

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CIVIL ACTION NO.: 02-4258
(Consolidated with 02-1296)

JANE DOE,

Plaintiff,

v.

THE ROMAN CATHOLIC ARCHBISHOP
OF BOSTON, A CORPORATION SOLE,
AND GILBERT S. PHINN,

Defendants.

**FIRST AMENDED COMPLAINT
AND JURY TRIAL DEMAND**

PARTIES

1. The Plaintiff, Jane Doe (the "Plaintiff"), is an adult individual who presently resides in Lynn, County of Essex, Commonwealth of Massachusetts.

2. The Defendant, the Roman Catholic Archbishop of Boston, A Corporation Sole, (the "Archdiocese"), is a legal entity with its principal place of business at 2121 Commonwealth Avenue, Boston, Suffolk County, Commonwealth of Massachusetts. The Archdiocese operates parishes, schools and programs for children.

3. The Defendant, Gilbert S. Phinn, ("Father Phinn") is an individual residing at 350 Reedsville Road, Milton, County of Norfolk, Commonwealth of Massachusetts.

FACTS COMMON TO ALL COUNTS

4. St. Michael's Church ("St. Michael's") is located in North Andover, Massachusetts.

5. The Archdiocese was, at all times relevant hereto, responsible for the

management and control of its parishes, including St. Michael's, and was responsible for employing agents, employees, and staff to operate those parishes.

6. At all times relevant hereto, the Defendant, Father Phinn, was an employee and an agent of the Archdiocese and had a position that included responsibility for clergy discipline.

7. At all times relevant hereto, Reverend Paul Finegan ("Father Finegan") was assigned to St. Michael's and was an agent and employee of the Archdiocese.

8. The Plaintiff was a friend of a parishioner of St. Michael's and would participate in various church activities with her friend. It was through her activities at St. Michael's that the Plaintiff first came into contact with Father Finegan.

9. On numerous occasions, in or about the 1981-1984 time frame, Father Finegan engaged in nonconsensual sexual conduct with the Plaintiff, then a minor, at various locations, including the rectory and the sacristy.

10. Upon information and belief, the Archdiocese and Father Phinn knew, or should have known, that Father Finegan posed a danger to the Plaintiff, then a minor, and failed to act to protect her.

11. In particular, the Archdiocese, through Father Phinn, received at least one complaint regarding sexual impropriety by Father Finegan toward female minors in approximately 1980.

12. As a direct and/or proximate result of the Defendants' negligent acts and omissions with respect to Father Finegan, the Plaintiff has suffered damages.

13. The Plaintiff did not know, and could not in the exercise of reasonable diligence have known, of the factual basis and causal connection for her causes of action against the Archdiocese and Father Phinn until recently and her present claim is timely filed.

CLAIMS FOR RELIEF

COUNT ONE

(Negligence)

(Jane Doe v. The Archdiocese)

14. The Plaintiff realleges and incorporates by reference herein, in their entirety, the allegations contained in the preceding paragraphs.

15. The Defendant owed a duty of care to the Plaintiff under the circumstances then existing.

16. The Defendant breached its duty to the Plaintiff by, among other things, negligently retaining and supervising Father Finegan and failing to protect the Plaintiff from the foreseeable criminal acts of Father Finegan at a time when it knew or should have known that Father Finegan posed a danger to the Plaintiff.

17. As a direct and proximate result of the Defendant's negligence, the Plaintiff suffered injuries, pain and suffering, emotional distress, and other substantial injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendant and requests that this Court award her damages, including emotional distress damages, interest, costs, attorney's fees and all such further relief as this Court deems appropriate.

COUNT TWO

(Negligence)

(Jane Doe v. Gilbert S. Phinn)

18. The Plaintiff realleges and incorporates by reference herein, in their entirety, the allegations contained in the preceding paragraphs.

19. The Defendant owed a duty of care to the Plaintiff under the circumstances then existing.

20. The Defendant breached his duty to the Plaintiff by, among other things,

negligently retaining and supervising Father Finegan and failing to protect the Plaintiff from the foreseeable criminal acts of Father Finegan at a time when he knew or should have known that Father Finegan posed a danger to the Plaintiff.

21. As a direct and proximate result of the Defendant's negligence, the Plaintiff suffered injuries, pain and suffering, emotional distress, and other substantial injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendant and requests that this Court award her damages, including emotional distress damages, interest, costs, attorney's fees and all such further relief as this Court deems appropriate.

COUNT THREE
(Failure to Mitigate)
(Jane Doe v. The Archdiocese)

22. The Plaintiff realleges and incorporates by reference herein, in their entirety, the allegations contained in the preceding paragraphs.

23. The Defendant owed a duty of care to the Plaintiff under the circumstances then existing, including a duty to investigate claims of sexual abuse against Archdiocese priests at St. Michael's and to take proper remedial action to ensure that the Plaintiff and her family were informed of the allegations so that the Plaintiff could receive mental health treatment and other care to prevent any further harm to herself or her family.

24. Subsequent to Father Finegan's abuse of the Plaintiff, the Defendant knew or should have known that Father Finegan had sexually abused children.

25. The Defendant breached its duty to the Plaintiff by, among other things, failing to take prompt remedial action, including notification to parishioners of Father Finegan's activities so that his victims could receive mental health treatment and other care to prevent any further harm to themselves and their families.

26. The Defendant's actions deprived the Plaintiff of treatment opportunities that could have ameliorated her mental anguish, mental distress, and other damages she suffered.

27. As a direct and proximate result of the Defendant's carelessness and/or wrongful acts and/or omissions, the Plaintiff has suffered damages, including pain and suffering, emotional distress and other substantial injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendant and requests that this Court award her damages, including emotional distress damages, interest, costs, attorney's fees and all such further relief as this Court deems appropriate.

COUNT FOUR -
(Failure to Mitigate)
(Jane Doe v. Gilbert S. Phinn)

28. The Plaintiff realleges and incorporates by reference herein, in their entirety, the allegations contained in the preceding paragraphs.

29. The Defendant owed a duty of care to the Plaintiff under the circumstances then existing, including a duty to investigate claims of sexual abuse against Archdiocese priests at St. Michael's and to take proper remedial action to ensure that the Plaintiff and her family were informed of the allegations so that the Plaintiff could receive mental health treatment and other care to prevent any further harm to herself or her family.

30. Subsequent to Father Finegan's abuse of the Plaintiff, the Defendant knew or should have known that Father Finegan had sexually abused children.

31. The Defendant breached his duty to the Plaintiff by, among other things, failing to take prompt remedial action, including notification to parishioners of Father Finegan's activities so that his victims could receive mental health treatment and other care to prevent any further harm to themselves and their families.

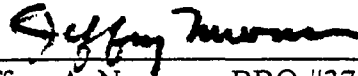
32. The Defendant's actions deprived the Plaintiff of treatment opportunities that could have ameliorated her mental anguish, mental distress, and other damages she suffered.

33. As a direct and proximate result of the Defendant's carelessness and/or wrongful acts and/or omissions, the Plaintiff has suffered damages, including pain and suffering, emotional distress and other substantial injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendant and requests that this Court award her damages, including emotional distress damages, interest, costs, attorney's fees and all such further relief as this Court deems appropriate.

THE PLAINTIFF REQUESTS A TRIAL BY JURY ON ALL COUNTS SO TRIABLE.

JANE DOE,
By Her Attorneys:



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Dated: November 26, 2002

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