following:

### **PARTIES, VENUE AND JURISDICTION**

1. The plaintiff, FATHER ROBERT M. HOATSON, (hereinafter "plaintiff") at all relevant times material to the Complaint herein, is over the age of eighteen and is a resident of the State of New York and/or New Jersey.
2. Upon information and belief, and at all times material to the Complaint, the defendant NEW YORK ARCHDIOCESE (hereinafter, defendant "ARCHDIOCESE") is, upon information and belief, a non-profit organization or religious organization operating or doing business in the State of New York, County of New York.
3. Upon information and belief, and at all times material to the Complaint, the defendant CARDINAL EDWARD EGAN (hereinafter, defendant "CARDINAL") is a priest/religious and the Cardinal and/or Metropolitan of the defendant NEW YORK ARCHDIOCESE.
4. Upon information and belief, and at all times material to the Complaint, the defendant THE ROMAN CATHOLIC ARCHDIOCESE OF NEWARK (hereinafter, defendant "ARCHDIOCESE") is, upon information and belief, a non-profit organization or religious organization operating or doing business in the State of New Jersey.
5. Upon information and belief, and at all times material to the Complaint, the defendant ARCHBISHOP JOHN J. MYERS, (hereinafter defendant "ARCHBISHOP"), is a priest and Archbishop and/or Metropolitan of the defendant NEWARK ARCHDIOCESE.
6. Upon information and belief, and at all times material to the Complaint, the defendant CONGREGATION OF CHRISTIAN BROTHERS (hereinafter defendant "BROTHERS") is a religious order or organization and has offices for the practice of business in the States of New Jersey and New York.
7. Upon information and belief, and at all times material to the Complaint, the defendant FATHER JOHN O'BRIEN, (hereinafter "O'BRIEN") is or was a diocesan priest or religious who resides at Saint Pius X Roman Catholic Church in Scarsdale, New York, and was ordained in or around 1990.
8. The defendant, BROTHER PAUL KEVIN HENNESSY, is and was currently a member of the CONGREGATION OF CHRISTIAN BROTHERS, New Rochelle, New York who resides in Venice, Florida or New Rochelle, New York.
9. BROTHER JOSEPH M. CLARK is and was a member of the CONGREGATION OF CHRISTIAN BROTHERS and is now deceased.
10. Upon information and belief, and at all times material to the Complaint, defendant, BROTHER LAURENCE BOSCHETTO, (hereinafter "BOSCHETTO") was a member of the CONGREGATION OF CHRISTIAN BROTHERS and professed his first vows in or about 1974.
11. The defendant HOWARD J. HUBBARD (hereinafter defendant "HUBBARD") is a bishop and ordained priest and is, upon information and belief, the leader of and employer or agent of the defendant and co-defendant ROMAN CATHOLIC DIOCESE OF ALBANY.
12. The defendant THE ROMAN CATHOLIC DIOCESE OF ALBANY (hereinafter "ALBANY DIOCESE") is upon information and belief a non-profit organization or religious organization operating or doing business in the State of New York.
13. In or about January 2002, the defendants and the Catholic Church nationally have publicly disclosed that hundreds of priests and religious brothers been removed from active ministry due to sexual misconduct and the sexual abuse of children, and the number of priests and religious brothers so involved is significantly higher but for the protection and assistance of the defendants, and simultaneous deception and retaliation and punishing of priests such as the plaintiff, herein, who has tried to expose predators and protect children and the vulnerable. In addition, all or most of these removed priests and/or religious brothers are still being supported, assisted or receive stipends or

benefits from the defendants DIOCESES and/or BROTHERS. In February, 2006, the Court of Appeals in *Zumpano v. Quinn, et.al.* issued a decision that indicated that a defendant who took steps after the time of clergy sexual abuse to prevent the plaintiff from timely coming forward or filing a legal claim was or could be prohibited from asserting the statute of limitations as a defense to such a claim.

14. The plaintiff has alleged and will allege in sufficient detail that the defendants have taken such separate and subsequent acts that caused or resulted in the delay in the plaintiff timely bringing forth his legal claims.

15. The New York State Court of Appeals has indicated that cases such as this may be brought although the abuse commenced decades ago. Taking words and statements directly from the *Zumpano v. Quinn* decision, the plaintiff notes the following:

a) The New York Court of Appeals stated in *Zumpano* that, "Thus, this Court has held that equitable estoppel will apply where plaintiff was induced by fraud, misrepresentation or deception to refrain from filing a timely action."

b) "A defendant/wrongdoer cannot take affirmative steps to prevent a plaintiff from bringing a claim and then assert the statute of limitations as a defense."

c) "It is therefore fundamental to the application of equitable estoppel for plaintiffs to establish that subsequent and specific actions by defendants somehow kept them from timely bringing suit" (see *Matter of Stever*, 70 NY2d 990, 993 [1988]).

d) Contrary to the facts in *Zumpano*, where the Court found that "plaintiffs do not allege they made timely complaints to the Dioceses regarding clergy mistreatment," the plaintiff, Father Robert Hoatson, in the case at Bar alleges significantly different conduct by himself and the defendants.

e) The plaintiff alleges specific misrepresentations, threats, and coercion to him by the defendants "and deceptive conduct sufficient to constitute a basis for equitable estoppel."

## **FACTUAL ALLEGATIONS**

16. The plaintiff, FATHER ROBERT HOATSON, currently a NEWARK ARCHDIOCESAN priest and former CHRISTIAN BROTHER, claims retaliation and harassment due to the fact that Father Hoatson has been outspoken and critical of predatory priests/religious in the church and for the sexual abuse he suffered as a CHRISTIAN BROTHER, and also for assisting victims of clergy sexual abuse for the last five years.

17. The plaintiff has for all intents and purposes been a religious brother for 23 years and then a Newark Archdiocesan priest for 10 years, totaling 33 years as a member of the clergy and/or ministry of the Roman Catholic Church. In order to properly or adequately detail his abuse, retaliation, and other tortious actions of the defendants, and the fiduciary relationship that exists between the plaintiff and defendants, it is or may be necessary to detail numerous events in his past.

18. The Vatican and the church defendants continue to describe homosexuality as a mental disorder when the Vatican is aware that approximately over two-thirds of bishops, priests and religious in the United States are homosexual and are living homosexual lives.

19. The plaintiff does not agree or allege (as does the Vatican) that homosexuality is a mental disorder and plaintiff believes that homosexuals should be afforded all gay and civil rights. The Vatican's and American church's hypocrisy and fear of homosexuality issues are in part responsible for the atmosphere of clergy sexual abuse and retaliation against the plaintiff. Because so many priests and bishops are hiding their own secrets from the Vatican, bishops such as the defendants herein have been blackmailed into protecting predators and pedophiles in ministry, and continue to pay them salaries, fringes and benefits even after being removed from the active ministry, and the defendants have thus retaliated against the plaintiff for exposing same.

20. There is no connection between homosexuality and pedophilia, but sexual predators have been protected, concealed and affirmatively assisted by the defendants, those in power, or positions of trust because such an overwhelming percentage of clergy and bishops, including the defendants herein, are compromised by their own hypocrisy or fear of blackmail by predators, and this helps in the

understanding of and explanation for the retaliation and other tortious actions by the defendants against the plaintiff.

21. From the day the plaintiff first entered religious life in or about 1970 to the time the plaintiff entered seminary in 1994 to the present day, the plaintiff has been enveloped in a culture of pedophilia, sexual and physical abuse of children, vulnerable adults, and seminarians, and the criminal cover-up of same by the defendants, including repeated sexual abuse upon the plaintiff, and the repeated efforts at prohibiting the plaintiff from exposing and filing a legal action with respect to same.

22. The allegations of abuse of the plaintiff serve as a basis to describe why and how the plaintiff has acted to expose predators and work with and help victims of clergy sex abuse, at least in the last five years.

23. A religious community, like the Christian Brothers, is a group of men or women who come together to live and work as a community. A religious order generally requires its members to undergo formation, with a mandatory novitiate experience, and other formation years devoted to study of the liberal arts and sciences, including philosophy and theology. After a period of formation, members usually profess annual vows, including the promise of celibacy and chastity, for several years before professing perpetual or final vows. Members are totally dependent on the community for their care and needs, and they are provided a stipend for their work that is sent directly to the community superior, and this has and will be further detailed as a fiduciary relationship. The examples set out herein are not intended to be all-inclusive but are indicative of the culture of sexual dysfunction, pedophilia, homosexuality, secrecy, cover-up, harassment, retaliation, and sexual abuse that the plaintiff has endured.

24. Brother Paul Kevin Hennessy has been a "specially-favored" member of the Congregation of Christian Brothers since he was a very young brother, largely because he came from a very wealthy family. He was appointed to numerous leadership positions, including superior of community, superior of formation houses, the Provincial Council, and Provincial. He held leadership positions for over thirty years and was known to have had unchecked and unlimited authority in the Eastern American Province.

25. Brother Hennessy targeted the plaintiff for sexual abuse since he first entered the Congregation of Christian Brothers in 1970. Because the plaintiff would not engage in sexual relations with Hennessy, the plaintiff was blackballed, maligned, and denied promotions in the Congregation of Christian Brothers, and this began what became an ongoing pattern of abuse, retaliation, and the prohibition and coercion of the plaintiff from exposing same and filing a timely claim.

26. Brother George Selitto, a Christian Brother, advised the plaintiff in the 1980's and beyond that it was clear to him and members of the Eastern American Province that the reason the plaintiff did not advance, was not given a leadership position, and was retaliated against in the Province was that "he said no to Hennessy." It was a running joke at Brothers' gatherings that the plaintiff could not get a leadership position in the Province because he said "no" to Hennessy and his sexual advances. This caused the plaintiff distress, anxiety, and embarrassment.

27. The plaintiff entered into the BROTHERS in 1970 where his first superior was BROTHER PAUL K. HENNESSEY. Prior to that, Brother Salvatore Anthony Ferro sexually pursued the plaintiff in high school while the plaintiff was a minor, placing the plaintiff in his senior English class against the plaintiff's will. The plaintiff's cousin, whom the plaintiff resembled and was very close to, James Craig Hoatson, had been sexually abused by another CHRISTIAN BROTHER and a fellow-predator and best friend of Brother Salvatore Ferro, Brother Jerome Heustis, prior to this time, at the same school. James Craig Hoatson committed suicide by shooting a bullet into his own head and died in 1978. When the Boston scandal erupted in 2002, the CHRISTIAN BROTHERS moved Ferro and made Brother Ferro disappear or moved him to avoid criminal and civil claims that existed, including issues regarding the plaintiff.

28. Upon information and belief, the CHRISTIAN BROTHERS are still hiding and protecting Brother Ferro from and avoiding criminal and civil prosecution because of the sexual abuse of boys, and this ongoing obstruction of justice and protection of predators continues presently.

29. The plaintiff moved into the postulancy as a postulant in 1970 at Saint Joseph's Hall and met BROTHER PAUL HENNESSY. BROTHER HENNESSY became the plaintiff's second abuser, under

the guise of trying to warm the plaintiff up because he was described by HENNESSY as a cold person. HENNESSY continued to groom the plaintiff in an inappropriate and sexual manner, as the senior CHRISTIAN BROTHERS gathered in his room to celebrate happy hour nightly while the postulants were engaged in personal reading. The plaintiff asked of HENNESSY why professional men needed to have a happy hour and get drunk every night before going to dinner, and the plaintiff was accused of being a prude.

30. During the 1970-1971 postulancy year, the plaintiff was asked by Brother Hennessy, his superior, to declare a college major. The plaintiff indicated his interest in being a French major. Hennessy told him that he was not allowed to be a French major since French was a "dying" language and not taught in Christian Brothers' schools.

31. The plaintiff was disappointed and asked for reconsideration. He was told the Provincial, Brother Robert Valerian Scanlan, made the decision that no Christian Brothers would be allowed to pursue French as a major at Iona College.

32. The plaintiff made Scanlan's supposed decision known to two of the brothers who were French majors at Iona College in 1970-1971, Brother Thomas Kelly, and Brother Robert Laferrera. Kelly was upset at the decision, so he appealed to the Provincial.

33. The Provincial, Brother Scanlan, denied ever making such a decision to ban student brothers from pursuing a major in French, so Hennessy lied to the plaintiff. Hennessy lied to the plaintiff because of his denial of sex to Hennessy, and his attempts to keep the plaintiff quiet and from taking any action with respect to abuse.

34. The defendant HENNESSY'S family were millionaires, and he utilized his vast wealth and the power of his position to abuse and manipulate the plaintiff and use his wealth in a manner so others would not accuse HENNESSY of sexual abuse. The plaintiff refrained from and did not file legal action for this abuse due to the defendants' actions preventing him from doing same.

35. The plaintiff was unable to report his abuse and file a timely lawsuit because:

a) the plaintiff depended on the Christian Brothers for his food, shelter, and education. It was made known to the plaintiff that if he spoke out, he would have been severely disciplined and dismissed from the Order and left destitute.

b) the plaintiff's superiors were the abusers and or abusive, and he was intimidated and threatened when he discussed or indicated he would or might report his abuse. Authorities in the Christian Brothers were authoritarian, especially to a young candidate such as the plaintiff. The superiors repeatedly threatened the plaintiff with dismissal from the Order for being "insubordinate" by attempting to report his abuse.

c) The plaintiff was confused and confounded by the signals that were being given by his superiors of the Christian Brothers; that it was acceptable to engage in sex with leaders of the Order. The plaintiff believed his vow of chastity would protect him from the advances of the superiors who requested sex from him or who sexually abused him.

d) the plaintiff was never permitted to take legal action because he was told he was a member of a "legitimate" religious Order with ethical and moral principles. Legal action was anathema to the mission and meaning of being a Christian Brother. The plaintiff was unaware that the sexual advances of the members of the Order who abused him were the "exception" and not the norm. It took the plaintiff years before he realized that the Christian Brothers were a dysfunctional institution in the greater dysfunctional institution known as the Catholic Church.

36. The plaintiff met BROTHER JOSEPH CLARK who was his novice master in 1971-72. The plaintiff was warned that if JOSEPH CLARK gave you the keys to the jeep and tractor, it was a sign of being specially favored. In a previous year, Brother Brian Reilly was favored by CLARK. Brian Reilly subsequently left the BROTHERS, got married and then put a bullet in his head and died of suicide.

37. BROTHER JOSEPH CLARK molested the plaintiff in the novitiate which was in Esopus, New York in 1971-72. The plaintiff temporarily left the religious order because of his anxiety over being abused. Clark would hug the plaintiff and rub himself up and down the plaintiff's body despite the

plaintiff's protestations. The defendant CLARK also flaunted his wealth and power and he used it to manipulate and harm the plaintiff. The plaintiff refrained from and did not file legal action for this abuse due to the defendants' actions in preventing him from doing same.

38. During the six months in the novitiate in 1971-72, it was starting to become apparent how dysfunctional the Catholic Church was. The plaintiff re-entered the order in the summer of 1973 and was sent back to the postulancy for the summer to get acquainted with the group he would be joining in novitiate. There were many more actively gay brothers than straight. Two of the plaintiff's classmates were dismissed during the second novitiate, Henryk Sek and Patrick Sweeney. Both were found making love in a closet. It was clear to the plaintiff that he was in a class and Order of significantly more gay than heterosexual men.

39. The novitiate year in religious life is mandated by the Catholic Church's rules and regulations. Before professing vows of poverty, chastity, and obedience, a candidate must successfully complete at least one year of novitiate. It is the part of the formation process in which candidates learn the spiritual life, the history of the Order, and engage in periods of contemplation and prayer, both personal and communal. The setting of the novitiate was supposed to be an "out-of-the-way" place where contemplation and prayer could be facilitated easily. Santa Maria Novitiate, the novitiate of the Christian Brothers, was located in a rural part of Ulster County, New York, on the banks of the Hudson River. It was a place that afforded the Novice Master, Brother Joseph M. Clark, a secret place to abuse young men such as the plaintiff.

