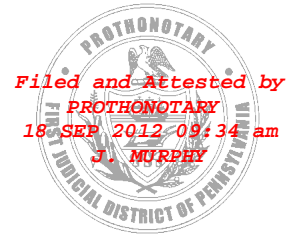


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	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION
	:	
ARCHDIOCESE OF PHILADELPHIA	:	JURY TRIAL DEMANDED
222 N. 17 th Street	:	
Philadelphia, PA 19103	:	_____ TERM, 2012
and	:	
CARDINAL JUSTIN RIGALI	:	NO. _____
222 N. 17 th Street	:	
Philadelphia, PA 19103	:	
and	:	
ARCHBISHOP CHARLES J. CHAPUT	:	
222 N. 17 th Street	:	

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_____ TERM, 2012

NO. _____

3. Msgr. William Lynn is an adult male individual resident and citizen of the Commonwealth of Pennsylvania who was Secretary of Clergy for the Archdiocese under now deceased Cardinal Anthony Bevilacqua. Defendant Lynn is now incarcerated. Cardinal Bevilacqua was Archbishop of the Archdiocese from 1987 to 2003.

4. Cardinal Justin Rigali is an adult male individual resident and citizen of the Commonwealth of Pennsylvania who was the Archbishop of the Archdiocese from 2003 to his retirement in 2011.

5. Archbishop Charles J. Chaput is the current Archbishop of the Archdiocese, having been appointed in 2011. He is joined as a defendant in this action because he is a party necessary for complete relief.

6. St. Bernadette of Lourdes School is a Roman Catholic school, owned and operated by the Archdiocese of Philadelphia with its principal place of business at 1035 Turner Avenue, Drexel, PA 19026. It is referred to in this complaint as St. Bernadette.

7. Edward V. Avery is an individual and, for all times pertinent to this complaint, was a citizen and resident of Philadelphia County, where he committed tortious acts. He is presently incarcerated, having entered a plea of guilty to charges of sexual abuse and conspiracy to endanger children. He was a Roman Catholic priest in ministry within the Archdiocese from 1970 until December, 2003, when he was placed on leave. In March, 2006 his laicization was announced. Among his assignments within the Archdiocese was St. Bernadette School in Drexel, PA. The 2011 Grand Jury Report includes information about him beginning at page 2.

Facts about the Archdiocese and Its Agents

8. In 2005 the Philadelphia District Attorney's office released the Report of a Grand Jury which pertained to operations of the Archdiocese. It is referred to in this complaint as the 2005 Grand Jury Report. That report had investigated child sexual abuse by priests of the

Archdiocese and documented that the Archdiocese covered up abuse, “To protect themselves from negative publicity or expensive lawsuits — while keeping abusive priests active — the Cardinals and their aides hid the priests’ crimes from parishioners, police, and the general public. They employed a variety of tactics to accomplish this end.” 2005 Grand Jury Report at 31. The primary goal of the Archdiocese was to “reduce the risk of ‘scandal’ to the Church.” 2005 Grand Jury Report at 34.

9. The 2005 Grand Jury Report stated that “Msgr. Lynn was handling the [abuse] cases precisely as his boss [Cardinal Bevilacqua] wished.” 2005 Grand Jury Report at 33. And “the Archdiocese’s primary goal in dealing with these cases was to reduce the risk of ‘scandal’ to the Church.” 2005 Grand Jury Report at 34.

10. Through Cardinal Bevilacqua, the Archdiocese seriously understated the number of accused priests in the Archdiocese and “misled the public when he [Bevilacqua] announced in April 2002 that no Philadelphia priest with accusations against him was still active in ministry — when in fact several still were. He certainly was not credible when he claimed before this Grand Jury that protecting children was his highest priority—when in fact his only priority was to cover up sexual abuse against children.” 2005 Grand Jury Report at 53-54. Through Bevilacqua, the Archdiocese “repeatedly was not forthright with the Grand Jury.” 2005 Grand Jury Report at 54. The 2011 Grand Jury Report, at 23, referred to one specific instance where the Archdiocese, through Cardinal Bevilacqua, affirmatively misrepresented information to the 2005 Grand Jury.

11. “[T]he abuses that Cardinal Bevilacqua and his aides allowed children to suffer — the molestations, the rapes, the lifelong shame and despair—did not result from failures or lapses, except of the moral variety. They were made possible by purposeful decisions, carefully implemented policies, and calculated indifference.” 2005 Grand Jury Report at 55.

12. The 2005 Grand Jury Report also stated that Vicar of Administration, Auxiliary Bishop Edward R. Cullen, now bishop emeritus of Allentown, PA, confirmed for the grand jury

that the Secretary for Clergy was permitted to assign a priest accused of abuse of minors if there was no definitive proof of abuse, or if the priest was “rehabilitated” according to the standards of the Archdiocese, or if the allegations were sufficiently old that the statute of limitations had expired. 2005 Grand Jury Report at 152.

13. The Archdiocese responded publicly to the 2005 Grand Jury Report. Through its agents, using statements Archbishop Rigali knew at the time knew were false, but the falsity of which has only in 2012 become apparent, officials of the Archdiocese represented to the public that the content of the 2005 Grand Jury Report was not to be regarded as accurate. The agents of the Archdiocese publicly stated the report was “reckless rhetoric, dispensed from any burden of proof,” and “not responsible law enforcement.” (Both in the Response on page 5). Through Cardinal Rigali, the Archdiocese held a press conference portraying the Archdiocese, through statements known only in 2012 to have been false, about the extent of the cooperation by the Archdiocese with the 2005 Grand Jury and the commitment by the Archdiocese to protect children from sexual abuse. The tactics used by the Archdiocese in 2005 were deliberately misleading, and were used specifically to dissuade the public, including persons such as the Plaintiff, from pursuing legal action against the Archdiocese and other potential defendants.

14. In 2011, the Philadelphia District Attorney’s office issued a second Grand Jury Report on sexual abuse in the Archdiocese. It is referred to in this Complaint as the 2011 Grand Jury Report.

15. The 2011 Grand Jury Report further reported that the Archdiocese has a long history of sexual abuse of children by Archdiocese priests that was known, tolerated, and hidden by the agents of the Archdiocese, including high Archdiocese officials, up to and including Monsignor William Lynn and Cardinal Bevilacqua. Procedures supposedly implemented to help victims of sexual abuse were instead used to assist the abusive priests and the Archdiocese to avoid liability. Victims were assured by the Archdiocese, falsely, of confidentiality for

statements made to the Archdiocese, but then the statements were used by counsel to build defenses for the Archdiocese and to impeach victims.

