

V I R G I N I A:

IN THE CIRCUIT COURT FOR THE CITY OF WILLIAMSBURG
AND JAMES CITY COUNTY

BARRY LAMB,

Plaintiff,

v.

At Law No. 5291

EDWARD DUDZINSKI and
BISHOP ROBERT E. MULVEE,

Defendants.

DEMURRER TO COUNTS I, II, V AND PARTIAL DEMURRER
TO COUNT III - GROUNDS OF DEFENSE TO COUNT IV
AND PARTIAL GROUNDS OF DEFENSE TO COUNT III -
ANSWER TO ¶¶ 1-14 OF MOTION FOR JUDGMENT

COME NOW the defendants, Edward Dudzinski and Bishop Robert L. Mulvee, by counsel, and assert that Counts I, II, V and part of Count III of plaintiff's Motion for Judgment are insufficient in law and fail to allege facts upon which the relief demanded can be granted, and further assert herein their Grounds of Defense to Counts IV, part of Count III, and Answer to ¶¶ 1-14 of the Motion for Judgment. In support hereof, defendants hereby state as follows:

DEMURRER TO COUNT I

1. Bishop Mulvee and the Diocese of Wilmington are not the employer, master or principal of parish priest such as Father Edward Dudzinski.

2. Bishop Mulvee owed no legal duty to plaintiff, either individually or as Bishop of the Wilmington, Delaware Diocese, in the alleged hiring of defendant Dudzinski.

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CITY OF WILLIAMSBURG
& COUNTY OF JAMES CITY

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3. Bishop Mulvee owed no legal duty to plaintiff, either individually or as Bishop of the Wilmington, Delaware Diocese, in the alleged retention of defendant Dudzinski.

4. Bishop Mulvee owed no legal duty to plaintiff, either individually or as Bishop of the Wilmington, Delaware Diocese, in the alleged supervision of defendant Dudzinski.

5. Bishop Mulvee owed no legal duty to plaintiff, either individually or as Bishop of the Wilmington, Delaware Diocese, to allegedly protect others against the alleged torts of defendant Dudzinski.

6. Bishop Mulvee owed no duty to plaintiff in his individual capacity in this case.

7. The Diocese of Wilmington, Delaware has not been made a party defendant in this case and may not have suit brought against it.

8. In all other respects, Count I of the Motion for Judgment generally fails to state a cause of action upon which relief can be granted.

DEMURRER TO COUNT II

9. Defendant Dudzinski owed no legal duty to plaintiff to take steps to control his alleged pedophilia or to warn others of his alleged pedophilia as alleged.

10. In all other respects, Count II of the Motion for Judgment generally fails to state a cause of action upon which relief can be granted.

DEMURRER TO COUNT V

11. The cause of action alleged in Count V of the Motion for Judgment, namely, clergy malpractice, does not exist under the laws of the Commonwealth of Virginia; therefore, no cause of action is stated in Count V.

12. Even if the cause of action of clergy malpractice did exist in the Commonwealth of Virginia, plaintiff has failed to allege facts sufficient to show that defendant Dudzinski is liable for clergy malpractice.

13. In all other respects, Count III of the Motion for Judgment generally fails to state a cause of action upon which relief can be granted.

PARTIAL DEMURRER TO COUNT III

14. Defendants demur to Count III insofar as assault is alleged, because plaintiff has failed to claim that defendant Dudzinski performed any act against plaintiff which created reasonable apprehension of immediate harmful or offensive bodily contact.

PARTIAL GROUNDS OF DEFENSE TO COUNT III

15. Defendant Dudzinski hereby makes his Grounds of Defense to only the tort of battery alleged in Count III of the Motion for Judgment, as follows:

(a) Paragraph 28 of the Motion for Judgment contains a conclusion which defendants are required neither to admit or deny.