40. There were two older men in plaintiff's first novitiate in 1971-72, Kevin Ridge and Jim Irwin. Irwin left and became a catholic elementary school teacher and was arrested for possession of internet child pornography in the recent past.

41. The plaintiff became acquainted with a novice named LAURENCE BOSCHETTO, who was a student and close friend of PAUL HENNESSY. He would sexually abuse and manipulate the plaintiff over the course of five years. He also would on occasion offer the plaintiff drugs. Today, the defendant BOSCHETTO has left religious life and is a ranking executive in an advertising and marketing firm, where he still is today. This defendant's sexual abuse of the plaintiff and or others was known by the defendants, yet no action was taken.

42. In 1975, the plaintiff received his bachelor's degree and was assigned to teach at St. Cecilia's School in East Harlem, New York City. Due to the guilt and shame the plaintiff felt over the BOSCHETTO abuse, he had difficulty disciplining young children. The plaintiff did not file legal action against BOSCHETTO and the Christian Brothers for the repeated acts of abuse described herein due to the defendants' actions and threats in preventing him from doing same.

43. In 1975-76, when the plaintiff was stationed at Saint Cecilia's School in East Harlem, Hennessy learned that other brothers, like John O'Brien, were becoming "sexually" interested in the plaintiff, so Hennessy had the plaintiff transferred back to New Rochelle, New York, where Hennessy lived, after one year so the plaintiff could be closer to him.

44. At the end of August 1976, the plaintiff moved into Blessed Sacrament High School where approximately eight brothers were stationed. The day the plaintiff moved, BROTHER PAUL HENNESSY telephoned him to ask him if he wanted to play handball and have dinner. The invitation was one of a sexual nature, where Brother Hennessy could continue to groom the plaintiff for sex. The plaintiff declined and was retaliated against and the retaliation has continued to the present.

45. It was agreed amongst the Brothers that Brother Robert C. Post was inappropriate as a principal and superior at Blessed Sacrament High School. The plaintiff protested Post's behavior with teenage boys at the school and the plaintiff was transferred out as punishment and retaliation for his speaking out. One brother at the high school was Robert McGovern who later was found abusing a boy in New Jersey.

46. Sometime later, Robert Post left the order to become a priest in Bridgeport, Connecticut, and was found to have abused boys in a high school while there.

47. During the three years at Blessed Sacrament, LAURENCE BOSCHETTO involved himself in the plaintiff's life. Each time the plaintiff had to see him, the sexual abuse continued or was attempted whenever they were together. The plaintiff fell deeper and deeper into depression and anxiety and had

very few days that did not involve abusive and retaliatory action.

48. When the plaintiff began to object to the actions of Brother Robert Post, Superior and Principal of Blessed Sacrament High School in New Rochelle, New York, Brother Hennessy once again intervened and had the plaintiff transferred as and for affirmative efforts to prevent the plaintiff from reporting and filing a claim with respect to his abuse. The plaintiff continued to report that Brother Post had improper relations with some of the boys of the parish and high school, and the plaintiff was aware that Post was sexually interested in and pursuing these boys. Hennessy, who was the Provincial evaluator of the school and community in 1979, threatened Hoatson with a transfer if he did not cease reporting the improper relationship of Brother Post with parish and high school boys. Around this time, the plaintiff sought to report his own abuse but was silenced by the threats and harassment of Hennessy and others, and deception and manipulation by his superiors.

49. In addition, Brother Joseph Mark Clark, who had already sexually assaulted the plaintiff, was stationed at Blessed Sacrament High School and also admonished the plaintiff to maintain secrecy and not file a claim about Brother Robert Post and his own abuse, some of which was committed by Clark.

50. During the official school and community visitation by Brother Hennessy in 1979, the plaintiff became upset that he was being threatened with a transfer and retaliated against because of his objections to Brother Post's behavior and his attempts to keep teenage boys in the parish safe.

51. Brother Hennessy was told about the plaintiff's disappointment with being threatened with a transfer from Blessed Sacrament High School in 1979, and Hennessy responded that that was too bad, that sometimes brothers have to learn a lesson for speaking out about injustice. The plaintiff was intimidated into not reporting his own abuse and that of others.

52. When Brother Hennessy finished speaking to the plaintiff in 1979 during his official visit at Blessed Sacrament High School, Hennessy told the plaintiff after threatening him with a transfer that he (Hennessy) would warn the plaintiff beforehand if the decision were made to go ahead with the transfer. Brother Hennessy did not phone or advise the plaintiff about the transfer before the day the letters of transfer were received, which was another act of retaliation against the plaintiff, and another example of coercing the plaintiff from timely filing a claim for his abuse.

53. The plaintiff was transferred to the poorest and most "at-risk" school in the Province, Rice High School, in Harlem, New York City, and there were no positions available there for the plaintiff to fill similar to those he had recently left at Blessed Sacrament. For example, the plaintiff had been Athletic Director at Blessed Sacrament but was not appointed to athletic leadership at Rice High School. It was clear he was being punished for speaking out about the sexual interests of Br. Robert Post. It was well-known around Blessed Sacrament High School and the Province of the Christian Brothers that "because Post had to go, Hoatson had to go too."

54. Brother Post was transferred out of Blessed Sacrament High School in 1979, and the leadership of the Province was fully aware of his behavior and incompetence. Post later left the Christian Brothers, became a priest in the Bridgeport Diocese, where another defendant, Cardinal Edward Egan, was bishop. Post was removed from a Bridgeport high school for committing sexual indiscretions, yet it was the plaintiff who continued to be retaliated against.

55. While the plaintiff was living at Blessed Sacrament High School in New Rochelle, New York, he was forced to live with three brothers against whom sexual allegations have been leveled: Brother Joseph Mark Clark, Brother Robert B. Mc Govern, and Brother. Robert C. Post. He was placed with abusers in retaliation for his previous and continued attempts to report his own abuse and abuse of others, and to further deceive and intimidate the plaintiff from bringing forward and filing his claims in a timely manner.

56. Since 1970, when Brother Paul Kevin Hennessy told the plaintiff that he was a cold person and needed "warming up," he was pursued repeatedly for sex by Hennessy and others who were friends and/or lovers of Hennessy. Laurence Boschetto was a close friend of Hennessy and, upon information and belief, sexually involved with him.

57. Brother Joseph Clark was a friend of Hennessy and an abuser of the plaintiff. Hennessy and Clark were friends and superiors in houses of formation. They had easy access to young, good-looking

brothers, which included the plaintiff, and continuously manipulated and tried to abuse them.

58. At the end of the summer of 1979, before moving into Rice High School in Central Harlem, New York City, the plaintiff went on vacation. It was called "sabbatical" summer in which the Brothers were given a sum of money and allowed to go anywhere they wished. The plaintiff suffered severe anxiety attacks and was ashamed and had suicidal thoughts.

59. At that time, the plaintiff decided to ask for help. He called a close Christian Brother friend, John Frank O'Brien, and started to tell him about the LAURENCE BOSCHETTO abuse, PAUL HENNESSY'S "grooming," JOSEPH CLARK'S abuse and the "climate" of sex, sexuality and abuse that the plaintiff was subjected to, as well as routine cover-up of crimes against children that the plaintiff was personally aware of.

60. It was Frank O'Brien who first advised the plaintiff that he suffered sexual abuse from LAURENCE BOSCHETTO, that he was targeted by some brothers for sexual purposes, that he was not homosexual, and that none of the abuse was the plaintiff's fault.

61. The plaintiff was relieved and since it was getting late in the evening by the time they stopped talking, plaintiff's parents invited Frank O'Brien to stay overnight in their home and he accepted.

62. The plaintiff went to bed that night feeling that he might fall asleep and sleep through the night for the first time in years, as a burden had lifted. Sometime during the night, the plaintiff was awakened by someone crawling into his bed. It was Frank O'Brien and he was doing to the plaintiff's body what LAURENCE BOSCHETTO did and exactly as it was described to him earlier in the day. The plaintiff's response was to freeze in place as he was stroked up and down. The plaintiff uttered "Oh, shit, not again." It was too traumatic for the plaintiff to think about as he lay there in bed with Frank's hands all over his body, including his genitals.

63. The plaintiff at that time was convinced that one had to be gay in order to be a Christian Brother or priest. His thoughts were that his closest friend became his fourth of five abusers. This abuse and retaliation would last about two years.

64. Frank O'Brien abused the plaintiff at his parent's home, at Bishop Kearney High School in Rochester, New York, at Bishop Gibbons High School in Schenectady, New York, at Rice High School and other places, and in other states, including Massachusetts.

65. While at Rice High School, the plaintiff determined that the faculty and staff did not want anything to do with developing curricula that would meet the needs of the students. He requested a transfer in 1981 when he was admitted into a doctoral program at Fordham University. Despite knowing that the plaintiff was admitted into a doctoral program in New York City, leaders of the Order, including Hennessy, transferred the plaintiff to Boston, Massachusetts, where the plaintiff would not be able to pursue his studies in a timely fashion.

66. The plaintiff's next assignment took him to Catholic Memorial in Boston. There he met the Vice-Chancellor of the Boston Archdiocese and one time chaplain of the school, Father Fred Ryan. Father Ryan was dysfunctional, mentally unstable and hung around the locker room area of the school where students dressed, undressed and showered. Afterwards Ryan took school boys to his chancery quarters to be inappropriately photographed and sexually assaulted. On numerous occasions, the plaintiff protested the presence and actions of Father Fred Ryan to the school administration, but this was ignored and used against the plaintiff.

67. During the plaintiff's tenure at Catholic Memorial, two Christian Brothers, James Thompson and Michael Walsh, and one lay teacher, Benjamin Hopkins, were removed for sexual abuse of boys. The two brothers were moved to other schools, hidden, and kept from the police or criminal involvement. The lay teacher was allowed to retire with pension and benefits. None of these acts were reported to law enforcement. The plaintiff did not report same to the police due to the threats and other actions of the defendants.

68. The plaintiff also encountered Benjamin Hopkins who was not only gay, but who was a predator and made overt sexual gestures toward underage boys who were students at the school and the plaintiff. The plaintiff objected to the school Christian Brother administrations, but his concerns were ignored. The defendants again acted to prevent the plaintiff from filing his claims.

69. At about this time, the plaintiff continued to suffer panic attacks and a host of other symptoms. During Easter vacation of 1982, the plaintiff was severely depressed and close to hospitalization. The plaintiff's parents called Frank O'Brien to see if he could help the plaintiff. It was ironic that the plaintiff's parents sought out his abuser for help, but the plaintiff's parents were unaware of the O'Brien abuse at the time. The last time Frank O'Brien abused the plaintiff was the day he drove the plaintiff back to Boston in 1982.

70. The plaintiff believes he was denied promotions and retaliated against time after time because he would not participate in the homosexual relationships so rampant in the various schools and churches, and with brothers, priests and supervisors.

71. Some of the plaintiff's symptoms caused by the defendants' actions included: post traumatic stress disorder, a sense of doom, nightmares, day mares, thoughts of suicide, various neurotic thoughts such as losing control, fear of stabbing someone, fear of driving his car and plowing into people crossing the street, losing control, anxiety and/or panic attacks.

72. The plaintiff noticed that just as there was a homosexual culture in the Christian Brothers, the homosexual culture by a majority of seminarians in the seminary and Catholic priests was very obvious. There were many more active homosexuals than heterosexuals. Some professors were assigned female names to indicate their own "femininity," and one professor was personally observed to have frequented a local park known for its homosexual liaisons. That man contracted the AIDS virus and is still teaching in the seminary.

73. The plaintiff met a seminarian who told him the seminarian wanted help with his obsession with masturbation. He was removed from ministry after ordination for abusing boy scouts. At this time, the plaintiff also met a seminarian, Marc Vicari, who repeatedly attempted to have sexual relations with the plaintiff. Vicari advised the plaintiff that in order to become his friend, the plaintiff would have to become Vicari's "bitch." The plaintiff repeatedly told Vicari that he had no plans or aspirations to engage in sex with him. The plaintiff again refrained from filing legal action due to the actions of the defendants, who would have dismissed the plaintiff if he reported Vicari's actions. When the plaintiff reported the actions of Vicari to Archbishop John Myers, he took Vicari's side, gave him a personal interview about the charges, and refused to speak to the plaintiff about the charges. Archbishop Myers allowed Vicari to contact the plaintiff with no regard for the fact that Vicari was a sexual abuser of the plaintiff.

74. After being a CHRISTIAN BROTHER for over 20 years, the plaintiff was ordained a priest on May 24, 1997 and his first assignment was Saint Andrew's Parish, Bayonne, New Jersey. The pastor at this parish inappropriately handled a family whose two sons were sexually abused by Father Kenneth Martin, telling the plaintiff the family was crazy and simply causing problems for the church. The plaintiff experienced retaliation for observing and attempting to assist or remedy same. The pastor made it clear that anyone who reported sexual abuse was crazy and untruthful, which compelled the plaintiff to remain silent about his own abuse.

75. In 1998, the plaintiff requested a transfer and received it to Holy Trinity in Hackensack, New Jersey. The plaintiff was not told that he was replacing a sexual abuser, Father Alfonso de Condorpusa, who was dismissed from the Newark Archdiocesan seminary for inappropriate sexual behavior and who carried on sexual abuse and affairs in a number of parishes to which he was assigned. The plaintiff experienced retaliation for observing and attempting to remedy same. The plaintiff was intimidated into not reporting his abuse at this time because two bishops, Charles Mc Donnell and Paul Bootkoski, were De Condorpusa's "godfathers" and secreted him away and protected him from any disciplinary action. Monsignor Joseph Slinger, Vicar General of the Archdiocese of Newark, was denied a promotion to bishop because he defended a victim of Father De Condorpusa and promoted exposing the sexual predator. The plaintiff was intimidated into silence, and anyone who defended victims (including himself) would be harassed, marginalized, and denied promotions. The plaintiff was asked by two of De Condorpusa's victims to help them, and the plaintiff was punished for siding with the victims. Monsignor Robert Harahan, Rector of the Newark Archdiocesan seminary, was dismissed from his job as rector because he insisted that Archbishop Mc Carrick dismiss Father De Condorpusa from the seminary and the priesthood, but Mc Carrick refused. Harahan was retaliated against for attempting to free the seminary of a sexual predator, and the plaintiff was retaliated against for speaking out about sexual abuse.

76. The plaintiff learned he was on the wrong side of the bishops, including Bishops Charles McDonnell and Paul Bootkoski, who had an inappropriate relationship with de Condorpusa. As the plaintiff went on in his career, he was not given positions of his choice, promotions deserved, living arrangements of his choice, all because he had offended higher ups in the Church by refusing sexual advances and sexual favors and for defending the rights of victims (including himself), and he continued to be retaliated against for same and fraudulently deceived by the defendants.

77. As the plaintiff did more advocacy work on behalf of survivors of sexual abuse, retaliation and the hostile work atmosphere continued. In Holy Trinity Parish, Hackensack, New Jersey, for example, where Bishop Charles Mc Donnell was Pastor, the plaintiff was continually harassed, retaliated against, and denied just payments for his extra work in the parish.

78. In early May 2003, the defendant ALBANY DIOCESE received widespread media coverage and the temporary removal of at least three priests from ministry due to a lawsuit filed on or about May 7, 2003.

79. Within one week of the suit, a New York State district attorney launched a criminal investigation and the priests were removed or left active ministry, causing a barrage of negative publicity and coverage for defendant BISHOP HUBBARD and the defendant ALBANY DIOCESE.