16. The 2011 Grand Jury Report states, at page 1:

“The present grand jury, however, is frustrated to report that much has not changed. The rapist priests we accuse were well known to the Secretary of Clergy, but he cloaked their conduct and put them in place to do it again. The procedures implemented by the Archdiocese to help victims are in fact designed to help the abusers, and the Archdiocese itself. Worst of all, apparent abusers – dozens of them, we believe – remain on duty in the Archdiocese, today, with open access to new young prey.”

17. The 2011 Grand Jury Report establishes that the Archdiocese, under Cardinal Rigali, had made small changes, but continued to tolerate, and to actively conceal, the sexual abuse of children by Archdiocese priests, and did so for the benefit of the Archdiocese.

“Prompted by the pressure of the prior grand jury report, the Archdiocese has in recent years revamped its policies for handling victims of clergy sexual abuse. Now, at least in some cases, the church reports abusers to law enforcement authorities, something that in the past never occurred. And the Archdiocese pays for counseling, and sometimes other expenses. Those are positive steps, if small ones.

We are very troubled, however, by what we learned about the church’s procedures [which now] are burdened by misinformation and conflict of interest.”

2011 Grand Jury Report at 7. See also, the 2011 Grand Jury Report at 23.

18. The victim assistance coordinators “mislead victims into believing that their discussions with the coordinators are protected by confidentiality.” They are not. 2011 Grand Jury Report at 7.

19. Victims' statements are turned over to the Archdiocese's attorneys. 2011 Grand Jury Report at 7.

20. The victims are pressured to sign releases for records the Archdiocese's coordinators and attorneys otherwise would not be able to see. "Victims are led to believe that these releases will assist the coordinators in helping them. The church's position, it appears, is that coordinators must uncover every fact in order to make a determination about whether to refer the case to law enforcement. But that is not true. . . The only rational explanation for such procedures is not to guarantee the victim's recovery, but to guard the church against what its highest officials repeatedly refer to as 'scandal.'" 2011 Grand Jury Report at 7-8.

21. "[V]ictims are virtually hounded to give statements. . . . The only possible reason for this tactic would be to use the statements as ammunition to impeach victims, in an effort to make them appear incredible. . . . Such procedures are, to state it softly, one-sided – and the side taken is not that of the victim." 2011 Grand Jury Report at 9.

22. The 2011 Grand Jury Report concludes that victim assistance programs cannot be successfully operated in the interest of victims "by the church itself." And that the Church is entitled to defend itself in the courts, "but it can no longer try to play both sides of the fence with its victims." 2011 Grand Jury Report at 11.

23. In February and May, 2011, the Archdiocese again responded publicly to the 2011 Grand Jury Report, as it had done for the report in 2005. The response by the Archdiocese was again calculated to try to persuade victims, such as the Plaintiff, using false statements known only in 2012 to have been false, that the 2011 Grand Jury Report was not accurate. The Archdiocese in its public responses to the 2011 Grand Jury Report sought to dissuade victims, such as the Plaintiff, from initiating action against the Archdiocese and others responsible for abuse, and to persuade the public that the Archdiocese was not as irresponsible and callous as in fact it actually had been and continued to be. Among other things, documents were withheld

from the Grand Jury even as the Archdiocese publicly claimed to have cooperated fully with the Grand Jury.

24. In June, 2012, Monsignor William Lynn, the second-highest ranked official of the Archdiocese, was convicted of felony child endangerment. Throughout his trial, the Archdiocese maintained that Lynn was innocent of the charges against him when the Archdiocese knew the assertion was false.

25. Defendant Lynn maintained through his criminal trial for endangering the welfare of children during the summer of 2012, that he did not endanger children, but rather the bishops were the ones responsible. He was simply following orders.

26. During the trial, which culminated in a guilty verdict against Lynn, substantial evidence was introduced that the Archdiocese has had, and maintains, a policy and practice of concealing sexual abuse and protecting priests who engage in abusive behaviors, while simultaneously representing to victims and the public that there was no basis for claims to be made against the Archdiocese. The Archdiocese continued to maintain, as it had in 2005 and 2011, that it did not endanger children. The Archdiocese made those public comments knowing its public comments were disingenuous, misleading, and false.

27. The deliberately misleading tactics by the Archdiocese and other Defendants, which continue, are affirmative independent acts of fraudulent concealment by which the Defendants intend to dissuade and discourage persons such as the Plaintiff from initiating action to hold them accountable for the Plaintiff's childhood sexual abuse and the sexual abuse of others.

Facts About the Plaintiff And His Abuse

28. As a child, Plaintiff attended the Archdiocese's school, St. Bernadette, in Drexel Hill, PA, during the tenure of Defendant Avery. During his time at St. Bernadette, Plaintiff was sent to Defendant Avery for discipline, whose discipline was to pull down his pants and fondle

his buttocks and penis, and attempt oral sex on Plaintiff. The abuse occurred more than once, and occurred in the rectory and the confessional.

29. Plaintiff's abuse aggravated pre-existing psychological problems and created new psychological problems for the Plaintiff.

30. Defendant Avery was assigned to be Assistant Pastor at St. Bernadette from June, 1970 to June, 1972.

31. Complaints about Avery being sexually inappropriate with others began prior to the abuse of the Plaintiff by Avery.

32. Defendant implicitly represented Defendant Avery to be a fit and appropriate person to be entrusted with the Plaintiff.

33. Plaintiff and his family relied on those implicit representations about Defendant Avery and trusted Defendant Avery as a mentor and a priest.

34. Defendant Avery isolated himself with the Plaintiff when he was a minor.

35. Defendant Avery had implicit approval from other Defendants to sexually abuse children within the Archdiocese. Prior complaints had been ignored, and Defendants implicitly approved Avery continuing to take advantage of, and sexually abuse, any child within the Archdiocese.

36. As he was implicitly authorized to do by the other Defendants, Defendant Avery took advantage of the Plaintiff and sexually abused him when he was a minor and sought to sexualize the Plaintiff when the Plaintiff was a child.

37. In the public response by the Archdiocese to the 2011 Grand Jury Report, which contested the allegations of the Report, no exception was made for the information reported about Defendant Avery. Defendants all denied the information reported about Defendant Avery in 2011.