80. Thereafter, in May 2003, the plaintiff testified at the New York State Senate in Albany, New York, on behalf of victims of clergy sexual abuse and in support of legislation for changing the statutes of limitations laws in New York which protect sexual predators, both in and out of the Church. The defendant HUBBARD or his agents retaliated against the plaintiff due to the context and timing of the plaintiff's testimony and other negative publicity in May, 2003, and at times prior.

81. This Court may take Judicial Notice of not only the Court of Appeals' holding in *Zumpano v. Quinn*, but may also take notice of the recent 660 million dollar settlement in Los Angeles with 508 plaintiffs now that California has modified its statute of limitations. It is the opposition to a similar change in the laws that has motivated the defendants to act against the plaintiff in this manner.

82. In May 2003, when the plaintiff testified before the New York State Senate regarding widespread clergy sexual abuse, the statute of limitations and the responsibility of bishops for the crisis, the defendant ALBANY DIOCESE and defendant HUBBARD took offense at a priest from downstate that traveled upstate who gave aid and credibility to victims of abuse in the Albany area and to Albany media.

83. The testimony by an ordained Roman Catholic priest obtained widespread local (Albany) media coverage.

84. Shortly after the plaintiff HOATSON was invited to testify and did testify before the New York State Senate and same caused a substantial amount of local Albany coverage, which upon information and belief, served to further embarrass and disturb the defendant HUBBARD and other defendants. This served to motivate the defendant HUBBARD to interfere with and harm the plaintiff's career and attempt to retaliate against the plaintiff for his actions.

85. In response to his testimony and because of same, the defendant HUBBARD or his surrogates contacted the defendant MYERS and the defendant NEWARK ARCHDIOCESE and had the plaintiff HOATSON fired from his position as Director of Schools at Our Lady of Good Counsel Parish in Newark, New Jersey.

86. Immediately after the plaintiff's testimony, the defendant HUBBARD and his agents in the ALBANY DIOCESE contacted the NEWARK ARCHDIOCESE, reported on the plaintiff's testimony before the New York State Senate, and tortiously interfered and had the plaintiff fired from his position with Our Lady of Good Counsel Parish.

87. The plaintiff's testimony was an effort to provide information to a public body conducting an investigation or inquiry regarding violations of law, or what the plaintiff believed were violations of law and was protected speech and a matter of public safety.

88. In an effort to punish and retaliate against the plaintiff for repeatedly attempting to aid victims of abuse and for helping to expose predators in the church, the plaintiff was at times forced to live with

admitted pedophiles, including but not limited to in West Orange, New Jersey. Monsignor Peter Cheplic, removed from his pastorate because of sexual abuse of a teenage boy, was moved into the plaintiff's rectory at Our Lady of Lourdes Parish in 2002 against the protestations of the plaintiff. The pastor, Father Joseph Petrillo, and the Archdiocese of Newark, collaborated against the wishes of the plaintiff and moved Cheplic into the rectory, thus placing the safety of the plaintiff and the children of the parish and school at risk.

89. When the plaintiff objected to the presence of a pedophile in residence at Our Lady of Lourdes rectory, he was told by Bishop Arthur Serratelli, Vicar General of the Archdiocese of Newark, to move out and stop criticizing Monsignor Cheplic. Bishop Serratelli referred to Monsignor Cheplic as "that poor man, what he's been through." Bishop Serratelli had no empathy for the plaintiff, who had developed a case of acute gastritis while Monsignor Cheplic was living in the rectory across the hall from him, and was fearful, based on what was said to the plaintiff, that Cheplic might abuse again. This directly and specifically caused the plaintiff great distress, anxiety, and forced him into deeper silence about his own abuse. The plaintiff had to be rushed to a hospital emergency room because of a case of acute gastritis because of the plaintiff being forced to live with a sexual abuser.

90. The plaintiff is paid a salary by the defendant NEWARK ARCHDIOCESE and was and currently is employed as a priest, but was fired as an administrator at said Catholic Schools. The NEW YORK ARCHDIOCESE also contributed and became involved in retaliation and the hostile work environment, due to the plaintiff's attempts to report Father O'Brien's abuse to one New York Archdiocese.

91. The defendants have engaged in an intentional and long-standing practice of intimidating victims of clergy sexual abuse and their advocates, including the plaintiff, and a longstanding practice of protecting, assisting and moving around priests who engaged in sexual misconduct or sexual abuse of children, including the defendants, and a longstanding pattern or scheme of protecting priests from being arrested, charged, indicted or convicted for crimes of a sexual nature, as well as a criminal cover-up of same, and have retaliated against, harassed and discharged the plaintiff for exposing same, as well as repeatedly preventing the plaintiff from filing legal action and fraudulently deceiving the plaintiff. The plaintiff has been a victim of all of these efforts that continue to the present.

92. In or around 1987 and 1988, the plaintiff completed his doctoral degree in educational administration at Fordham University. He was asked by Brother John W. Casey, a member of the leadership team, what he wanted to do with his degree. The plaintiff responded that he wanted to be a secondary school principal. Brother Casey responded, "You will never be a secondary school Principal as long as I am on the Council." The plaintiff was being blackballed for speaking out about sexual abusers and not agreeing to engage in sex with Brother Hennessy and others on the leadership team who were sexually active. At or around the same time, Brother Michael Termini, a good friend of Casey and Principal of Sacred Heart School, Manhattan, publicly declared his homosexuality by taking a position with DIGNITY-NY, an unauthorized Catholic homosexual group. Casey told the plaintiff that he (Casey) was reserving principalships for those he liked, like Termini.

93. Brother Casey did not know nor did he care to know the plaintiff or his potential abilities to be an effective school administrator, since he was never stationed with the plaintiff and never evaluated the plaintiff's performance. Therefore, the plaintiff was being blackballed and retaliated against for his outspokenness about sexual abuse in the Province. Brother Casey took his orders directly from Brother Paul Hennessy, who was leading the blackballing of the plaintiff. For or around this time, the plaintiff was still being prohibited from filing or bringing forward his claims.

94. In or around 1989, the plaintiff was offered the principalship of Maria Regina High School in Hartsdale, New York, an all-girls high school sponsored by the Archdiocese of New York. Father Thomas Gilleece, Vicar for Education of the Archdiocese of New York, and Brother Joseph Shields, Assistant Superintendent of Schools, were arranging for the plaintiff to be principal and the plaintiff had been selected for the position.

95. Brother Hennessy intervened with the Archdiocese of New York and prevented the plaintiff from being named Principal of Maria Regina High School. Hennessy was punishing the plaintiff for not giving in to his sexual overtures and for speaking out about sexually-abusive brothers like Brother Robert Post, and these were continued actions taken to prevent the plaintiff from coming forward in a timely manner to file legal action for abuse he was experiencing.

96. The plaintiff was barred from becoming an educational and community leader in the Congregation

of Christian Brothers, so he was forced to seek positions in other Catholic institutions and venues. When he applied for and was accepted for a number of prestigious administrative positions, he was forced to earn more money than all other Christian Brothers, another punishment for the plaintiff's speaking out about sexual abuse and repelling the sexual advances of Brother Hennessy.

97. In 1988, when the plaintiff was prevented from being appointed to positions for which he was qualified, including the position of Headmaster of Catholic Memorial High School in Boston, Massachusetts, for which he was recommended by the immediate past Headmaster, he was offered a position as Assistant to the President of the William H. Sadlier Publishing Co., one of the leading Catholic textbook publishing companies in the United States. In that position, the plaintiff was forced to earn more money and provide more money to the community than the majority of brothers who earned the normal "religious brothers" salary.

98. The plaintiff wrote religion textbooks, parent handbooks, and numerous other documents, and gave speeches across the country promoting religious education pedagogy and training religion teachers. He also was the founder and president of Catholic Urban Educators, a national association of Catholic inner-city administrators and teachers. The plaintiff ran and directed at least three national conferences of this organization, but he could not get an administrative position in the Congregation of Christian Brothers specifically because he refused Hennessy's sexual overtures and spoke out about sexually abusive Christian Brothers and the abuse he endured. The plaintiff was described by one leading national Catholic educator as the "Saint Francis of Assisi of inner-city Catholic schools," but he was consistently maligned, harassed, and retaliated against for speaking the truth about clergy sexual abuse and other abuse.

99. In 1987, the plaintiff was instructed by Brother Hennessy to apply for a position as an assistant professor of education at Iona College in New Rochelle, New York. When a Christian Brother was instructed to apply for a position at Iona College by the leadership of the Order, he practically was guaranteed that position. The plaintiff applied but was turned down because of continued retaliation from the defendants.

100. Hennessy instructed the plaintiff to apply for the Iona College position to make it look like he was not punishing the plaintiff, but he knew full well that one of the criteria for applying for the position was that one had to have had experience as a school principal. This caused the plaintiff embarrassment. There was no apology or explanation from the Christian Brothers or Iona College for this retaliation.

101. In 1988, the plaintiff applied for and received a position as Assistant Dean in the School of Education and Human Services at Saint John's University, the largest Catholic university in the United States. The plaintiff was put in charge of all undergraduate majors in the school and was selected from a list of several applicants. However, he was not allowed to accept the position unless he could guarantee the Christian Brothers that his salary would be significantly higher than the "normal" religious brother's salary. He earned a starting salary of \$35,000.00, plus benefits, and "supported" his religious community to a much higher degree than all other brothers who lived in the community. This was another form of punishment, since the plaintiff was forced to contribute more to the pooled income of a community than any other brother in the Province.

102. In 1989, the plaintiff applied for and was hired as Principal of Sacred Heart High School in Yonkers, New York. When the Pastor of Sacred Heart Parish read the plaintiff's curriculum vitae, he re-opened the search process that had just concluded. There were thirty applicants for the position, and the plaintiff was selected, even though this was to be his first principalship.

103. Before the plaintiff received permission to accept the position, he had to guarantee that he would receive a much higher salary than that of a religious brother. The pastor told the leadership of the Province to "name the price" and he would pay it. During this time, there were several principal openings in Christian Brothers' schools, but the plaintiff was prevented from applying for any of them. The plaintiff was again being punished and retaliated against for saying no to Brother Hennessy and speaking out about sexual abuse, and the defendants continued to take these actions to prevent the plaintiff from filing legal action in a timely manner.

104. Within two years of the plaintiff being Principal of Sacred Heart High School in Yonkers, New York, he was named "Educator of the Year" by the Association of the Teachers of New York, and the Pastor of Sacred Heart Parish asked the plaintiff to become Director of Total Catholic Education for

the parish. The plaintiff was placed in charge of the parish's high school, elementary school, and religious education program.

105. The plaintiff, while at Sacred Heart Parish, Yonkers, New York, had no intention of leaving his position. It was made clear to Brother William Stoldt, Director of Education for the Christian Brothers, that the plaintiff was excelling in his position and was planning on renewing his contract. Once this was made known to Brother Hennessy, he phoned the plaintiff and asked him if he wanted to be Principal of Blessed Sacrament High School in New Rochelle, New York.

106. Brother Hennessy was aware that the plaintiff was not going to leave Sacred Heart Parish, so his offer of a Principalship of Blessed Sacrament High School was another attempt to embarrass, punish, and retaliate against the plaintiff, and to deceive the plaintiff and keep the plaintiff from filing a legal claim. The plaintiff continued to reasonably rely on the deception from the defendants.

107. If the plaintiff accepted the Blessed Sacrament principalship, Hennessy could "lure" the plaintiff back into his sexual clutches. If he refused the principalship, Hennessy could say the plaintiff was offered a principalship and refused it. He could then continue to punish him for "not cooperating" with him and other authorities in the Christian Brothers. 108. The Christian Brothers have a history of not acting on criminal or sexual actions of brothers, and that includes with the plaintiff herein. For example, Brother Salvatore Ferro was known to have been a sexual abuser of boys for decades but was never reported to law enforcement authorities. Brother Henry Otto was not reported to the New York City Police when he stabbed Brother John Grande in the brothers' residence at Power Memorial Academy in New York City. Brother Otto was allowed to keep dangerous weapons in his bedroom over the course of many years, and that was known to the Christian Brothers. 109. The following are just some of the examples and not meant to be all-inclusive of the dangerous history the Christian Brothers.

110. Upon information and belief, more than one Christian Brother is the father of a child born out of wedlock, and the Christian Brothers have been supporting these children without issuing any discipline to the brothers involved.

111. Brother Stephen Johnson died of alcoholism at the age of forty-six. He was the "specially-favored" of Brother Paul Hennessy and Hennessy sexually abused Johnson over the course of many years.

112. Brother Mario Brocco died at a young age of what was reported by the Christian Brothers to be cancer of the rectum or colon. However, he died of an AIDS-related illness.

113. A victim from Boston has confided in the plaintiff that Brother Paul Hennessy was sexually abusive toward him during his time as a religious studies student at Iona College.

114. Upon information and belief, Brother Brian Walsh, former Provincial of the Eastern American Province, to whom the plaintiff reported his abuse during his years as a Christian Brother, and who is a good friend of the plaintiff's abuser, Father John O'Brien, has been sexually involved with Brother James Mac Donald, President of Catholic Memorial High School in Boston, for a number of years, and Brother Walsh acted repeatedly to prohibit the plaintiff from filing a legal claim in a timely fashion against offending brothers.

115. Brother Robert Mc Donough was known by the Christian Brothers to have been a cross-dressing drag queen and an abuser of illegal drugs but was appointed principal of two schools despite knowing about his behavior.

116. Brother Robert Mc Dermott was appointed Principal of Rice High School in Harlem despite his dating of a religious sister whom he eventually married. Mc Dermott dated the nun and had sexual relations with her throughout his time as Principal of Rice High School.

117. Brother John M. Walderman, Principal of Bishop Hendricken High School in Warwick, Rhode Island, was arrested on New Year's Day in the 1980's for soliciting sex from a teen prostitute. Walderman is currently the President of Rice High School in Harlem, New York City.

118. Brother John Heathwood was removed as a teacher and drama director at Bishop Kearney High School in Rochester, New York for sexually abusing a teenage girl in the 1970's.

119. Brother Christopher Keogan, presently Principal of Cardinal Hayes High School in the Bronx, New York, was transferred from Essex Catholic High School in East Orange, New Jersey, for absconding with school funds in the 1980's.

120. Brother James Hanney was known to have taken groups of students to rural campgrounds and spend "nude" weekends with these young persons.

121. Brother George Paramo was stationed with the plaintiff at Catholic Memorial High School and was moderator of the soccer program. The athletes used a code noise to warn each other that "Brother Pecker-Checker" was going through the locker room. Nothing was ever done about his behavior, despite the Christian Brothers' knowledge of same.

122. One Christian Brother had a room full of dangerous knives in the Christian Brothers' residence at Catholic Memorial High School in Boston, and was an alcoholic. The plaintiff had to live in fear and trepidation while he was assigned to Catholic Memorial from 1981-1985. Despite knowing about this situation, the leadership of the Christian Brothers allowed this behavior to continue. It caused the plaintiff to feel anxious and fearful.

123. Brother Lawrence Killelea was the Principal of Rice High School in Harlem, New York City, when the plaintiff was transferred there from Blessed Sacrament High School. When the plaintiff arrived to move in his belongings, he was met with a shot-gum toting Brother Killelea sitting in the television room of the community residence. This caused the plaintiff great distress and forced him into deeper silence because he realized he might be shot or killed if he made a wrong move.

124. The plaintiff has been requested to assist in the recovery of a thirty-seven year-old victim of Brother John J. O'Connor, former Dean of Students at Cardinal Hayes High School in the Bronx, New York. In or around 1984 and 1985, Brother O'Connor sexually assaulted a freshman student, prompting his distress and post traumatic stress disorder. Brother O'Connor was then transferred to other assignments by the Congregation of Christian Brothers, including as Headmaster of Iona Preparatory School in New Rochelle, New York, and as a member of the Board of Trustees of Iona College, New Rochelle, New York. Brother O'Connor continues to minister unabated as a Christian Brother while the plaintiff was punished, retaliated against, and maligned for speaking out about injustices relative to sexual abuse and others matters.

125. The Christian Brothers neither welcomed nor addressed reports of sexual abuse by members of the Order and others. All of the incidents mentioned previously were known about, accepted, and condoned by the Christian Brothers. Therefore, the plaintiff was prevented from filing a timely lawsuit because the Christian Brothers refused to believe him and accept his evidence of abusive brothers. In addition, when he tried to report his own abuse and that of others, he was maligned, retaliated against, marginalized, and prohibited from doing same. The Christian Brothers wanted the plaintiff out of the Order so they could continue to allow these actions.

126. While the plaintiff was living at the Christian Brothers-West Side residence from 1985-1990, there were three Christian Brothers who were principals of schools acting out sexually and one teaching brother doing the same. Despite being known and or being reported by the plaintiff, nothing was done about these men and they were allowed to continue unabated in their assignments. Brother Michael Termini announced that he was a gay man, hosted parties at the residence of gay men, priests and religious included, and was one of Brother John Casey's favorites. Casey was the leadership team member who had told the plaintiff that he would never be a secondary school principal. This was continued action of retaliation against the plaintiff so the plaintiff would not timely file legal claims.

127. Brother John Rachel, sexually abused by Brother Salvatore Ferro when he was in high school, was Principal of Sacred Heart Elementary School on West 52nd Street., Manhattan, when he was carrying on an affair with the school's secretary, "Linda," a divorced mother, who later became Brother Rachel's wife.

128. Brother Michael Deegan, Principal of Saint Francis Xavier School near West 16th Street, was involved sexually with a woman at that time. The plaintiff was forced at times to interrupt his doctoral studies and thesis to answer the doorbell of the residence where an angry woman named "Gladys" wanted to report Brother Deegan's sexual escapades. Gladys was told to contact the Provincial

residence in New Rochelle but nothing was done about Brother Deegan. 129. Brother John Grande, an eighth grade teacher at Sacred Heart School in Manhattan, had an affair with another eighth grade teacher, Kathy Mora, who later became his wife. Grande told the plaintiff that during a trip to Philadelphia in the late 1980's, he shared a room with Mrs. Mora and they slept together.

130. The plaintiff was assigned to live with these aforementioned men who broke their vows on a regular basis, but it was the plaintiff who was blackballed, harassed, and maligned each time he spoke out about sexual indiscretions or reported sexual abusers and prevented from timely bringing forward legal action.

131. When the plaintiff was being transferred to New York City from Boston in 1985 to complete his doctoral studies, he requested residence on West 51st Street, Manhattan, a short ten minute walk to Fordham University at Lincoln Center, on West 60th Street. Instead, he was assigned to live at All Hallows Institute, located in the South Bronx and in a very dangerous neighborhood. The plaintiff's safety was placed at risk since most of his classes were held at night and he would be riding the New York City subway system's most dangerous lines at late hours. The plaintiff was being punished for his outspokenness and rejection of sexual activities and for repeatedly complaining and reporting improper behavior of Christian Brothers.

132. After the plaintiff was forced to protest assignment to the residence at All Hallows Institute, the leadership team changed its mind, but not before informing the plaintiff that the Christian Brothers-West Side Community had indicated to the leadership team that it did not want the plaintiff to live in their home, no doubt because they were afraid the plaintiff would curtail their sexual exploits.

133. While the plaintiff was residing at the Christian Brothers-West Side residence from 1985-1990 at 416 West 51st Street, New York, Father John O'Brien showed up one evening to speak to the plaintiff. The plaintiff reluctantly agreed to speak to him, and O'Brien attempted to get the plaintiff to take responsibility for the sexual abuse that he endured. O'Brien was afraid that the plaintiff would file legal action or go public about the abuse, so O'Brien manipulated the plaintiff into thinking that he was a willing participant in the sex. The plaintiff refused to accept O'Brien's manipulation, unlike when he was manipulated into sexual abuse from the late 1970's to 1982.

134. The plaintiff was compelled to move out of the residence at 416 West 51st Street, New York City, after Brother Thomas Mc Hale was transferred in. Mc Hale's room was located directly next to that of the plaintiff, who was highly allergic to cigarette smoke. Brother Mc Hale was a chain smoker, and the plaintiff objected to the presence of second-hand smoke in the residence. His objections were ignored and the plaintiff was forced to move out.

135. In 1994, the plaintiff made the decision to take a leave from the Christian Brothers. He was Director of Total Catholic Education for the parish of the Sacred Heart in Yonkers, New York, and was living at the Westcourt Home of Prayer in New Rochelle, New York. He was the community treasurer at the time. Brother Christopher Keogan, who had already been implicated in a financial scandal in the 1980's, demanded that the plaintiff end his term as treasurer and turn over the books to him. He told the plaintiff that a member of the leadership team, Brother Ed Roepke, had been contacted and instructed Brother Keogan to tell the plaintiff about the change in treasurers.

136. The plaintiff phoned Brother Ed Roepke who informed the plaintiff that Brother Keogan had never spoken to him about the change in treasurers and never made a phone call to him about such. It was clear that Brother Keogan wanted access to the treasury of the community for his personal use. The plaintiff, who kept accurate books and provided monthly accountings to the community and Provincial leadership team, was once again retaliated against for his honesty, integrity, and reports of sexual abuse. The plaintiff finished his term as treasurer in June, 1994, and left the community.

137. In the early spring of 2003, the plaintiff again reported his abuse to the Christian Brothers in the person of Brother Brian M. Walsh, Provincial. The plaintiff and Brother Walsh met in the Provincial residence at 21 Pryer Terrace, New Rochelle, New York. Upon information and belief, Brother Walsh reported the meeting's contents to Father John O'Brien.

138. In the spring of 2003, the plaintiff reported his abuse by Father John O'Brien to the Archdiocese of New York in the person of Father Desmond O'Connor, Vicar for Priest Personnel. It took the plaintiff many attempts to schedule a meeting, including writing to Cardinal Egan and the attorney for the Archdiocese, because Father O'Connor would not return the plaintiff's phone calls or letters. It

was known that, despite the clergy sexual abuse crisis and exposure of same, the defendants continued to ignore and downplay legitimate complaints and those of priests in the active ministry.

139. Following the meeting, officials of the Archdiocese of New York phoned or communicated with officials of the Archdiocese of Newark to inform them of the contents of the meeting, including the personal and confidential information that the plaintiff had revealed about his abuse. The defendants Archdioceses of New York and Newark communicated with each other to commence and orchestrate a character assassination of the plaintiff because of his reports of sexual abuse.

140. The Newark Archdiocese and New York Archdiocese began a conspiracy to discredit, harass, malign, and fire the plaintiff for his reporting of his abuse and speaking publicly against clergy sexual abuse, thus continuing to prevent the plaintiff from filing a timely lawsuit against his abusers.

141. In May, 2003, a short time after the plaintiff reported his abuse to officials of the Archdiocese of New York, Sister Muriel Smithwick, Assistant Superintendent of Schools of the Archdiocese of Newark, visited the elementary school of Our Lady of Good Counsel Parish where the plaintiff was Director of Schools. Sister Muriel informed the Principal of Our Lady of Good Counsel School, Patricia Mc Grath, that there were plans in the Archdiocese of Newark to "get Father Hoatson" and that the plaintiff should "watch his back."

142. On May 20, 2003, the plaintiff was invited to testify before the New York State Legislature about clergy sexual abuse and legislation that was contemplated that would create safe conditions for children. On May 23, 2003, the plaintiff was called into Newark Archdiocesan headquarters and fired from his job.

143. Bishop Arthur Serratelli, Vicar General, Father James Sheehan, Vice Chancellor and Secretary to Archbishop Myers, and the plaintiff were present at the meeting. Bishop Serratelli told the plaintiff that the Newark Archdiocese had received a complaint from officials of the Albany Diocese that the plaintiff had used strong language in his testimony to the Albany legislature and that Archbishop Myers would like the plaintiff to "tone down his language." Bishop Serratelli then slid a letter of termination across the table at the plaintiff. There was no mention of the plaintiff's performance as Director of Schools of Our Lady of Good Counsel Parish. The plaintiff was fired for being vocal about clergy sexual abuse and his own abuse.

144. The Newark Archdiocese began a character assassination of the plaintiff and used the Archdiocesan newspaper to effect the assassination. In an article in the Archdiocesan newspaper, The Catholic Advocate, it was obvious that the New York Archdiocese and its officials had discussed the plaintiff's report of sexual abuse with officials of the New York Archdiocese despite the fact that the plaintiff had not given permission to have his case discussed.

145. James Goodness, official spokesperson for Archbishop Myers and communications director for the Archdiocese of Newark, wrote that the plaintiff's claims of sexual abuse were actually consensual acts of sex between two adults. Goodness would not have been able to draw that incorrect conclusion had he and officials of the Newark Archdiocese not communicated with the New York Archdiocese about the plaintiff's meeting with Father O'Connor in New York City. The plaintiff had never discussed his charges of abuse with Archbishop Myers or the Newark Archdiocese at any time because he was prevented from doing same.

146. In addition, Goodness's article contained factual inaccuracies that were approved, promulgated, and not corrected by his superior, Archbishop John Myers. For instance, Goodness mentioned that the plaintiff had requested a transfer from Our Lady of Good Counsel, but Goodness failed to mention that Archbishop Myers, at a January 14, 2003 meeting with the plaintiff, turned down his request and ordered him to remain in his position until June, 2003.

147. At the meeting of January 14, 2003, the plaintiff reported acts of workplace and residential harassment and abuse in four parishes in which he worked, but Archbishop Myers refused to believe him, dismissed the charges outright, and blamed the plaintiff for same, telling him that if he continued to report such claims, he could develop a "bad reputation." This was further retaliation against and harassment of the plaintiff, and he was further intimidated into not filing a timely lawsuit.

148. The plaintiff was told after he had been assigned to Our Lady of Good Counsel Parish that the schools he was directing were responsible for paying for a motor vehicle that had been "purchased"

by a former pastor, Father Robert Tooman. The vehicle was taken off the schools' books when the plaintiff became Director of Schools because it became known that the vehicle was purchased by Father Tooman as part of drug activity in the parish. 149. The Pastor of Our Lady of Good Counsel, Monsignor Joseph Plunkett, informed the plaintiff that Father Robert Tooman, former pastor, was removed as pastor because of his use of illegal drugs and because illegal drugs were being sold from the rectory of Our Lady of Good Counsel on Summer Avenue in Newark. Tooman used the rectory to house drug dealers and users. It was believed by Monsignor Plunkett that large amounts of parish money "disappeared" during the Tooman pastorate. Tooman is now Pastor of Sacred Heart Parish in the Vailsburg section of Newark, New Jersey.

150. When Father Tooman was removed from Our Lady of Good Counsel Parish, he was assigned as pastor or administrator of Saint Rocco's Parish in North Bergen, New Jersey. He was removed from Saint Rocco's Parish after he stole \$30,000.00 to \$40,000.00.

151. Despite his criminal and immoral history, which was known by the Archdiocese of Newark, Father Tooman was appointed by Archbishop John J. Myers to an Archdiocesan committee whose task it was to plan for the future of parishes and schools in the Archdiocese of Newark. The plaintiff, however, was fired and retaliated against for speaking the truth.

152. In 2002, while the plaintiff was living in the rectory of Saint Mary's Parish, Closter, New Jersey, the plaintiff was asked to assist three nuns who were being abused in the parish convent by their superior. When the pastor, Father James Mc Kenna, discovered that the plaintiff was helping the nuns, he began to harass and retaliate against the plaintiff. He took away some of the privileges of the plaintiff, for which he was ordinarily paid, his garage, which was given to the nun superior, and made life "hell" in the rectory, thus forcing the plaintiff to flee the rectory because he felt threatened.

153. Father James Mc Kenna refused to give the plaintiff his final paycheck and to this day, has not been paid for his work at Saint Mary's Parish in Closter, New Jersey. The plaintiff learned that Father Mc Kenna used parish funds to lease a car for his sister, Ann, who was deceptively identified on parish records as "Sr. Ann." Mc Kenna also purchased with parish funds a truck for the personal use of the parish custodian. Mc Kenna also was a gay man who rented and purchased pornographic films for his own use.

154. The plaintiff reported Father Mc Kenna and the abuse by the nun superior to the Vicar for Priests of the Archdiocese of Newark, the Delegate for Religious of the Archdiocese of Newark, and the Franciscan Sisters of Pennsylvania, but he was maligned, harassed, told to mind his own business, and further retaliated against by the Archdiocese of Newark, Archbishop John J. Myers, Father Mc Kenna, and the Franciscan Sisters. The sister who first asked the plaintiff for assistance was ordered by her superiors to be silent and tell the plaintiff to be silent.

155. Archbishop John Myers allowed Monsignor William Hatcher to remain a Pastor despite his sexual abuse of a classmate of the plaintiff, Father Donald Gleeson, who left the priesthood as a result of his abuse. The plaintiff was fired because of his reports of sexual and workplace abuse.

156. Archbishop John Myers allowed Monsignor Peter Zaccardo to remain a Pastor despite his alleged homosexual affair with another priest that included dancing together at parish celebrations. The plaintiff, on the other hand, was harassed, marginalized, fired, and threatened because of his protestations of sexual promiscuity, abuse and the cover-up of abusive priests by the Archbishop of Newark and others.

157. The plaintiff learned through Newark Archdiocesan Catholic Charities that Father Christopher Hynes, a leading official in the Archdiocese of Newark and a priest who occupies an office close to that of Archbishop Myers, was arrested in New York City for soliciting a male prostitute. Father Hynes has not been disciplined, but the plaintiff is retaliated against each time he raises issues of his abuse and that of others.

158. The plaintiff learned through Catholic Charities of the Archdiocese of Newark that one of its executive leaders, Doctor Philip Frese, was engaged in an extramarital affair with a female employee of Catholic Charities also. This same woman was involved with a former Executive Director of Catholic Charities and was promoted. The affairs were known but nothing was done about them.

159. The plaintiff learned that the Chief Executive Officer of Cathedral Health Care Systems and

Catholic Charities of the Archdiocese of Newark is a gay man who has hosted "gay" parties in his home. The CEO is a "specially-favored" aide to Archbishop John Myers, yet Myers has continued to retaliate against the plaintiff for reporting sexual abuse.

160. The plaintiff learned that the current Secretary to the Archbishop of Newark and Vice Chancellor, Father Michael Andreano, abused a female employee of the Archdiocese of Newark who asked Andreano for help with a marital problem. Instead of counseling the woman, Andreano commenced a cybersex internet sexual affair with her, as reported to the plaintiff by the woman's husband. The woman worked in the Archbishop's office and her marriage was harmed as a result. Father Andreano was not disciplined for his behavior, but the plaintiff was placed on administrative leave for helping clergy abuse victims. Andreano was present when the plaintiff was disciplined and placed on administrative leave at the same time Andreano was sexually abusing a female employee of the Archdiocese.

161. The plaintiff was asked to assist a victim of Father Peter Funesti and Father James Weiner with his recovery. The victim of Funesti and Weiner, a seminary student, was damaged severely and received a financial settlement from the Archdiocese of Newark. Both Funesti and Weiner remain in their parishes as full-time priests, and one is pastor. Despite knowing this, the Archbishop of Newark continues to harass and discipline the plaintiff for his priestly work with victims.