38. Defendant Avery was ordained as a Roman Catholic Priest in 1970. Complaints about Avery's inappropriate conduct prompted Defendants to move Avery frequently, so as to conceal his sexual abuse of children in order to facilitate his sexual abuse of children, including the Plaintiff. His assignment history was:

- a. 06/1970–06/1972 Assistant Pastor, St. Bernadette, Drexel Hill, PA
- b. 06/1972–02/1976 Assistant Pastor, Immaculate Heart of Mary, Chester, PA (Closed 1993)
- c. 02/1976–09/1978 Assistant Pastor, St. Philip Neri, Pennsburg, PA
- d. 09/1978–06/1984 Assistant Pastor, St. Agatha/St. James, Philadelphia
- e. 06/1984–09/1986 Assistant Pastor, St. Ignatius of Loyola, Philadelphia
- f. 09/1986–09/1990 Parochial Vicar, St. Dominic, Philadelphia
- g. 09/1990–08/1993 Pastor, St. Therese of the Child Jesus, Philadelphia. During this time period, Defendant Avery was psychologically evaluated at Saint John Vianney due to problems with abusing minors.
- h. 08/1993–12/1993 Health Leave, a falsehood directed by Cardinal Bevilacqua to explain Defendant Avery's absence after his having been discovered sexually abused an altar boy
- i. 12/1993–12/2003 Chaplain, Nazareth Hospital, but he was directed by the Archdiocese to reside at St. Jerome, a parish with an attached elementary school, where he continued to interact with children, including celebrating Mass with altar servers and hearing confessions of children

39. For over 10 years the Defendants ignored abuse reports about Defendant Avery.

40. In 1994 Defendant Avery was listed by the Defendants as a priest who was "Guilty of Sexual Misconduct With Minors."

41. That document was consciously withheld from the Grand Juries by the Defendants and its agents, and the law firm of Stradley Ronon, that assisted the Defendants in

enabling the sexual abuse of children and concealing both the sexual misconduct of priests and the coordinated efforts to conceal that sexual misconduct.

42. Defendants and Stradley Ronon withheld the 1994 list of 35 priests accused of sexual abuse until 2012, even though it should have been disclosed not later than 2005.

43. Cardinal Bevilacqua directed that deliberate misrepresentations were to be given to parishioners when a priest was removed for reasons related to sexual abuse of one or more minors. The practice of intentional deception was specific to sexual abuse of children, and was known to facilitate the sexual abuse of children. Stradley Ronon assisted the Cardinal in maintaining that strategy of deception.

44. When the Defendants responded publicly to the 2005 Grand Jury Report, with the assistance of Stradley Ronon, no exception was made in their protestations about the Grand Jury Report for information known about Defendant Avery. The Grand Jury's information was explicitly and implicitly denied, and contested, by the Defendants in the public response to the 2005 Grand Jury Report, even though the Defendants were aware their protestations were false. The misrepresentations were deliberate, and are part of what Defendant Lynn publicly acknowledged only in 2012 was a conspiracy within the Archdiocese.

45. Defendant Avery sexually abused the Plaintiff, as Defendants knew or should have known Defendant Avery would do. Defendants ignored reports that Defendant Avery was sexually inappropriate with parish boys, and did so as to conceal their knowledge, prior to the sexual abuse of the Plaintiff, so as to facilitate Avery to continue to sexually abuse children without being accountable to the Plaintiff for that sexual abuse.

The History of Concealment in the Archdiocese

46. Upon information and belief, including the factual findings published in the 2005 and 2011 Philadelphia Grand Jury Reports, the Archdiocese has a long history of concealing the sexual abuse of children by its clergy, which the Defendants have repeatedly and publicly

denied.

47. Upon information and belief, Msgr. Lynn acted as the personnel director for priests.

48. In that role, it was Msgr. Lynn's job to review all reports of abuse, to recommend action, and to monitor the abuser's future conduct.

49. Msgr. William Lynn assisted priests that Lynn knew had sexually abused children. He did so by helping those priests obtain new assignments within the Archdiocese in order to conceal their criminal activity. Specific details of his having done so are published in the 2011 Grand Jury Report at 43-53, and those details are incorporated into this complaint as if fully stated.

50. Other details of Defendant Lynn's active efforts to enable sexual abuse of minors are published in the 2005 Grand Jury Report. The information in each of those Grand Jury Reports has been publicly denied by Defendants.

51. Msgr. Lynn's purposeful failure to remove pedophile priests caused Msgr. Lynn to be charged by the Philadelphia County District Attorney with endangering the welfare of a child, a felony of the third degree. A jury of his peers convicted Msgr. Lynn of endangering the welfare of a child in 2012.

52. Msgr. Lynn did more than passively allow the molesters to remain in positions where they could continue to prey on children. When victims complained or scandal threatened, Msgr. Lynn recommended that the abuser be transferred to a new parish, where the unsuspecting faithful would not know to be wary and vigilant, and where the abusive clergymen could go on exploiting their positions of trust and authority to pursue criminal activity by repeating the abusive acts which caused them to be moved by Lynn.

53. By Lynn's actions he assured offending priests of a continuing supply of child victims. As put by the 2011 Grand Jury Report, at 53, italics in the original, "abusive priests

were able to secure victims and molest, sodomize, or rape them *because of* actions taken deliberately by Msgr. Lynn.”

54. Protecting children was not Msgr. Lynn’s priority, so for decades he made no reports of the criminal activity about which he was informed. Sexual assault of children was, for Lynn, an acceptable consequence of his priority to protect each of the offending priests.

55. As discussed in the 2011 Grand Jury Report at 23 – 24, Msgr. Lynn complied with and followed the policy established by Cardinal Bevilacqua while he was Archbishop of the Archdiocese, discussed in the 2005 Grand Jury Report at 36, that in all cases involving the sexual abuse of minors by priests, parishioners were to be lied to about the knowledge Archdiocese officials had about the abuse by priests.

56. The Archdiocese holds out its “Victims Assistance Program,” falsely, as a program intended to assist victims.

57. In 1994, Msgr. Lynn, acting as Secretary for Clergy, and as part of the conspiracy to cover up abuse in the Archdiocese, compiled an internal list of 35 priests who were “guilty” of sexual abuse or who had been accused of child sex abuse.

58. Cardinal Bevilacqua ordered that list of 35 priest abusers be shredded. A handwritten note from the late Msgr. James E. Molloy described the Cardinal ordering that the list be shredded, which was done by Molloy, and witnessed by Joseph R. Cistone, now bishop of Saginaw, Michigan.

59. Vicar of Administration, Edward P. Cullen, participated in a meeting to discuss what to do with the list of 35 abuser priests, along with Bevilacqua, Molloy, and Lynn.

60. The Archdiocese publicly promotes its Victim Assistance Program as a way for victims of sexual abuse to get help when in fact, the victim assistance programs are used by the Archdiocese to gather information to give to its attorneys in order to discredit the victims, defend the Archdiocese against any claims and conceal the crimes of Archdiocese employees.

According to the 2011 Grand Jury Report starting at 77, the Archdiocese “victim assistance coordinators” misled victims into believing that the victim’s discussions with the coordinators are protected by confidentiality, when in fact that is not the case. In fact, the victim assistance coordinators did not keep the victim’s statements confidential and instead turned the statements over to the attorneys for the Archdiocese.

61. Victim assistance coordinators also forced victims to sign releases for records in the possession of third parties, such as outside therapists and the military. The victims are led to believe that these releases will assist the coordinators in helping the victim. Instead, the records secured through the releases are turned over to Archdiocese attorneys, including Stradley Ronon, and used to defend the Archdiocese against any claims by the victim. Specifically, the records were used by Archdiocese attorneys to build the defense that the statute of limitations had expired on the victim’s claim.