162. The plaintiff was asked by a Georgia prisoner for help with his recovery from abuse by Father John Nickas of the Archdiocese of Newark. The Archdiocese allows Nickas to remain a priest in good standing despite the credible allegations of sexual abuse at Saint Rocco's Homeless Shelter in Newark. When the plaintiff questioned Archbishop Myers about this case, he was scorned and told to keep quiet.

163. The plaintiff was asked by a sexual abuse victim of Father Gerald Greaves for assistance with his recovery. This victim was an employee of Guardian Angel Parish in Allendale, New Jersey, and Greaves inappropriately touched the employee. The employee was given a cash settlement for his abuse, but Father Gerald Greaves remains a Pastor in the Archdiocese of Newark. The plaintiff continues to be harassed and retaliated against for helping this victim and other victims.

164. The plaintiff learned that Father John Gordon, a priest of the Archdiocese of Newark, New Jersey, was allowed to teach and serve at Franciscan University in Steubenville, Ohio, and that Gordon was accused of sexually assaulting a student there.. Despite knowing about this allegation, Archbishop John Myers and other officials of the Archdiocese of Newark allowed Gordon to return to the Newark Archdiocese and serve as Associate Pastor of Holy Family Parish, Nutley, New Jersey.

165. Father Charles Hartling of the Archdiocese of Newark was accused of sexually abusing a Union County teenager many years ago. The Archdiocese of Newark found the charges credible, and settled with the accuser for thousands of dollars. Instead of removing Father Hartling, the Archdiocese of Newark has allowed him to serve unabated at Saint Mary's Parish in Rutherford, New Jersey. In addition, MYSFACE.COM has carried stories of teenagers from the drama club of Saint Mary's High School, Rutherford, speaking of Father Hartling's continued acts of sexual abuse against teenagers. The Archdiocese of Newark is fully aware of Hartling's actions and continues to look the other way, but when it concerns the plaintiff and his efforts to serve and heal victims, Archbishop John Myers continues to harass and retaliate against the plaintiff.

166. In May, 2003, after the plaintiff was fired from his job as Director of Schools of Our Lady of Good Counsel Parish, Newark, New Jersey, Father Frank Rose, who had no credentials to be a school administrator, was appointed Director of Schools by Archbishop John J. Myers. Within four months of his appointment, Father Rose was dismissed as Director of Schools of Our Lady of Good Counsel because he sexually abused an eighth grade boy. Instead of disciplining Rose and removing him from his other administrative job as pastor of Saint Bernard's Parish in Plainfield, New Jersey, Archbishop John J. Myers promoted him to pastor of two parishes, while the plaintiff was excoriated for his continued advocacy on behalf of sexual abuse victims.

167. The eighth grade boy from Our Lady of Good Counsel School in Newark who was sexually abused by Father Frank Rose had previously been sexually abused as an elementary school student at Saint Peter's Parish School in Belleville, New Jersey, by Father Leo Butler, whose sexual abuse of this boy resulted in Butler being appointed chaplain of a large Archdiocesan high school where he had access to hundreds of boys. The eighth grade victim of Father Butler has dropped out of school and

gotten into trouble with law enforcement, all because of the sexual abuse by Butler and Rose. The plaintiff was asked by another family from Saint Peter's School, Belleville, New Jersey, to meet regarding a family member who was sexually abused by Father Leo Butler. This family's boy has experienced serious discipline and social problems because of his abuse by Butler.

168. In 2005, after the plaintiff's faculties to function as a priest had been removed by Archbishop John J. Myers in retaliation for the plaintiff filing a lawsuit, Archbishop John J. Myers was notified by at least two parishioners that Father Leo Butler was making sexual advances to a male altar server during Christmas Eve Mass at Sacred Heart Parish in Rochelle Park, New Jersey. The parishioners also sent copies of their letters to the pastor, Father Norbert Laskowski, who ignored their concerns and continued to allow Father Leo Butler to serve at that parish. Archbishop John Myers also ignored the parishioners' concerns and allowed Butler to serve as a priest unabated.

169. Archbishop John J. Myers hired Father Robert Emery as sexual abuse liaison and Chancellor (third highest position) for the Archdiocese of Newark, and then Vicar General of the Archdiocese of Newark, the second most powerful job in the Archdiocese, in or around 2002 because he knew Father Emery would cover-up the crimes of sexual abuse of Newark Archdiocesan priests. Father Emery was the administrator of Saint Peter's Parish in Belleville, New Jersey, and knew about and covered-up the sexual abuse by Father Leo Butler.

170. When the plaintiff was stationed at Saint Andrew's Parish in Bayonne, New Jersey, the Pastor, weekend associate pastor, and church organist ran an organization called F.A.R.T.S., the Fraternal Association of Rectory Trouble Shooters. This was an organization of priests and lay men who gathered in the rectory to smoke cigars and get drunk. The plaintiff is highly allergic to second-hand smoke, and his health was placed at risk each time these men gathered in the rectory. The plaintiff's health and well-being were placed at risk as a result of the actions of the pastor and his cohort.

171. In or around 2003, the plaintiff was asked by the Principal of Blessed Sacrament School, Newark, New Jersey, to advise him regarding the sexual abuse of the Vice Principal of Blessed Sacrament School. The Vice Principal was sexually abused by the Pastor of Blessed Sacrament Parish, Monsignor Paul Schetelick, from the time he was a teenager preparing to enter the Roman Catholic faith. The Vice Principal had developed a serious drug problem as a result of the abuse. The plaintiff reported these charges to the Archdiocese of Newark, and the Archdiocese of Newark pretended to discipline Schetelick by sending him to study spirituality at Creighton University in Nevada. This year-long paid vacation was Schetelick's reward for sexually abusing boys, while the plaintiff has been denied income and the ability to function as a priest, all because he defends sexual abuse victims and exposes clergy predators.

172. The plaintiff learned that Monsignor Schetelick had several boys living in his rectories at Blessed Sacrament and Sacred Heart Parishes, Newark, and that the boys slept in Schetelick's bed on a regular basis. In response to these reports, Schetelick was appointed associate pastor of Saint Andrew's Parish, Bayonne, New Jersey, and in 2007, was appointed pastor of Saint Andrew's. The plaintiff remains unable to function as a priest because of his reporting of sexual abuse, including his own, his filing of a lawsuit, and his advocacy on behalf of other victims.

173. In 2007, the plaintiff wrote to Bishop Paul Bootkoski, Bishop of Metuchen, New Jersey and former auxiliary bishop of Newark, New Jersey, and requested that he inform Archbishop John J. Myers about what he knew about Monsignor Paul Schetelick's sexual abuse of boys. The plaintiff had learned in or around 2002 that Bishop Bootkoski asked the administrator of Blessed Sacrament Parish, Newark, Father Kenneth Jennings, if Monsignor Paul Schetelick had been up to his same old tricks, referring to his sexual abuse of minors. Bishop Bootkoski never disciplined Monsignor Schetelick when he was acting administrator of the Archdiocese of Newark, New Jersey, despite knowing about Schetelick's abuse of boys. Bootkoski never responded to the plaintiff's letter.

174. When Archbishop John J. Myers became Archbishop of Newark in or about 2002, he appointed as Director of Priest Personnel, Father Robert Templeton, who had served as secretary to Archbishop Theodore E. Mc Carrick, and was fully aware that Archbishop Mc Carrick was sleeping with seminarians at the Archdiocesan vacation house in Sea Girt, New Jersey. Father Templeton announced that he was a gay man, had the AIDS virus, and had been living in a gay relationship for years. Despite knowing this, Archbishop Myers appointed Father Templeton pastor of Saint Anthony's Parish, East Newark, New Jersey, and Director of Priest Personnel, and selected Father Templeton to be elevated to the rank of Monsignor.

175. When Father Templeton announced that he was in a gay relationship and had the AIDS virus, Archbishop John Myers appointed him chaplain of a large Catholic hospital without informing the hospital or its clients of Father Templeton's status. At the same time, Archbishop Myers was retaliating against the plaintiff for revealing his sexual abuse, advocating on behalf of others, and making public other clergy abusers.

176. While the plaintiff was stationed at Saint Andrew's Parish in Bayonne from 1997-1998, a parishioner informed the plaintiff that the school and parish custodian, a man named "Frank," was using his school office to have sex with women. This woman also reported that Frank had sex with her against her will. The plaintiff reported these acts to his supervisor, the pastor, but nothing was done about the matter.

177. When Archbishop John Myers became Archbishop of Newark in 2001, he appointed Father Brian Plate Director of Vocations. After becoming Director of Vocations, Father Plate was involved in a drunk-driving incident where he nearly killed a parishioner of a Verona parish. Archbishop Myers allowed Father Plate to continue in his position while he maintained his harassment of the plaintiff.

178. The current Vicar General of the Archdiocese of Newark, Monsignor John Doran, was appointed because he was the personal secretary of Archbishop Peter L. Gerety, former Archbishop of Newark, and knew about the cover-up of sexual abuse in the 1970's and 1980's, and could be trusted to cover-up the abuses that occurred during the terms of Archbishops Theodore Mc Carrick (late 1980's to 2000) and John J. Myers (2001-present). Doran also knew of the cover-up of abuse during the term of Archbishop Thomas Boland, who served from the 1950's to the early 1970's.

179. The plaintiff learned that Father Thomas Cembor of the Archdiocese of Newark engaged in homosexual acts with the Principal of the parish school in Irvington, New Jersey, of which he was pastor. This was known to the defendant, Archbishop Myers, but Father Cembor was reassigned to another parish with no disciplinary action. The plaintiff was fired, retaliated against, and harassed because he reported abuse and advocated for clergy sexual abuse victims.

180. The plaintiff counseled a female employee from Saint Adalbert's Parish in Elizabeth who was sexually assaulted by a visiting priest from another country. When she told the pastor, Father Ronald Marczewski, about the assault, he scolded her and told her to remain silent or else she would lose her job as parish secretary and bookkeeper. These actions are similar to what the plaintiff experienced from the time he was in high school to the present day; he was intimidated into silence and could not report his abuse in a timely manner, he was told to keep quiet about any and all forms of abuse, and he was threatened with retaliation and dismissal if he spoke out.

181. The Archdiocese of Newark and Archbishop John J. Myers allowed Father William Giblin to remain a priest in good standing with full faculties to function as a priest despite his arrest in Canada for engaging in the sale and prostitution of children. The plaintiff was fired and placed on administrative leave for speaking up about abusers, like Giblin, and instructed not to question any of the cover-up in the Archdiocese of Newark and in other dioceses.

182. Despite knowing that Father Gerald Sudol is a sexual abuser and was responsible for the untimely death of a Ridgefield Park, New Jersey, teenager, Archbishop John Myers reinstated Father Sudol to full-time priestly ministry. Archbishop John Myers is aware of at least one other victim of Sudol but allows him to stay in full-time employment, while the plaintiff is denied substantial income because of being fired and placed on administrative leave.

183. The plaintiff has counseled a victim of Father William Dowd of the Archdiocese of Newark, and despite the credible allegations leveled against him, Archbishop John Myers has allowed Dowd to return to full-time ministry while continuing to punish the plaintiff for speaking out about clergy sexual abuse and assisting those who have been harmed.

184. The plaintiff is counseling a family that reported the sexual abuse of their daughter by a Newark Archdiocesan priest, Father John Gibbons, many years ago. Gibbons has been allowed by Archbishop John Myers to remain a priest in good standing while he continues to harass and retaliate against the plaintiff.

185. In spite of Pope Benedict's ruling that homosexuals must not be admitted to the priesthood, the

defendants Cardinal Edward Egan, Archbishop John Myers, and Bishop Howard Hubbard are homosexuals and have engaged in homosexual behavior in violation of their promise of celibacy. Since the plaintiff is a heterosexual male and has never violated his vow or promise of celibacy, he has faced discrimination, retaliation, harassment, and job dismissal. Unless a priest, like the plaintiff, is homosexual and sexually active, he cannot advance or be promoted in the Roman Catholic Church and in the defendant dioceses. For example, Archbishop John Myers hires homosexual priests or sexually deviant priests only to work on his staff so he can cover-up his own sexual activities and to blackmail the others into silence. For example, in the Archdiocese of Newark, the following positions are or have been occupied by homosexual men in direct violation of Vatican rules and regulations:

- a) Archbishop
- b) Vicar General and former Vicar General
- c) Chancellor and Vice Chancellor
- d) Assistant to the Archbishop for Public Affairs
- e) Superintendent of Schools
- f) Rector of the Major Seminary
- g) Director of Priest Personnel
- h) Judicial Vicar
- i) Various professors of theology assigned to the major seminary
- j) Director of Vocations
- k) Director of a facility where young men to discern vocations to the priesthood.

186. Several Cardinals, Archbishops, and Bishops worldwide have resigned because of their own sexual abuse of minors or vulnerable adults, or because they participated in the massive, Vatican-directed and led cover-up of same. At least one member of the Papal household of Pope John Paul II was forced to resign, but only when it became public that this high-ranking priest had abused seminarians of a Polish seminary. Pope John Paul II would not have forced this priest's resignation had it not been for media coverage, since he led the Vatican-directed cover-up since the late 1970's. The Pope concealed and covered-up the extensive sexual abuse by Father Marciel Maciel, a good friend of Pope John Paul II, after receiving lengthy reports of Maciel's abuse beginning in the late 1970's.

187. The plaintiff has maintained throughout his religious life and priesthood that the reason for the cover-up of the clergy abuse scandal and the retaliation against those, like the plaintiff, who speak against abuse of others and himself, is that the Cardinals, Archbishops, and Bishops of the Catholic Church have engaged in sexual behavior themselves in violation of their promises to be celibate or in acts of sexual abuse, and they are unable to monitor the clergy abuse crisis because they are abusers or because they are engaged in extra-celibate sexual behavior.

188. The following is a non-inclusive list of names of Cardinals, Archbishops, and Bishops who resigned their positions because they were sexual abusers or covered-up the rampant abuse in their dioceses:

- a) Bernard F. Law — Archbishop of Boston, Massachusetts
- b) Brendan Comiskey — Bishop of Ferns, Ireland
- c) Hans Hermann Goer — Archbishop of Vienna, Austria
- d) Joseph Keith Symons — Bishop of Palm Beach, Florida
- e) Anthony O'Connell — Bishop of Palm Beach, Florida

- f) Rembert Weakland — Archbishop of Milwaukee, Wisconsin
- g) Thomas Dupre, Springfield, Massachusetts
- h) Kurt Krenn, Bishop — St. Polten, Austria
- i) Thomas O'Brien — Bishop of Phoenix, Arizona
- j) J. Kendrick Williams — Lexington, Kentucky

Cardinals, Archbishops, and Bishops must silence and harass priests like the plaintiff who speak about their abuse because they will be "outed" for their own sexual actions, or they know they will be blackmailed if they attempt to discipline abusive priests. Dr. Richard Sipe, who has studied priestly celibacy and sexuality for more than forty years, concluded that Cardinals, Archbishops, and Bishops cannot police their dioceses or priests because they, themselves, are covering-up their own sexual promiscuity or abuse.