62. The victim assistance coordinators and others employed by the Archdiocese regularly encouraged victims to not report the incidents of sexual abuse to law enforcement. 2005 Grand Jury Report at 38 - 40; 2011 Grand Jury Report at 7 - 8, 77 - 83.

63. According to the January 2011 Grand Jury Report, the Archdiocese maintains “secret archive files” which contain reports of priest sexual abuse of minors. These “secret archive files” contain evidence of criminal conduct of Archdiocese clergy that was and continues to be withheld from law enforcement. 2011 Grand Jury Report at 22 and 43; 2005 Grand Jury Report at 42 - 43.

64. According to Msgr. Lynn, the Archdiocese has a policy that it “does not make cash settlements [to victims] but does pay for therapy, especially when the priest has admitted guilt...” 2005 Grand Jury Report, Appendix, at D-27c.

65. The sexual abuse and exploitation of the Plaintiff and the circumstances under which it occurred caused Plaintiff to develop various psychological coping mechanisms,

including not recognizing the extent of the injuries he experienced as a result of the sexual abuse, negligence and conspiracy described herein.

66. As a direct result of the wrongful conduct alleged herein, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full enjoyment of life; has sustained and continues to sustain loss of earnings and earning capacity; and/or has incurred and continues to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT I - CHILDHOOD SEXUAL ABUSE AND VICARIOUS LIABILITY
Against Defendants Edward V. Avery and Archdiocese of Philadelphia

67. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as if each and every one were individually set forth within this Count.

68. Starting during his tenure at St. Bernadette, Defendant Avery engaged in unpermitted, harmful and offensive sexual conduct and contact upon the person of Plaintiff in violation of Pennsylvania state law. Said conduct was undertaken while the Defendant Avery was an employee and agent of Defendant Archdiocese at Defendant St. Bernadette, while in the course and scope of employment with Defendant Archdiocese, and/or was ratified by Defendant Archdiocese.

69. Prior to or during the abuse alleged above, the Archdiocese knew, had reason to know, or were otherwise on notice of the unlawful sexual conduct of Defendant Avery and/or other priests within the Archdiocese. The Archdiocese failed to take reasonable steps and failed to implement reasonable safeguards to avoid acts of unlawful sexual conduct in the future by

Defendant Avery, including, but not limited to, preventing or avoiding placement of Defendant Avery in functions or environments in which contact with children was an inherent part of those functions or environments. Furthermore, at no time during the periods of time alleged did the Archdiocese have in place a system or procedure to supervise and/or monitor employees, volunteers, representatives, or agents to ensure that they did not molest or abuse minors in the care of the Archdiocese, including the Plaintiff.

70. In September, 2005, the 2005 Grand Jury Report was released. The Diocese publicly challenged and denied that report, without acknowledging that it had previously agreed that Defendant Avery, for example, was in fact guilty of sexual misconduct with minors but remained in ministry. No exception was made in the Defendants' protestations about the 2005 Grand Jury Report for information known about Defendant Avery. The Grand Jury's information was explicitly and implicitly denied, and contested, by the Defendants in the public response to the 2005 Grand Jury Report, even though the Defendants were aware their protestations were false. Those misrepresentations were deliberate, and are part of what Defendant Lynn publicly acknowledged only in 2012 was a conspiracy within the Archdiocese.

71. Because of the 2005 Grand Jury Report, the Defendants could not adopt their historical methods of minimizing and entirely concealing abuse reports received after 2005. More sophisticated techniques were required to ignore and conceal abuse reports so the Defendants could show activity without taking meaningful action.

72. Defendant Avery was laicized in March, 2006. The Archdiocese did so only because the 2005 Grand Jury's investigation compelled them to do so.

73. In August, 2007 the Plaintiff reported to the Archdiocese what had happened to him as a child with Defendant Avery and other employees in the 1970s at St. Bernadette. He provided information to the Archdiocese and was interviewed by agents of the Archdiocese.

74. By 2007, when the Plaintiff reported his childhood interactions with Defendant

Avery, Defendant Avery was no longer a priest and the Archdiocese had no authority over Avery.

75. As to his complaint about Sister Josephine Rosarii, on October 11, 2007 the Archdiocese adopted the view that no allegation could be substantiated unless the Archdiocese already possessed “information to date indicating any behavior consistent with what you have described.” For that reason, his complaint as to Sister Rosarii was not taken seriously and was determined to be unsubstantiated.

76. In 2007, the “Review Board” operated by the Archdiocese communicated to Plaintiff on October 11, 2007, that it was unable to take any action to even investigate Defendant Avery because “Edward Avery has not agreed to be interviewed.” The Review Board did not disclose that by 2007 it had ample indications that Defendant Avery had engaged in sexual misconduct with minors, or that Defendant Avery was listed in 1994 by the Archdiocese as “guilty of sexual misconduct with minors,” or that Defendant Avery had been laicized due to his sexual misconduct with minors.

77. In other words, even though the Review Board possessed as to Defendant Avery precisely what it claimed it did not have as to Sister Rosarii (“information to date indicating any behavior consistent with what you have described”) it claimed it was unable to take any action as to Defendant Avery.

78. In June, 2008, the Review Board wrote again to Plaintiff to tell him that his “allegations against Edward Avery could not be substantiated based on the evidence available at this time.” The Review Board did not disclose that by 2008 it had ample indications that Defendant Avery had engaged in sexual misconduct with minors, or that Defendant Avery was listed in 1994 by the Archdiocese as “guilty of sexual misconduct with minors,” of that he had been laicized in 2006 for his sexual misconduct with minors. In other words, even though the Review Board possessed as to Defendant Avery precisely what it claimed it did not have as to

Sister Rosarii (“information to date indicating any behavior consistent with what you have described”) it claimed it was unable to take any action as to Defendant Avery.

79. As part of the overall strategy to conceal and facilitate sexual abuse of minors, Defendants simply adjusted the standard of evidence needed in order so as to assure that information presented would always be insufficient, and did so in order that Defendants could avoid taking action and could avoid finding allegations substantiated. In this manner, the Defendants could show activity without showing action.

80. On September 13, 2007, Archdiocese agents Stradley Ronon communicated with the prosecutor in Media, PA, about the Plaintiff’s August, 2007 report as to Defendant Avery and others from St. Bernadette. The communication was made in the time period during which the Archdiocese had adopted the position that it could do nothing with the Plaintiff’s information because “Edward Avery has not agreed to be interviewed.” Nevertheless, as part of the overall strategy to show movement without taking meaningful action, Stradely Ronon withheld information that Defendant Avery had since 1994 been considered by the Archdiocese as guilty of sexual misconduct with minors, so misrepresented to the prosecutor information Stradley Ronon knew about Defendant Avery and which the Defendants knew about Defendant Avery. Stradely Ronon, one of the architects of the Defendants’ strategy to conceal and facilitate sexual abuse of minors, communicated only that Edward Avery was a former priest, had been laicized in 2006, and provided his last known address.