189. The Cardinals, Archbishops, and Bishops of the Catholic Church have maligned, harassed, and retaliated against priests, like the plaintiff, who have spoken out about clergy abuse, and attempted to get them removed from the priesthood. For example,

a) Cardinal Edward Egan had a sexual relationship with Brother Shane Burke, former Principal of Saint Joseph's High School in Trumbull, Connecticut, and former Superior General of the Franciscan Brothers of Brooklyn. The sister of Brother Shane Burke, Barbara Burke Samide, has an audiotape of her brother talking about the sexual relationship he had with Cardinal Egan and the retaliation and harassment he received when he cut off the relationship with Egan.

b) Archbishop John J. Myers of Newark, New Jersey, had a sexual relationship with a man named Lonnie Stewart, an artist and sculptor from Peoria, Illinois. The plaintiff learned as did Father Patrick Collins of the Diocese of Peoria that Lonnie Stewart had admitted having had a sexual relationship with Myers while Stewart was designing and sculpting a statue of Mother Teresa of Calcutta for the cathedral in Peoria.

c) Bishop Howard Hubbard of Albany, New York, has been implicated by several men as having had sex with him. There is a videotape of the man who claims he had sex with Bishop Hubbard. Hubbard is a frequent visitor, with his gay friend, Bishop Matthew Clark, Bishop of Rochester, New York, of Provincetown, Massachusetts, a gay community on Cape Cod, Massachusetts. Attempts by Bishop Hubbard to hire an attorney to supposedly issue a report clearing Bishop Hubbard failed. The New York Times described the supposed investigation as a case of mistaken identity where a priest who was the same age and looked like the defendant Hubbard frequently solicited sex from teenage prostitutes and he conveniently went by the nickname "Bishop."

190. It has been necessary for the Catholic Bishops of the United States to punish, silence, retaliate against, terminate, and marginalize whistleblower priests, like the plaintiff, and priests, like the plaintiff, who tell the truth, promote the truth, and live by the truth because many Bishops have been engaged in their own acts of extra-celibate sexual relations and/or acts of sexual abuse against others. The Bishops are insulated and protected by the "black and white" code of silence to such an extent that they can "eliminate" whistleblowers, like the plaintiff, and create circumstances around which the only recourse truthful priests have is to leave the priesthood. Truthful priests, like the plaintiff, have information about many bishops and are confided in by many victims such that the bishops must "eliminate" them, much as the Mafia eliminates whistleblowers.

191. The plaintiff learned about several bishops who are sitting diocesan bishops and others who hold administrative positions with the United States Conference of Catholic Bishops. For example:

a) the plaintiff is helping a survivor of sexual abuse by the Chairman of the United States Conference of Catholic Bishops' Committee on Child and Youth Protection, Bishop Gregory Aymond, of Austin, Texas, who abused this man when he was a seminarian in a New Orleans seminary.

b) the plaintiff is assisting a family who claims the current bishop of Palm Beach, Florida, Gerald Barbarito, was beaten up by a group of Howard Beach, New York, teenagers because Father

Barbarito was soliciting sex from the boys in the neighborhood.

c) Bishop Francis J. Mugavero, deceased, sexually abused a young man in the steam room of the New York Athletic Club. The plaintiff is the advocate for this victim.

d) Bishop Charles Mc Donnell, Auxiliary Bishop of Newark, New Jersey, and Pastor of Holy Trinity Parish, Hackensack, New Jersey, discovered that a long-time employee of the parish was stealing from the Sunday collection. He allowed the employee to remain in a parish-owned home and did not report the theft to law enforcement authorities. Yet, the plaintiff was harassed continuously for raising issues of justice, fairness, and sexual abuse in the parish during his three years there.

e) Bishop Michael Saltarelli, Bishop of Wilmington, Delaware, and former auxiliary bishop of Newark, New Jersey, paid a sexual abuse victim \$60,000.00 in a clergy-abuse settlement case and forced the victim to sign a gag order. Saltarelli then placed the abuser back in priestly ministry without disciplining him.

f) Cardinal Sean P. O'Malley, Archbishop of Boston, Massachusetts, refused to reimburse the plaintiff for costs associated with the housing of a clergy abuse survivor. It was only when the plaintiff threatened legal action that Cardinal O' Malley sent the plaintiff a check for reimbursement.

g) Archbishop John J. Myers embarrassed and humiliated the plaintiff in addition to retaliation against the plaintiff when he ordered the pastors of the parishes in which the plaintiff served on weekends, Saint Catherine, Glen Rock, New Jersey, and Nativity Parish, Midland Park, New Jersey, to read a letter informing thousands of Catholics that the plaintiff would no longer be allowed to serve them because of his filing of a lawsuit. The plaintiff was never told that he was being prevented from serving in those parishes before the letter was read in the two parishes and was never informed that he was suspended from leading services in those parishes. The plaintiff was punished for filing a lawsuit.

h) Bishop Arthur Serratelli, currently Bishop of Paterson, New Jersey, and former auxiliary bishop and vicar general of the Archdiocese of Newark, treated the plaintiff with disdain when a sexual abuser was moved into the plaintiff's rectory and when the plaintiff was unfairly terminated from his position as Director of Schools at Our Lady of Good Counsel Parish in Newark, New Jersey. Bishop Serratelli has been shielding his best friend, Hernan Arias, a Paterson diocesan priest and sexual abuser of at least two young men. Serratelli promoted Arias to Vocations Director of the Paterson Diocese after knowing about and covering up Arias's abuse of a young man from a parish in Mendham, New Jersey. Serratelli and Arias have conspired to place young men at risk by placing potential priest candidates in the presence of an abuser.

i) The plaintiff is counseling a victim of a New York Archdiocesan priest whose sexual abuse continued for over ten years. One day, while the victim was being abused in the offices of the Propagation of the Faith in New York City, Bishop Fulton Sheen walked in on the abuse, called the victim a slut, told the priest to put his pants on, and did nothing to report the incident or comfort the victim. Bishop Sheen covered-up the crime. The priest abuser remains a pastor and had a prominent role in national television coverage of the funeral of Pope John Paul II. When the plaintiff wrote to the promoter of the cause of canonization of Bishop Sheen to inform him of Bishop Sheen's actions, his letter was ignored and went unanswered. Bishop Sheen's sainthood is steamrolling ahead despite his cover-up of child sexual abuse, while the plaintiff continues to be harassed, retaliated against, and fired.

j) Archbishop John J. Myers of Newark, New Jersey, purchased for himself with Archdiocese of Newark money, a luxurious home in the countryside of New Jersey in order to sponsor gay parties with members of his administration and the clergy. Henry Amoroso, a gay man and close ally of the Archbishop, has a standing invitation to the home as do Father Christopher Hynes, another gay man. Archbishop Myers used Archdiocese of Newark personnel to renovate the house using contributions from Archdiocesan parishioners.

k) Cardinal Theodore E. Mc Carrick slept with several Newark Archdiocesan seminarians when he was Archbishop of Newark. Monsignor William Fadrowski, Director of Priest Personnel for the Archdiocese of Newark, confirmed this information for the plaintiff and told the Plaintiff that a Papal Nuncio from the Pope and an auxiliary bishop of Newark confronted Mc Carrick and ordered Mc Carrick to cease his behavior. Vatican authorities and the auxiliary bishop never disciplined Mc Carrick or offered assistance to his victims.

l) Archbishop John J. Myers participated in the cover-up of crimes associated with the Office of Plant Services of the Archdiocese of Newark regarding business kickbacks and contract awards. Despite knowing about these, Archbishop Myers allowed them to transpire and did not report the crimes to law enforcement, thus squandering the donations and resources of parishes and parishioners.

192. The plaintiff does not concede nor argue that church teachings or Canon Law is applicable or controlling to the claims in this suit, however, documents and studies of the church or by the church are utilized to aid the Court and the plaintiff in detailing the claims set out herein.

193. Unknown to the public, in 1962, a secret guideline was issued by the Holy Office of the Vatican, now known as the Congregation for the Doctrine of the Faith, to all bishops of the Roman Catholic Church, the Bishops, Archbishops and Cardinals in this case among them, with instructions that this document be kept in the secret archive within each DIOCESE in the United States and the world, including the ARCHDIOCESES OF NEWARK, NEW YORK and THE ROMAN CATHOLIC DIOCESE OF ALBANY and the document was entitled "Manner of proceeding in Cases of Solicitation," or by its official Latin name, Crimen Sollicitationis. The Crimen document prescribes secret procedures for processing cases of an especially vile form of clergy sexual abuse: solicitation of sex during sacramental confession. But, the document also discusses procedures of other clerical crimes including sex with children and even sex by and between clerics. The Pope and various regional bishops had issued a series of similar disciplinary laws against solicitation as far back as 1561. The authenticity of Crimen has been the subject of intense examination, including an on-point deposition of Rev. John Beal, an Associate Professor of Law at Catholic University of America.

194. Since Crimen was never officially published, its "authenticity" in the strictest sense cannot yet be established. Yet, as the Beal deposition establishes, it has been used by him in scholarly works, official commentaries, and even distributed by him to his students. Thus it possesses sufficient indicia of reliability to allow its introduction in this and other cases. Crimen is a virtual "trial manual" on the manner of conducting secret, exculpatory, sham-trials of priest-perpetrators in such a manner as to denigrate the victim's testimony through a series of self-incriminating leading questions that make it virtually impossible for any priest ever to be convicted of the crime of sexual assault of children by a secret church tribunal. Instead the criminal perpetrator is to be sent on his way to conduct pious pilgrimages while the victim is silenced under a papal secret, never to reveal the conduct of the proceeding for fear of eternal damnation.

195. The Catholic Church in the United States has always conceded that secular law takes precedence over church teachings. The documents referenced hereto are indications of the cover-up and protection of ongoing criminal activity.

196. A Latin reference to "Crimen Sollicitationis" was initially discovered in a letter to all bishops of the Catholic Church from the then Cardinal Joseph Ratzinger, now known as Pope Benedict XVI, dated May 18, 2001, and incorporated herein for all purposes. Crimen and its 1922 predecessor were also previously referenced in a footnote to the 2000 supplemental commentaries to the Code of Canon Law, Canon 1388. The Ratzinger letter confirms that the procedures of Crimen have been in effect and known to Bishops such as the defendants in this case from at least 1962 to 2001, most likely earlier, and according to Dr. Beal, still likely to be in effect. However, the English version of Crimen was not uncovered and made known to the public until its existence was published in The Washington Post and in many other national and international newspapers in 2003 and 2004.

197. In its head note, Crimen states that it ". . . is to be diligently stored in the secret archives of the Curia as strictly confidential; nor is it to be published nor added to with any commentaries." This head note explains the delay plaintiffs have had in discovering this document. Further, these and other official church documents will show, at times of trial, that children and other vulnerable persons were considered accomplices in their own abuse, thus providing a warped justification for the conspiratorial conduct involved, including a conspiracy of silence.

198. Since the archives of the Holy Office, now known as the Congregation for the Doctrine of the Faith, under the control of the then Cardinal Ratzinger, are closed to outside public scrutiny, it is impossible to determine the number of cases involving sexual abuse of children referred to it between 1962 (and probably earlier) and the present. The other factor impeding a study of such cases is the prohibition of local archdioceses or dioceses from ever revealing the existence of these cases much less the relevant facts.

199. Although the Court can and may take judicial notice of the widespread public dissemination of clergy sexual abuse cases and stories, the actual and true extent of these cases and the clergy abuse crisis will never be known due to the intentional and ongoing nature of the organized cover-up of these cases from public and secular views.

200. The public exposure of clergy sexual abuse of children which began in the mid-eighties was mistakenly believed by many to be a new phenomenon to the Catholic hierarchy, but, as Crimen, as well as earlier church legislation clearly demonstrate, it was not. Deviant sexual behavior against the vulnerable by Catholic clerics was actually known and its repetition foreseeable by the defendant ARCHDIOCESES and defendant DIOCESE and their bishops in this case. This assertion is based on a consistent pattern of disciplinary legislation such as Crimen enacted by church authorities from the fourth century down to the present.

201. Crimen is significant in this case because it reflects the church's urgent desire to maintain the highest degree of secrecy and strictest level of security about the worst sexual crimes perpetrated by clerics against the vulnerable; and the fact that it even exists supports plaintiff's allegation in this case as detailed below, of systemic fraud, fraudulent concealment, misrepresentation and conspiracy to commit and conceal clergy sexual abuse by the Catholic hierarchy, including defendants herein.

202. With respect to the scope of a conspiracy to hide and protect predators, and to retaliate against persons, including the plaintiff that has acted to expose same, the plaintiff respectfully directs the Court to the recently released Research Study conducted by the John Jay College of Criminal Justice for the United States Conference of Catholic Bishops ("USCCB"), The Nature and Scope of the Problem of Sexual Abuse of Minors by Catholic Priests and Deacons in the United States, dated March 19, 2004. It reports that for the 53 year period, beginning in 1950, for which data were collected, there were some 4,392 perpetrators and a victim population of at least 10,667 individuals.

203. The John Jay Study was accompanied by A Report on the Crisis in the Catholic Church in the United States to the USCCB, authored by the National Review Board for the Protection of Children and Young People, dated February 27, 2004.

204. With respect to the causes of action pled in this case, the revelations of the Review Board are compelling. "There appears to have been a significant surge in acts of abuse in the 1960s and continuing into the mid 1980s. The fallout resulting from this epidemic of abuse and the shortcomings in the response of a number of bishops and other Church leaders continues to this day" (emphasis added). "The bishops acknowledge that 'in the past, secrecy has created an atmosphere that has inhibited the healing process and, in some cases, enabled sexually abusive behavior to be repeated'" (emphasis added).

205. The Review Board places much of the blame for this crisis on what it characterizes as Secrecy and Avoidance of Scandal. In that section of the report, the Board speaks explicitly to the gravamen of the plaintiffs' complaints in this case.

Time and again church leaders failed to report incidents of possible criminal activity to the civil authorities. In fairness, at the time, church leaders typically were not required to report allegations of sexual abuse of minors to civil authorities. In addition, civil authorities often showed little interest in receiving information about cases that were beyond the statute of limitations. But it is clear in hindsight that the Church could have prevented numerous acts of sexual abuse had its leaders reported all allegations of sexual abuse by priests. Where the evidence warranted, offenders could have been prosecuted and punished before they were able to perpetuate their misconduct; and by their example, other priests could have been deterred from engaging in similar misconduct.

Id. at 110 (emphasis added).

206. Unknown to and unreported by the Review Board, the "church leaders" to which it refers extends beyond the United States. The John Jay study is incorporated herein by reference as is a letter of the Ratzinger defendant specifically directed at all bishops of the Catholic Church, including but not limited to the defendants. It is conspiratorial on its face in that it (a) combines protected First Amendment

activities (consecration of sacred materials) with constitutionally unprotected criminal activities (clerical sexual assault), (b) attempts to apply its exclusive jurisdiction and procedures to both these types of acts, (c) applies explicit principles of exclusive clerical control and "pontifical secrecy" to its own proceedings, (d) controls and keeps secret the records (Acts) of its secret proceedings, and (e) extends its period of exclusive control and secrecy in the criminal matters to the age of the victim at age 18 plus ten years in order to defeat intentionally most criminal statutes of limitations. Given the information in the Beal deposition, the issue date of the Ratzinger instruction, May 18, 2001, adds further corroboration to its conspiratorial intent. Upon information and belief, and upon examination of the so-called enabling legislation by the Pope, internally referenced, the acts of the Ratzinger document are *ultra vires*, i.e., outside the scope of authority given to him by the Pope but well within his personal power to effectuate.

207. Also unknown to the citizens of New York and New Jersey was the participation of the defendants in a conspiracy with other archdioceses, especially in light of the retaliation against the plaintiff. Indeed, recycling rejected clerics is a recognized pattern of fraudulent deception that is systemic in the Roman Catholic Church. As their own audit conducted by the John Jay School of Justice (and released in 2004) states:

Aspects of the failure to respond properly to sexual abuse of minors by priests included: (i) inadequately dealing with victims of clergy sexual abuse, both pastorally and legally; (ii) allowing offending priests to remain in positions of risk; (iii) transferring offending priests to new parishes or other DIOCESES without informing others of their history; (iv) failing to report instances of criminal conduct by priests to secular law enforcement authorities, whether such report was required by law or not; and (v) declining to take steps to laicize priests who clearly had violated canon law.

208. During and after the sexual abuse at issue in this case, the defendants' tortious conduct continued. In that regard, in addition to the so-called "Ratzinger Instruction," a/k/a *Ad Exequandam*, and its internally referenced "On the Manner of Proceeding in Cases of Solicitation," a/k/a *Crimen Sollicitationis*, additional actions have been taken to affirmatively misrepresent to the public that its children are safe from the cover-up mentality which lies at the core of the tortious conduct addressed in this suit. In the summer of 2002, the National Conference of Catholic Bishops met in Dallas to fashion what they call, even today, their promise to cooperate with civil law enforcement and stop the cover-up of priests' criminal conduct.

209. In December 2002, the recognition" or approval came in a form that stated the American bishops would inform "Rome" of a criminal case and then be told "to proceed." What emerged was the so-called "Essential Norms," engineered by the bishops' conduct noticeably lacking, in which the critical word "how" now controls, i.e., inform Rome and Rome will tell you "how to proceed." The "Essential Norms" are not attached hereto, but will be incorporated herein by reference. At Par. 8A therein, the reference to "how" and the May 18, 2001 Ratzinger letter is clearly set forth. Then the devil always has been in the footnotes, as footnote 7 is stated, "{t}he necessary observance of canonical norms internal to the church is not intended in any way to hinder the course of any civil action that may be operative. At the same time, the Church reaffirms her right to enact legislation binding on all her members concerning the ecclesiastical dimensions of the delict of sexual abuse of minors." In this regard, two prominent people recently departed the service of the church in the "clergy sex abuse crisis" in the following manner.

210. On his departure, Governor Frank Keating of the Catholic Bishops' National Review Board compared some bishops to the Mafia in their devotion to secrecy and/or retaliation against their own. Governor Keating was replaced as chair of the so-called "National Review Board" by Justice Anne M. Burke of the Illinois Appellate Court who completed her term but did not wish to be reappointed and she did not serve another term in her post out of frustration in the fact of "business as usual," a decision to "backslide on the Charter and Norms." Governor Keating and Justice Burke's comments are incorporated herein by reference.

211. Thus of critical consequence to this case is the clear demonstration that the church's public representations that children are currently safe from its priests anywhere is deliberately false and misleading and constitutes an ongoing danger to the public.

## AS AND FOR THE FIRST CAUSE OF ACTION

212. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

213. This cause of action is for a violation of the New Jersey Statutory and Common Law in New Jersey and New York and whistleblower laws and/or unlawful retaliatory action against all of the defendants jointly and severally.

214. The plaintiff is a protected whistleblower who is being retaliated against and punished for speaking out against predators in ministry which involves public safety and health, the hierarchy and bishops in the Catholic Church and for aiding and assisting victims of clergy sexual abuse in his employment.

215. The defendants have all been involved to a degree in the retaliation of the defendant NEWARK ARCHDIOCESE and the defendant MYERS.

216. The defendants and notably the defendant ARCHDIOCESE OF NEWARK with the aid and cooperation of the defendants ALBANY DIOCESE, NEW YORK ARCHDIOCESE and the leaders of the CONGREGATION CHRISTIAN BROTHERS and bishops have retaliated against, and punished the plaintiff in his career, profession and livelihood.

217. The plaintiff has spoken out publicly and to legislative bodies conducting a hearing, with the intent and purpose of protecting children and those harmed by abusive priests and religious.

218. The law prohibits any employer from taking retaliatory action against an employee when the employee

(a) discloses what the employee ". . . reasonably believes is in violation of the law . . .";

(b) testifies before ". . .any public body conducting an investigation . . ."; or

(c) objects to participate in any activity which is incompatible concerning public health or safety (NJSA 34:19-3, also commonly known as the N.J. "Whistleblower Act."

219. The defendants have with malice, and with the intent to preserve, protect and defend themselves, their own credibility, and the prestige of their positions and to hide stories of the victimization of children, served to punish or retaliated against the plaintiff for appearing to speak out for victims of clergy sexual abuse which has been wrongly perceived as against his own employer and the defendants.

220. The defendants have been motivated to retaliate against the plaintiff, to protect predatory priests and religious due to a widespread and rampant subculture and culture of homosexuality within the priesthood, clergy, and religious life and with bishops.

221. Although the plaintiff accepts, recognizes and supports all basic civil, human and homosexual rights, clergy and religious life have a far greater percentage of actively homosexual men in ministry than that of celibate and/or heterosexual men, and the subculture or climate in ministry or religious life for the plaintiff has been discriminatory.

222. Due to the fact that there is far in excess of half of all priests and religious in the United States who are active homosexuals, the climate has existed that pedophiles and/or sexual predators such as the ones who repeatedly abused the plaintiff have been able to infiltrate ministry or religious life and have been protected, defended, supported, moved around and kept in ministry by bishops due to a reciprocal type of blackmail. Pedophiles and predators in ministry and religious life have successfully sexually abused children for decades because of or due to the fear of exposure of actively homosexual bishops, archbishops, cardinals and a massive amount of and high percentage of actively homosexuals in ministry. The plaintiff has acted to expose this hypocrisy that has and continues to endanger children and has been retaliated against because of this, and each time he was abused, he was prohibited from filing legal action due to the actions of the Defendants.

223. The plaintiff, upon information and belief, alleges the defendants MYERS, EGAN and HUBBARD are actively homosexual, as well as Cardinal Theodore McCarrick of Washington, D.C., who the

plaintiff previously worked for and under, as well as leaders in the Brothers. The plaintiff has personal knowledge of this and states that consensual, adult and private sexual behavior by and amongst these defendants is not an issue or at issue. The issue for the plaintiff is that this behavior has compromised the defendants' ability to supervise and control predators, and has served as the reason for the retaliation and harm repeatedly done to the plaintiff and the plaintiff's career in exposing predators and helping victims of clergy sexual abuse.

224. Due to the fact that the defendants MYERS, EGAN and HUBBARD along with McCarrick and leaders in the Brothers are or have been actively engaged in homosexual lifestyles, these bishops have been compromised in their positions and status as employers by predators and pedophiles in ministry and motivated to retaliate against the plaintiff for exposing criminal acts, corruption, immorality, hypocrisy and criminal acts by predators and amongst bishops.

225. The defendants are not exempt from this statutory claim due to the plaintiff's status as a priest. It is undeniable that the plaintiff's speaking out, and actions to support victims of clergy sexual abuse is not an activity that is protected by the First Amendment's separation of church and state. This activity of the plaintiff is protected and involves neutral principles of law.

226. The defendants have acted to retaliate against the plaintiff's whistle blowing and/or protected actions in an effort to protect themselves, protect their lifestyles, and protect the culture of secrecy with respect to an overwhelmingly greater proportion of homosexuals in ministry, than celibate or heterosexual priests, and ultimately to protect, enable and aid predators or pedophiles in ministry or religious life, or those who have left the church for these reasons at the expense of children, the vulnerable and/or the plaintiff.

#### **AS AND FOR THE SECOND CAUSE OF ACTION**

227. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

228. The defendant NEWARK ARCHDIOCESE and defendant MYERS are jointly and severally liable to the plaintiff for this cause of action of intentional infliction of emotional distress.

229. In the last year, or within one year of the filing of the plaintiff's action in the United States District Court, the defendants have engaged in extraordinary and extreme acts of malice and outrageous actions toward the plaintiff. The plaintiff first filed this action in December of 2005 and this and other state law claims were dismissed without prejudice by the District Court in February 2007, and these claims are therefore, timely. The Defendants have continued to engage in outrageous actions against the plaintiff in 2006 and 2007.

230. The plaintiff has dedicated his career to aiding victims of clergy sexual abuse and in response, the defendants have intentionally acted in a manner to punish, harass, harm and/or exact retribution against the plaintiff because of a perceived failure to protect other priests, religious and bishops.

231. The culmination of the punishment and intentional harm exacted upon the plaintiff has been memorialized in sanctions and punishment in 2005 from defendant ARCHBISHOP JOHN J. MYERS and the defendant NEWARK, and continuous and repeated punishment of the same or a similar nature in 2006 and 2007.

232. The defendants' conduct was and has been extreme and outrageous and was intentional or done with a reckless disregard for the welfare of the plaintiff, and was done because the plaintiff was and is a person who complained about sexual abuse by clergy and has stood up and supported victims of clergy sexual abuse.

233. The defendants' acts were and are wanton and careless and in the past have targeted the plaintiff with these actions. This claim is timely due to the action in February 2007 by the District Court.

234. By engaging in a clear pattern and ongoing activity of egregious behavior herein described, and in lieu of the sexual abuse experienced, witnessed and reported by the plaintiff, the defendants intended to inflict distress upon the plaintiff and should have known that the emotional distress would likely occur.

235. The defendants engaged in a series of reckless acts which has proximately damaged the plaintiff.

236. The defendants' acts, when viewed in their entirety, consisted of a pattern of reckless and careless acts.

237. That such actions above described by the defendants are shocking to the conscience of right-thinking persons in the community and damages were proximately caused to the plaintiff by all defendants' conduct.

238. As a result of defendants' conduct, the plaintiff experienced and continues to experience severe emotional distress proximately caused by the defendants' actions.

239. The defendants each have displayed extremely reckless conduct and deception towards the plaintiff.

240. As a result of the above-mentioned conduct, plaintiff has suffered and continues to suffer great pain of mind, body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self esteem, disgrace, humiliation, and loss of enjoyment of life; has sustained loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

#### **AS AND FOR A THIRD CAUSE OF ACTION**

241. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

242. The defendant HUBBARD, defendant ALBANY DIOCESE, defendant EGAN and defendant NEW YORK ARCHDIOCESE, and the defendant CHRISTIAN BROTHERS are jointly and severally liable to the plaintiff for this cause of action for tortious interference and/or tortious interference with the plaintiff's employment or business contract which the defendants were aware of.

243. The defendants in or around May 2003 made repeated contact and communication with the defendant MYERS and defendant NEWARK ARCHDIOCESE in an effort at disciplinary action, punishing and firing the plaintiff. This cause of action is timely in light of the United States District Court action.

244. The defendants had notice or constructive notice that the plaintiff was a NEWARK ARCHDIOCESAN priest who had come to the Albany area to testify at the New York State Senate to give testimony that supported victims of abuse and helped to expose predators in ministry. In addition, the defendant EGAN and defendant NEW YORK ARCHDIOCESE at or about that time acted to retaliate or damage the plaintiff.

245. The defendants had a duty to the plaintiff and breached their duty of care to the plaintiff, by engaging in negligent or egregious behavior, which proximately caused the plaintiff's damages.

246. The defendant HUBBARD'S, defendant ALBANY DIOCESE'S, defendant EGAN'S and defendant NEW YORK ARCHDIOCESE'S actions breached a duty of care and foreseeably caused or resulted in improper and retaliatory disciplinary action against the plaintiff, which included the plaintiff's retaliatory termination from his job caused by these defendants' actions.

247. The defendants also engaged in a criminal conspiracy to institute false charges against the plaintiff and did, in fact, act to further falsify charges in order to harm and dissuade this and other victims of clergy abuse and their supporters.

248. Each of the defendants performed overt acts or took steps in furtherance of their activity.

249. The defendants DIOCESES and the defendants are persons controlling or directing clergy sexual abuse and or have engaged in or joined in a conspiracy to intentionally, recklessly and/or negligently conceal criminal conduct of its agents, aid and abet the concealment of criminal conduct, aid and abet criminal sexual conduct, fail to report criminal conduct of its agents, obstruct justice, obstruct criminal investigation, obstruct state and/or local law enforcement, evade criminal and/or civil prosecution and liability, pay or offer to pay money to victims in order to keep its criminal conduct secret, violate the

civil rights of children, families and vulnerable adults, to maintain or increase charitable contributions and/or avoid public scandal in the Roman Catholic Church or the defendants DIOCESES.

250. In furtherance of its scheme to protect molesting priests and other clergy from criminal prosecution and civil liability, maintain or increase charitable contributions and/or avoid public scandal in the Roman Catholic Church and the NEWARK, ALBANY and NEW YORK DIOCESES and the CHRISTIAN BROTHERS, persons controlling or directing the affairs of the defendant DIOCESES and CHRISTIAN BROTHERS intentionally and fraudulently engaged in the routine practice of maintaining secret "sub secreto" archival files of sexual misconduct by priests. These sub secreto files are accessible to the Bishops only. The existence of these secret files and the contents were not disclosed to or made available to law enforcement authorities, or others, in order to restrict or inhibit law enforcement to investigate the known crimes or sexual misconduct of the priests.

251. In fact, it is the practice of the defendants MYERS, HUBBARD and/or EGAN and the Roman Catholic Church (including the CHRISTIAN BROTHERS) to fraudulently purge the files and hide them from persons, including law enforcement authorities, seeking access to them so as to engage in the regular scheme or practice to keep sexually abusive priests out of and protected from our criminal justice system. Former district attorneys, including Albany District Attorney Paul Clyne publicly stated in April 2002 that he would not seek or try to access these files which document widespread pedophilia in the defendant ALBANY DIOCESE, and district attorneys such as Robert Morganthau who have acted and spoken similarly.

252. Defendants conspired to and did take specific acts to conceal the misconduct perpetuated by defendants and attempted to block the instituting of complaints of sexual abuse against the defendants, which is itself a crime or a conspiracy to commit a crime. Those specific acts included a conspiracy of an ongoing nature.

253. Defendants conspired with each other in furtherance of the activity to frustrate the legitimate claims of plaintiff, and to damage the career, business and property to a property of the plaintiff, and to prevent the plaintiff from timely filing legal action.

254. The use of retaliatory, hostile and discriminatory acts of the defendants to further the defendants' nefarious actions is and was particularly troubling in light of their position of trust with children, power and influence of a church.

255. The defendants took numerous acts or steps in furtherance of their actions including, but not limited to:

- a) filing false charges against plaintiff;
- b) fabricating false charges against plaintiff;
- c) attempting to "build a file against the plaintiff";
- d) creating a hostile work environment for the plaintiff;
- e) retaliating against the plaintiff;
- f) punishing the plaintiff for exposing and reporting predators and for working for and with victims of abuse;
- g) using the telephone lines to mislead the plaintiff in an effort to have him damaged;
- h) by engaging in a series of these acts which constituted a pattern, including but not limited to conspiring with each other and other persons to attempt to tell or enhance a consistent set of retaliation, lies or deceptive acts in order to have the plaintiff falsely charged; and
- i) in engaging in such other illegal predicate criminal acts consisting of protecting sexually abusive priests.

256. The defendants' actions are a continuing practice of an ongoing nature, from the beginning of the plaintiff's career continuing and into 2002, 2003, 2004, 2005, 2006, and 2007.

257. The plaintiff was specifically compelled to be fired as a teacher and director from two Catholic schools and/or constructively discharged because he was charged with helping victims of abuse.

258. The plaintiff has demonstrated damages to his business, career and livelihood in that he had to leave school and lost his administrative position due to being falsely charged and accused by the defendants.

259. The defendants engaged in repeated and a series of criminal actions as and towards the plaintiff and others in setting into motion false charges against the plaintiff which occurred over many months.

260. The defendants specifically used telephone lines and made false misrepresentation with the plaintiff in an effort to build or substantiate false charges or building a file against the plaintiff.

261. The defendants conspired to have the plaintiff investigated on false charges, or made false claims against the plaintiff due to his actions viewed by the church defendants as disloyal acts.

#### **AS AND FOR THE FOURTH CAUSE OF ACTION**

262. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

263. The defendants are liable to the plaintiff for this cause of action for breach of fiduciary duty.

264. Acting in a fiduciary capacity, defendants encouraged plaintiff to be trained in and work as a priest/religious with the defendants.