81. The intention in writing to the prosecutor as it did was to minimize the Plaintiff’s report, so as to assure that no action would be taken by the prosecutor. What Stradely Ronon withheld from the prosecutor was the known history of complaints as to Defendant Avery which the Archdiocese held and which Stradley Ronan held. To the extent the 2005 Grand Jury report alluded to the history of complaints and to priests such as Avery who were known to engage in sexual misconduct with minors, the Archdiocese had publicly, and vigorously, contested the

report. Only the officials of the Archdiocese, and its agent Stradley Ronan, were aware of the falsity of those 2005 protestations.

82. Plaintiff in 2007 suspected that sexual abuse was being covered up by the Archdiocese, but given the strategy after the 2005 Grand Jury Report to show activity without taking meaningful action, and given that the Defendants continued to conceal what they knew of Defendant Avery, the Plaintiff was convinced there was no action that could be taken about that concealment, and perhaps the Diocese was not concealing information, as it claimed it was not.

83. The Plaintiff was not aware that the public protestations of the 2005 Grand Jury Report by the Archdiocese and its officials were false, and were known to have been false by the Archdiocese. The strategy developed by Stradley Ronan to assist in the concealment of sexual abuse of children was to protect the Archdiocese, first and foremost, with no disclosure of the long history of the Defendants facilitating the abuse of children. Nor did Stradley Ronan disclose in 2006 any portion of the active conspiracy to endanger children active in the Archdiocese, which Defendant Lynn disclosed in 2012.

84. The statute of limitations on the Plaintiff's claims is tolled until 2012, when Defendant Lynn was convicted of child endangerment for failing to report persons known to be dangerous to children. The statute of limitations is tolled because the Archdiocese fraudulently concealed its knowledge about Defendant Avery, falsely denied all wrongdoing as to Defendant Avery, and failed to further investigate the wrongdoing reported by others prior to Plaintiff. Archdiocese officials allowed Defendant Avery to continue to be a priest until 2006. These actions by the Archdiocese, and its repeated denials of wrongdoing in its responses to the two grand jury reports, caused Plaintiff to believe that the sexual acts did not occur, or if they did occur they were not illegal and injurious to the Plaintiff. Such conduct deceived Plaintiff into understanding that Plaintiff had no claim or injury from the sexual contact. It was not until Defendant Lynn was convicted that Plaintiff could have learned that objective information

existed which cast doubt on the repeated denials of the Archdiocese about Defendant Avery and other priests, indicating that abuse of the Plaintiff had occurred and were injurious to Plaintiff.

85. Such conduct deceived Plaintiff into understanding that Plaintiff had no claim or injury from the sexual contact.

86. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff demands judgment for compensatory and punitive damages against Defendants Avery and Archdiocese of Philadelphia, jointly and severally, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, and any other appropriate relief.

COUNT II - NEGLIGENCE
Against the Archdiocese of Philadelphia

87. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as if each and every one were individually set forth within this Count.

88. The Archdiocese had a duty to protect the minor Plaintiff when he was entrusted to their care by Plaintiff's caregivers. Plaintiff's care, welfare, and/or physical custody were temporarily entrusted to the Archdiocese, and the Archdiocese voluntarily accepted the entrusted care of Plaintiff. As such, the Archdiocese owed Plaintiff, a minor child, a special duty of care,

in addition to a duty of ordinary care, and owed Plaintiff the higher duty of care that adults dealing with children owe to protect them from harm.

89. Defendant Archdiocese, by and through its agents, servants and employees, knew or reasonably should have known of Defendant Avery's dangerous and exploitive propensities and/or that Avery was an unfit agent. It was foreseeable that if the Archdiocese did not adequately exercise or provide the duty of care owed to children in their care, including but not limited to Plaintiff, the children entrusted to the Archdiocese's care would be vulnerable to sexual abuse by Archdiocese employees, including Defendant Avery.

90. Defendants breached their duty of care to the minor Plaintiff by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of the Archdiocese, including Defendant Avery. Defendants further breached their duty of care by failing to warn the Plaintiff of the propensities of Defendant Avery and others and by failing to provide a safe and secure environment for the Plaintiff.

91. The statute of limitations on this claim is tolled until 2012, when Defendant Lynn was convicted of child endangerment for failing to report persons known to be dangerous to children. The statute of limitations is tolled because the Archdiocese fraudulently concealed its knowledge about Defendant Avery, falsely denied all wrongdoing as to Defendant Avery, failed to further investigate the wrongdoing Plaintiff reported, allowed Defendant Avery to continue to be a priest until 2006, and falsely claimed in 2007 and 2008 to the Plaintiff that no information existed with disclosed that Defendant Avery had a sexual interest in children. These actions caused Plaintiff to believe that the sexual acts did not occur, or if they did occur they were not illegal and injurious to the Plaintiff. Such conduct deceived Plaintiff into understanding that Plaintiff had no claim or injury from the sexual contact. It was not until Defendant Lynn was convicted that Plaintiff could have learned that objective information existed which cast doubt on the repeated denials of the Archdiocese about Defendant Avery and other priests, indicating that

abuse of the Plaintiff had occurred and was injurious to Plaintiff.

92. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer, great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff demands judgment for compensatory and punitive damages against Defendant, Archdiocese of Philadelphia, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, and any other appropriate relief.

COUNT III - NEGLIGENT SUPERVISION
Against the Archdiocese of Philadelphia

93. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as if each and every one were individually set forth within this Count.

94. The Archdiocese had a duty to provide reasonable supervision of its employee and agents, including Defendant Avery.

95. It was reasonably foreseeable that employees and agents of the Archdiocese, including Defendant Avery, would sexually abuse children unless they were properly supervised. The Archdiocese knew, or should have known, that Defendant Avery had a sexual interest in children.

96. The Archdiocese, by and through its agents, servants and employees, knew or reasonably should have known of the dangerous and exploitive propensities of Defendant Avery

and/or that he was an unfit agent. Despite such knowledge, Defendant Archdiocese breached its duty to provide reasonable supervision of Defendant Avery, who was in a position of trust and authority as Roman Catholic clergy, religious instructor, counselor, school teacher, surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure, where he was able to commit the wrongful acts against the Plaintiff.