265. By engaging in the egregious and explicit behavior described above, defendants breached their fiduciary duty owed to the plaintiff as follows:

a) defendants violated the trust and confidence reposed in them by the plaintiff;

b) defendants harassed, intimidated and retaliated against the plaintiff due to the plaintiff's efforts at exposing predatory priests/religious and helping or working with victims of clergy abuse;

c) defendants utilized their status and role as the plaintiff's employer and trusted person to obtain an unfair advantage over the plaintiff.

d) defendants exercised undue influence and control over the plaintiff.

266. Defendants also breached a fiduciary duty to plaintiff because defendants knew of and allowed the illicit activities and/or criminal cover-up of same to continue without inquiry or question, despite being on notice.

267. The defendants are in a trusted position of power with the plaintiff, and have utilized that power and authority to the detriment of the plaintiff. The Defendants have recently in 2007 eliminated the plaintiff's annual stipend and other expenses.

268. As a direct and proximate result of defendants' breach of fiduciary duty, the plaintiff suffered and will continue to suffer in the future: severe and permanent mental distress and emotional injuries; financial expenses for medical and therapeutic care and treatment; long term lost earning capacity; as well as other damages.

#### **AS AND FOR THE FIFTH CAUSE OF ACTION**

269. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

270. This cause of action against the defendant NEWARK ARCHDIOCESE and defendant MYERS is for a hostile work environment.

271. The above action has created a hostile work environment such that the plaintiff has been targeted, and blamed for actions that are solely due to the plaintiff's work on behalf of, and to help victims of clergy sexual abuse.

272. The above acts have served to act as a hostile work environment.

273. Sexual discrimination in this context is a hostile and retaliatory work environment that exists and has existed in the plaintiff's chosen career and profession that has stereotyped a straight heterosexual male as a person who has been and is discriminated against by the defendants.

274. The defendants have engaged in adverse employment actions against the plaintiff which are actionable, and have caused injury.

#### **AS AND FOR THE SIXTH CAUSE OF ACTION**

275. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

276. This cause of action against the defendant NEWARK ARCHDIOCESE and defendant MYERS is for illegal discharge.

277. The defendants discharged the plaintiff from his job as school director for an ARCHDIOCESE OF NEWARK School, and have thus harmed his employment and career.

278. On or about May 20, 2003, approximately three days after his testimony in the New York State Senate concerning changing the laws as they apply to sexual abuse by clergy, the defendant MYERS and ARCHDIOCESE OF NEWARK fired the plaintiff from his job as Director of Schools at Our Lady of Good Counsel and said termination was effective immediately.

279. The defendant NEWARK ARCHDIOCESE has discharged the plaintiff in an illegal and retaliatory manner which has proximately damaged the plaintiff.

280. Within one week after the filing of this lawsuit, the defendant NEWARK ARCHDIOCESE and defendant MYERS once again exacted illegal retaliation against the plaintiff by firing him from his part time weekly mass services.

281. The defendants did so by notifying parishioners and not even notifying the plaintiff until several days after notifying parishioners and the public. This was done to further embarrass and/or humiliate the plaintiff and as further injuries and illegal retaliation.

#### **AS AND FOR A SEVENTH CAUSE OF ACTION**

282. Plaintiff incorporates all paragraphs of this Complaint as if fully set herein.

283. This cause of action is against all of the defendants jointly and severally for the repeated and continuous sexual abuse of the plaintiff which is allowed by the Zumpano v. Quinn Court of Appeals decision.

284. Father Hoatson's sexual abuse in the Congregation of Christian Brothers commenced in the early to middle 1960s when his first cousin, James Craig Hoatson, was sexually assaulted by Brother Jerome Heustis while he was a student at Essex Catholic High School in Newark, New Jersey. Brother Heustis's closest friend was Br. Salvatore Ferro, another Christian Brother, who began to groom Robert Hoatson when he was a student at Essex Catholic High School and Ferro and Heustis were abusing students of the school. Brother Ferro was an abuser of teenage boys in at least four Catholic high schools, including Essex Catholic High School, Iona Preparatory School, Monsignor Farrell High School, and Bergen Catholic High School.

285. Christian Brother John Rachel told Father Hoatson in or about 1985 that he had been sexually abused by Brother Salvatore Ferro while Rachel was a student at Essex Catholic High School between 1968 and 1972. He was abused in hotel room during a school trip.

286. The Christian Brothers were aware that Brother Salvatore Ferro was a sexual abuser for many years before they removed him from employment as a teacher and/or administrator. Shortly after his removal, he was promoted to an administrative position as Director of Communications for the Eastern American Province with access to all the schools, their students, and institutions of the Province.

287. It was well known to the leadership and membership of the Christian Brothers that Brother Paul Hennessy was a predator of young, good-looking candidates and professed brothers. The plaintiff was told by Hennessy that unless he was "warmed up" by Hennessy, he could go nowhere in the Christian Brothers. Hennessy continued to threaten the Plaintiff with this warning throughout his first year as a brother-candidate.

288. The plaintiff was targeted by Brother Paul Hennessy in September, 1970, the month he entered the Christian Brothers and was exposed to the predator superior Hennessy. The plaintiff was reminded constantly and deliberately that he would not make it in the Christian Brothers if he did not comply with the come-ons and seductions of Brother Hennessy.

289. The plaintiff was "promoted" to the Novitiate by Brother Hennessy reluctantly despite the plaintiff's exemplary prayer life, academic record, and hard work. Brother Hennessy threatened to not promote him throughout his first year unless he complied with his sexual overtures. The leadership and membership of the Christian Brothers were fully aware of Hennessy's pursuit and "adoption" of young brothers and his alcoholism.

290. When the plaintiff entered the novitiate, his superior or Novice Master was Brother Joseph Mark Clark, another known predator of good-looking brothers. One of his novices, Brother Brian Reilly, a handsome novice, left the order years after his novitiate year and eventually killed himself. He was a "favorite" of Brother Clark. The widow of Brian Reilly has confirmed that there was sexual abuse of her husband while he was a member of the Christian Brothers.

291. Brother Joseph Clark became the third Christian Brother abuser of the plaintiff. By the time he entered the novitiate, the plaintiff had been pursued and groomed by two abusive Christian Brothers, Brother Salvatore Ferro and Brother Paul Hennessy. The leadership of the Christian Brothers was fully aware of the predatory behavior of Brother Clark and his alcoholism, as well as the abuse of the plaintiff by the other Christian Brothers.

292. The defendants took acts to prohibit or dissuade the plaintiff from contemporaneous filing of legal action for this abuse. Since the plaintiff worked for and was under the control of the defendants, the pressure was serious and the prohibition severe.

293. Brother Joseph Clark sexually abused the plaintiff by hugging him tightly, pulling him into himself, and rubbing his cheek up and down the face of the plaintiff.

294. The plaintiff became so traumatized by the abuse he had endured from the early 1960s to 1972 that he decided to leave the Christian Brothers. He left the Christian Brothers on February 29, 1972.

295. The fourth abuser of the plaintiff was Brother Laurence Boschetto, a very close friend of Brother Paul Hennessy, and upon information and belief, a sexual partner of Hennessy. Boschetto used illegal drugs to lure the plaintiff who refused them.

296. In 1974, Brother Boschetto sexually assaulted the plaintiff in Ventnor City, New Jersey and continued the abuse for nearly five years.

297. Brother Boschetto told the plaintiff — after he had begun abusing the plaintiff — that he (Boschetto) had been sexually abuse by Brother John Mark Egan, Professor of Psychology at Iona College and St. Joseph's Seminary of the Archdiocese of New York, and a therapist who counseled many Christian Brothers.

298. Boschetto, upon information and belief, remained sexually involved with Christian Brothers throughout his religious life, while the plaintiff's sexual activity was limited to those times and occasions when he was sexually abused. The plaintiff has had no other sexual contact with anyone since 1982, the year the abuse by Christian Brothers ended.

299. Since Brother Hennessy was an integral part of the leadership of the Christian Brothers for more than three decades, he was well aware of the culture of sexual abuse and sexual promiscuity, condoned and participated in it, helped create a climate around which the reporting and confronting of the abuse was anathema, and threatened the plaintiff with marginalization, lack of career advancement, and a hostile work environment.

300. Brother Hennessy became the Provincial of the Christian Brothers' Eastern American Province in or about 1985. In or around that time, he ordered and directed a "cleansing" of the personnel files of the Christian Brothers. Upon information and belief, the files, including but not limited to the files of the Christian Brothers who abused the plaintiff, were cleaned out in order to hide the sexual abuse records of pedophilic or ephebophilic Christian Brothers, or others who were involved in sexual misdeeds, including those who fathered children and were involved with women.

301. The plaintiff's fourth Christian Brother abuser was Brother John Francis O'Brien, who crawled into the plaintiff's bed in the summer of 1979 and sexually assaulted him. His abuse continued from 1979 to 1982. The plaintiff asked O'Brien for assistance and advice regarding the sexual abuse he had endured from the early 1960s to 1979. Instead of providing counsel and compassion, Brother O'Brien sexually assaulted the plaintiff in a bedroom of the plaintiff's parents' home in West Orange, New Jersey.

302. Upon information and belief, it was known to the leadership and membership of the Christian Brothers that O'Brien was a member of a sub-culture of the Christian Brothers known as "The Dancing Bears," a group of men who acted out sexually with each other and others. O'Brien tried to recruit the plaintiff for membership in the group but he declined.

303. The plaintiff was traumatized and blackmailed into silence about sexual abuse throughout his nearly twenty-five years in the Christian Brothers, and was prevented by the defendants from timely bringing forth legal action. As a heterosexual man in a homosexual and sexually-abusive culture and climate, he was prevented from reporting sexual abuse and sexual overtures because these conditions were condoned and covered-up by Christian Brother leaders and members.

304. While the plaintiff was stationed in Boston, Massachusetts, two Christian Brothers were removed from a high school for sexually abusing high school students. The leadership of the Christian Brothers responded to these abusive acts by reassigning the two brothers, one to an elementary school. Brother Hennessy was the Provincial who effected these changes in assignment. These actions were consistent with the handling of the plaintiff's repeated abuse.

305. In or around 1983, the plaintiff officially reported his abuse by Brother John O'Brien to Brother Robert L. Mc Dermott, Deputy Provincial of the Christian Brothers, during summer vacation. Brother Mc Dermott was second in command of the Christian Brothers and had the authority to act on the report made by the plaintiff. The plaintiff came to learn that Mc Dermott and O'Brien were "related" in some way which explains why Mc Dermott covered-up the report. Instead of acting on the report, Mc Dermott told the plaintiff to get into counseling, implying that the plaintiff was the problem.

306. Once again, the plaintiff was terrorized into silence. It was made clear to him by the leadership of the Christian Brothers that nothing would be done about his abuse and no Christian Brother would be held accountable for such. At the time of the plaintiff's report, the Deputy Provincial was dating a religious sister whom he eventually married.

307. The plaintiff's Post Traumatic Stress Disorder was exacerbated by the inadequate and lack of response of the leadership of the Christian Brothers. The plaintiff attempted to report his abuse, but he was prevented at every turn.

#### **APPLICATION OF ZUMANO V. QUINN TO PLAINTIFF'S SEXUAL ABUSE**

308. The New York State Court of Appeals ruled in February, 2006, that the doctrine of equitable estoppel applies when and where it would be unfair and unjust to permit a defendant to claim a defense based on the statute of limitations. In *Stencils v. Chiappa*, 18 NY2d 125, 128 [1966], it states:

Our courts have long had the power, both at the law and equity, to bar the assertion of the affirmative defense of the Statute of Limitations where it is the defendant's affirmative wrongdoing...which produced the long delay between the accrual of the cause of action and the institution of the legal proceeding.

309. The plaintiff made a timely report to the defendant Christian Brothers regarding

his sexual abuse, and his report was ignored and actually covered up. The plaintiff timely reported the abuse after the acts of sexual abuse by Brother John Francis O'Brien and the others.

310. The Christian Brothers deliberately and with malice rejected the plaintiff's report

of sexual abuse in order to allow a culture of sexual abuse, sexual behavior, sexual dysfunction, and sexual cover-up to continue. Brother Barry Coldrey, an Australian Christian Brother, has researched and published the findings of sexual abuse within the Christian Brothers, and his conclusion is that there is widespread abuse of children, teenagers, and vulnerable adults throughout the world.

311. Equitable estoppel, and this includes that which happened to the plaintiff, is

allowed in the plaintiff's case because the plaintiff was induced by fraud, misrepresentation, or deception to refrain from filing a timely action (*Simcuski v. Saeli*, 44 NY 2d 442, 449 [1978]). In this case, the plaintiff was manipulated, defrauded and deceived into joining a religious community that was not safe for heterosexual men who were perceived to be "good-looking" and targets for predatory Christian Brothers. The Christian Brothers misrepresented to the plaintiff that he was joining a community dedicated to moral and ethical principles. And, he was deceived by "wolves in sheep's clothing" whose desire was to sexually abuse him.

312. The plaintiff was prevented from filing a formal report, and also legal action

in a timely manner, because he was a member of the organization that was covering-up, denying, and participating in the sexual abuse. The plaintiff relied on the Christian Brothers for his housing, health care, and food, and he was not able financially to file an action since it would have been against the very organization that employed him. Besides, his timely reporting of the abuse to a leader of the Christian Brothers was not only ignored, refused, and denied, but strongly rejected. There never was an investigation of the plaintiff's charges, and he was, effectively, silenced.

313. One of the essential elements of equitable estoppel is due diligence on the part of

the plaintiff in reporting his abuse. In this case, the plaintiff made a timely report of his abuse no later than one year after its conclusion. Because the defendant Christian Brothers did not follow-up on the report, or even accept it, the plaintiff was intimidated into silence.

314. The Court of Appeals has indicated that it would be unjust to allow a defendant

to assert a statute of limitations defense, and thus the defendant is equitably estopped from using same where the plaintiff was induced by deception or misrepresentation to refrain from filing a timely action and the plaintiff reasonably relied on the defendants' misrepresentations.

315. The defendant Christian Brothers had a fiduciary relationship with the plaintiff in

that they were responsible for his financial well-being, sustenance, and safety, all of which were breached by their abusive and cover-up actions. Equitable estoppel is allowed "where concealment without actual misrepresentation is claimed to have prevented a plaintiff from commencing a timely action (*Gleason v. Spota*, 194 AD2d, 764, 765 [2d Dept 1993]). The defendant Christian Brothers covered up their own criminal behavior. The plaintiff reasonably expected that his religious life would not include sexual assault, retaliation, and cover-up of illegal behavior.

316. The fiduciary duty of the Christian Brothers began when the plaintiff was legally

a minor. It was at that time that some Christian Brothers began to groom him for sexual assault. They seduced him into joining the Christian Brothers under the guise that he would be taken care of in a safe environment. They breached this fiduciary duty and they do not deserve protection of the Court, and the equitable statute of limitations defines that because of their wrongful tortuous actions.

#### **AS AND FOR AN EIGHTH CAUSE OF ACTION**

317. The plaintiff incorporates all paragraphs of this Complaint as if fully set herein.

318. This cause of this action is for prima facie tort.

319. The defendants' actions taken collectively, and in context, constituted tortious conduct and a prima facie tort which proximately damaged the plaintiff.

320. The defendants' actions, over a long and protracted period of time that continued in 2006 and 2007 were outrageous and tortious.

321. The defendants' actions constituted the claim recognized in New York called a prima facie tort.

**WHEREFORE**, the plaintiff respectfully requests FIVE MILLION DOLLARS (\$5,000,000) in damages; for attorney's fees awarded by Statute, and for such further and other relief the Court deems just and equitable.

DATED: NEW YORK, NEW YORK

AUGUST 14, 2007

Yours etc.,

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