97. Said acts of sexual abuse occurred upon the premises of the Archdiocese, among other places.

98. The statute of limitations on this claim is tolled until 2012, when Defendant Lynn was convicted of child endangerment for failing to report persons known to be dangerous to children. The statute of limitations is tolled because the Archdiocese fraudulently concealed its knowledge about Defendant Avery, falsely denied all wrongdoing as to Defendant Avery, and failed to further investigate the wrongdoing Plaintiff and others reported. These actions by the Archdiocese, and its repeated denials of wrongdoing in its responses to the two Grand Jury reports, caused Plaintiff to believe that the sexual acts did not occur, or if they did occur they were not illegal and injurious to the Plaintiff. Such conduct deceived Plaintiff into understanding that Plaintiff had no claim or injury from the sexual contact he experienced by Avery. It was not until Defendant Lynn was convicted that Plaintiff could have learned that objective information existed which cast doubt on the repeated denials of the Archdiocese about their priests, including Defendant Avery and other priests, indicating that abuse of the Plaintiff had occurred and were injurious to Plaintiff.

99. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full

enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff demands judgment for compensatory and punitive damages against Defendant, Archdiocese of Philadelphia, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, and any other appropriate relief.

COUNT IV – FRAUDULENT CONCEALMENT
Against The Archdiocese of Philadelphia, Cardinal Justin Rigali,
Msgr. William Lynn, Edward V. Avery,
and St. Bernadette of Lourdes Catholic School

100. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as if each and every one were individually set forth within this Count.

101. Defendants Archdiocese, Cardinal Justin Rigali, Msgr. William Lynn, Edward V. Avery, and St. Bernadette each engaged in a policy of secrecy to protect the Archdiocese, as alleged above. Those who reported Avery were deferred, challenged, questioned, intimidated, and denied, to extend the policy of secrecy and to intimidate others from further reporting. Doing so was an act of fraud in violation of Pennsylvania law.

102. Accordingly, Plaintiff was injured by the Archdiocese's affirmative acts of concealing its actual purpose to enable those who molested children and to attack those who reported abuse by Defendant Avery.

103. Plaintiff did not discover, nor could he have discovered through the use of reasonable diligence, the fraudulent misrepresentation described herein until 2012, when Msgr. Lynn was convicted, and Msgr. Lynn admitted publicly that a conspiracy to endanger children existed within the Archdiocese.

104. As a result of the above-described conduct, Plaintiff has suffered, and continues to

suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff, demands judgment for compensatory and punitive damages against Defendants Archdiocese of Philadelphia, Cardinal Justin Rigali, Msgr. William Lynn, Edward V. Avery, and St. Bernadette Catholic School, jointly and severally, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, and any other appropriate relief.

COUNT V - CIVIL CONSPIRACY TO ENDANGER CHILDREN
Against the Archdiocese of Philadelphia, Cardinal Justin Rigali,
Msgr. William Lynn, Edward V. Avery,
and St. Bernadette of Lourdes Catholic School

105. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as if each and every one were individually set forth within this Count.

106. Defendants Archdiocese, Cardinal Justin Rigali, Msgr. William Lynn, Edward V. Avery, and St. Bernadette of Lourdes Catholic School, acted with a common purpose and conspired with others to endanger the welfare of children, including the Plaintiff, in violation of Pennsylvania law. Defendant Avery pled guilty to criminal conspiracy to endanger children and is now incarcerated as a result.

107. In Pennsylvania, there is an implied civil cause of action for endangering the welfare of children by a child whose welfare was endangered.

108. Also in Pennsylvania, there is a civil cause of action for negligence per se for violating the endangering the welfare of children statute.

109. Plaintiff has standing to bring this claim because he was one of the children who was sexually abused as a result of the Defendants' conspiracy to endanger the welfare of children.

110. As was true of Cardinal Bevilacqua before him, Cardinal Rigali was appointed by The Holy See to be Archbishop of Philadelphia.

111. The Holy See contends it is a separate and independent entity from the Archdiocese, and has no control over the Archdiocese as to its operations. In practice, the Archdiocese and its officials have some discretionary latitude but are answerable to The Holy See.

112. The organization now known as the United States Conference of Catholic Bishops (referred to in this Complaint as the USCCB), and its predecessors, contend that it too is a separate and independent entity from the Archdiocese, and has no control over the Archdiocese as to its operations. In practice, the Archdiocese and its officials have some discretionary latitude but are theoretically required to operate within the guidelines established by USCCB. As a practical matter the USCCB contends it has no authority over the Archdiocese or other Defendants, and that they answer to only The Holy See in a limited respect but otherwise operate independently.

113. In his capacity as Archbishop, Cardinal Rigali controlled the Archdiocese and believed The Holy See's assertions that he was answerable to only The Holy See. In fact, Cardinal Rigali and the Archdiocese are answerable not only to The Holy See, but in certain matters are answerable also to state and federal governmental authorities.

114. Through its Archbishop, the Archdiocese has control of all seminaries operating within the area it comprises. It trains agents for its operation. It does so within the methods and

procedures authorized by The Holy See, and remains responsible to The Holy See for those operations.

115. Among the documents which clarify the responsibilities of seminaries operating with the Archdiocese is the August 15, 1990, publication by Pope John Paul II of an apostolic constitution on Catholic higher education entitled *Ex corde Ecclesiae*. The Apostolic Constitution described, in detail, the relationship between the Holy See and its educational institutions such as seminaries.

116. As described by the Catholic Church Extension Society, each seminary is answerable, ultimately, to The Holy See's Congregation for Catholic Education, which establishes the admissions requirements and curricula to ensure that seminary candidates are properly prepared.

117. The Holy See has delegated to its Congregation for the Clergy and its Congregation for Religious various responsibilities with respect to the standard, morals, and obligations of clergy qualification. With respect to seminarians and clergy qualification, the Archdiocese is responsible to The Holy See through those groups, which are authorized by the Pope to act on his behalf.

118. Since 1971, the Archdiocese and its officials were also required, with respect to seminarians and clergy, to adhere to the Program of Priestly Formation (PPF) promulgated by the collective Bishops of the United States and also approved by The Holy See.

119. Cardinal Rigali, and each other official of the Archdiocese, as well as seminarians within the area of the Archdiocese, are answerable in all respects to the Holy See and its leader, the Pope, and in certain other respects, which are not ecclesiastical, to federal and state governmental authorities. The conduct described in this cause of action relates to the Defendants' responsibilities to federal and state governmental authorities, not to matters of church doctrine protected by the First Amendment.

120. The Archdiocese is obligated to make a periodic report to The Holy See, through its designees, outlining the status of, and any problems with, clergy.

121. The Defendants operate within policies and standards proscribed by the Holy See that dictate how sexual abuse of children by Archdiocese employees, including its clergy and seminarians within its area of authority, will be handled. This aspect of the operations of the Archdiocese are employment and business policies, not practices within religious freedoms protected by the First Amendment.

122. Among other things, the Holy See mandates, and the Defendants have elected to adopt and utilize, certain procedures and absolute secrecy by all involved on pain of immediate removal from the organization by means of excommunication. The Defendants have also elected to permit the Holy See to retain the power at all times to conduct the inquisition of any particular case itself. The Defendants further accept that the operating requirements of The Holy See admits no deviations from its mandates. Through its mandated policies, the Holy See is an integral part of the day-to-day handling of cases of child sex abuse by clergy, even though The Holy See and the Defendants contend that The Holy See is an independent entity from the Archdiocese, and that the Archdiocese operates independently of the Holy See, at least as to matters involving employment and business policies.

123. In 1962, The Holy See released the confidential document, Instruction on The Manner of Proceeding in Cases of Solicitation, (The heading of the document says “From the Supreme and Holy Congregation of the Holy Office To All Patriarchs, Archbishops, Bishops and Other Diocesan Ordinaries ‘Even of the Oriental Rite’”) (Hereinafter referred to as “*Crimen Sollicitationis*”).

124. The document contains instructions, which the Defendants chose to accept, regarding the handling of child sex abuse by clergy. It permits no discretion in the handling of such cases. According to the document itself, it is an “instruction, ordering upon those to whom

it pertains to keep and observe it in the minutest detail.” *Crimen Sollicitationis* at paragraph 24.

125. Because the Defendants accepted it as mandatory, the *Crimen Sollicitationis* requires the Archdiocese to conceal incidents of childhood sexual abuse by priests, employees or agents of the Archdiocese.

126. Because the Defendants accepted it as mandatory, the *Crimen Sollicitationis* requires the Defendants to adopt employment and business practices that keep in “secret archives” any documents that evidence childhood sexual abuse by a priest, employee or agent of the Archdiocese.

127. Because the Defendants accepted it as mandatory, the *Crimen Sollicitationis* requires them to keep completely secret from law enforcement all information relating to childhood sexual abuse by a priest, employee or agent of the Archdiocese.

128. The defendants accepted as mandatory the *Crimen Sollicitationis* and adopted as their own its priority, above that of protecting children, to avoid scandal to any part of the world-wide Roman Catholic Church, of which the Archdiocese is a member.

129. Because the Defendants adopted as their own The Holy See’s proposal to use secrecy and avoiding scandal to the Church as their highest priority, the employment and business practices of the Archdiocese, which all Defendants accepted, endangered the welfare of children.

130. The Defendants combined to act with a common purpose to do illegal acts, and to do lawful acts by unlawful means and for the unlawful purpose of maintaining secrecy about crimes against children. Accepting the recommendations of The Holy See and the United States Conference of Catholic Bishops as their own, the Defendants took overt acts to pursue the common purpose of secrecy and protecting priests, all of which caused damage to the Plaintiff.

131. In February, 2012, Defendant Lynn filed with the criminal court of Philadelphia County a document which stated, “that an overarching Archdiocesan conspiracy existed in

Philadelphia in the 1990s.” Defendant Lynn asserted that among the persons engaged in that conspiracy, which he contended was to endanger children, were Cardinal Bevilacqua, Bishop Joseph Cistone, and Monsignor James Malloy.

132. In 2012, Defendant Lynn was convicted of endangering children.

133. Among the overt acts committed in pursuance of the common purpose to endanger the welfare of children recommended by The Holy See, and adopted by the Defendants, were:

- a. The Defendants Archdiocese, Cardinal Rigali, Msgr. William Lynn, Edward V. Avery, and St. Bernadette maliciously concealed from the Plaintiff known incidents of childhood sexual abuse within the Archdiocese, including incidents of childhood sexual abuse by Defendant Avery.
- b. The concealment directly injured Plaintiff because prior incidents of sexual abuse by Defendant Avery were hidden from Plaintiff, and Defendant Avery was able to gain unsupervised access to Plaintiff and to others as a result.
- c. This concealment also directly injured Plaintiff because the concealment recommended by The Holy See, and accepted by the Defendants, created a false public impression that priests, deacons and seminary students within the Archdiocese were safe around children, when they, in fact, were not, and were known by the Defendants to not be safe to be around children. This false impression, which the Defendants each deliberately fostered, caused the Plaintiff and his family to allow Defendant Avery to gain unsupervised access to the Plaintiff and ultimately sexually abuse the Plaintiff.
- d. Defendants implemented programs and procedures of The Holy See and the USCCB that were misrepresented to the public as providing help to victims of childhoods sexual abuse by clergy, but were instead maliciously used to

develop information to protect the Archdiocese from liability for its misconduct in handling predatory priests, and which were used by all Defendants to further conceal the identity and illegal activities of predatory priests from law enforcement, parishioners and the public. The Archdiocese victims assistance program was proposed by the USCCB and adopted by the Defendants, but its true purpose was concealed by the Defendants. That concealment directly injured Plaintiff because the concealment by the Defendants created a false public impression that priests, deacons and seminary students within the Archdiocese were safe around children, when they, in fact, were not, and were known by the Defendants to not be safe around children. This caused the Plaintiff and his family to allow Defendant Avery to gain access to the Plaintiff and ultimately sexually abuse the Plaintiff.

- e. When a report that an Archdiocese priest had sexually abused a child was made to the Archdiocese, Defendants Archdiocese, Cardinal Justin Rigali, and Msgr. William Lynn maliciously transferred the clergymen, including Defendant Avery, to a new parish or other new assignment, where the unsuspecting parishioners, including Plaintiff, had no idea of the need to be on their guard as to abusive acts by Avery. As a result, Defendant Avery gained the advantage of unsupervised access to Plaintiff and used that advantage to sexually abuse the Plaintiff. The Defendants adopted as their own the mandates of The Holy See that rather than report known crimes, it was preferable that priests, employees and agents of the Archdiocese were to be secretly transferred to new parishes when they were discovered to have sexually abused parish children.

- f. Instead of protecting children within the area of the operations of the Archdiocese, including the Plaintiff, from sexual abuse by known predator priests and other agents and employees, including Defendant Avery, Defendants Archdiocese, Cardinal Justin Rigali, Msgr. William Lynn, and St. Bernadette instead shielded abusive priests and other agents and employees from criminal detection, shielded the Archdiocese hierarchy from scandal, and shielded the Archdiocese from financial liability. The Defendants adopted as their own the proposal by The Holy See to shield abusive priests, employees and agents of the Archdiocese from criminal liability. These acts of shielding directly injured Plaintiff because prior incidents of sexual abuse by Defendant Avery were hidden from Plaintiff, Defendant Avery was able to gain unsupervised access to Plaintiff as a result. These acts of shielding also directly injured Plaintiff because the concealment by the individual Defendants, each a person in authority with respect to the Plaintiff, challenged and dismissed as false the Plaintiff's own report of abuse, as well as created a false public impression that priests, deacons and seminary students within the Archdiocese, including Defendant Avery, were safe around children, when he, in fact, was not safe, and was known by the Defendants to not be safe to be around children. This caused the Plaintiff and his family to allow each Defendant Avery to gain unsupervised access to the Plaintiff and ultimately sexually abuse the Plaintiff.
- g. "Victim assistance" coordinators in the Archdiocese also forced victims to sign releases for records in the possession of third parties, such as outside therapists and the military. This practice was required by the Defendants of the "victim assistance" coordinators. The victims were led to believe that

their releases would assist the coordinators in helping the victim. Instead, the records secured through the releases were turned over to Archdiocese attorneys and used to defend the Archdiocese and other Defendants against any claims by any victim.

- h. The “victim assistance” coordinators employed by the Archdiocese regularly discouraged victims from reporting to law enforcement the sexual abuse by a priest. After the 2005 Grand Jury Report, more sophisticated techniques to block legal action were adopted so as to show activity but take no effective action after an abuse report was made.
- i. Defendants also accepted the employment and business practice proposed by The Holy See to maintain “secret archive files” containing reports of criminal sexual abuse by any priest, employee and other agent within the area of or responsible to the Archdiocese. Those “secret archive” files were withheld from law enforcement. Those “secret archive” files were also periodically ordered to be destroyed, to maintain their secrecy and prevent them from being reported to law enforcement. These acts of concealing evidence of criminal sexual conduct of priests, employees and other agents of the Archdiocese directly injured Plaintiff because prior incidents of sexual abuse by Defendant Avery were hidden from Plaintiff, and Defendant Avery was able to use the practice of secrecy to gain unsupervised access to Plaintiff as a result. Maintaining the secret files and concealing evidence of criminal conduct of priests, employees and other agents of the Archdiocese also directly injured Plaintiff because the concealment by the Defendants created the public impression, known by Defendants to have been false, that priests, deacons and seminary students within the Archdiocese were safe around

children, when they, in fact, were not and were known to not be safe around children. This caused the Plaintiff and his family to allow Defendant Avery to gain unsupervised access to the Plaintiff and ultimately sexually abuse the Plaintiff.

- j. In cases involving the sexual abuse of minors by priests, employees and other agents of the Archdiocese, Defendants maliciously lied to parishioners about the knowledge within the Archdiocese about the abuse. The Defendants' lies involving criminal sexual conduct of priests, employees and other agents directly injured Plaintiff because prior incidents of sexual abuse by Defendant Avery were hidden from Plaintiff and Defendant Avery was able to use the secrecy promoted by the lying to gain unsupervised access to Plaintiff as a result. As a consequence of the Defendants having adopted the secrecy proposed by The Holy See for purposes related to sexual abuse, Defendants elected to lie to parishioners about what the Archdiocese knew of sexually abusive priests, employees and other agents. The USCCB also supported the practice of lying to those within the Archdiocese. These lies also directly injured Plaintiff because the concealment by the Defendants created a public impression, known by Defendants to be false, that priests, deacons and seminary students within the Archdiocese were safe around children, when they, in fact, were not. This caused the Plaintiff and his family to allow Defendant Avery to gain unsupervised access to the Plaintiff and ultimately sexually abuse the Plaintiff.
- k. Defendants accepted a recommendation from the USCCB to operate an internal Archdiocese Review Board, supposedly responsible for determining whether sexual abuse reports against a clergy member were credible.

However, to honor the priority of secrecy adopted by recommendation of The Holy See, the Defendants adopted a practice, derived from that commitment to secrecy, to conclude, no matter what the facts were, that allegations of sexual abuse of minors by priests, employees and agents were “unsubstantiated” or, as with the Plaintiff’s report about Defendant Avery, that no prior reports demonstrated any similar behaviors when the assertion was simply a lie. This practice by Defendants was malicious, and was used even when there was very convincing evidence that the accusations were true. The USCCB accepted the priority of the Defendants to favor secrecy over disclosure so that subsequent reports would appear more positive than was in fact the case, and so all Defendants, as well as the USCCB and The Holy See could falsely claim a “progress” which did not exist.

1. Upon information and belief, the Defendants destroyed documents that were evidence of criminal sexual conduct against children. This was done to honor the proposal by The Holy See to favor secrecy over reporting criminal conduct, and to favor the practice by the USCCB to claim openness, for public relations purposes, but to in fact operate by maintaining the traditional secrecy associated with matters relating to sexual abuse within the Archdiocese. The Defendants’ acts of destroying evidence of criminal sexual conduct of priests, employees and other agents directly injured Plaintiff because prior incidents of sexual abuse by Defendant Avery were hidden from Plaintiff and Defendant Avery was able to gain unsupervised access to Plaintiff as a result. Maintaining the secret files and concealing evidence of criminal conduct of priests, employees and other agents also directly injured Plaintiff because the concealment by the Defendants created the public impression, known by

Defendants to be false, that priests, deacons and seminary students within the Archdiocese were safe around children, when they, in fact, were not and it was known they were not safe around children. This caused the Plaintiff and his family to allow Defendant Avery to gain unsupervised access to the Plaintiff and ultimately sexually abuse the Plaintiff.

134. The actions alleged in this Complaint were committed with malice and with the intention that the welfare of children within the Archdiocese be endangered by being subordinated to the priority of secrecy, proposed by The Holy See and the USCCB, and adopted by the Defendants as their operating policy for employment and business practices.

135. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff demands judgment for compensatory and punitive damages against Defendants, Archdiocese of Philadelphia, Cardinal Anthony Bevilacqua, Cardinal Justin Rigali, Msgr. William Lynn, Edward V. Avery, and St. Bernadette of Lourdes Catholic School, jointly and severally, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, and any other appropriate relief.

COUNT VI – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
Against the Archdiocese of Philadelphia

115. Plaintiff incorporates by reference all of the preceding paragraphs of this

Complaint as if each and every one were individually set forth within this Count.

116. Through its relationship with the Plaintiff during the Archdiocese's investigation, the Archdiocese established a fiduciary duty of care to Plaintiff, and negligently inflicted emotional distress on the Plaintiff. Communicating to the Plaintiff in 2008 that his reports as to Avery "could not be substantiated," when in fact there were many other such complaints as to Avery known, including the conclusion by the Archdiocese itself that by 1994 it had concluded that Avery was "guilty of sexual misconduct with minors," but making no disclosure to either the Plaintiff or to law enforcement officials of the misconduct of the Archdiocese in endangering children, led Plaintiff to believe that his report of conduct by Defendant Avery was not sufficient to elicit action by either law enforcement or the Archdiocese.

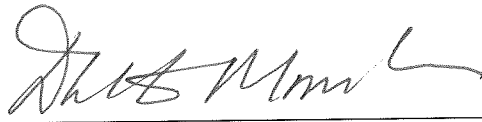
117. When the Archdiocese told him his complaints about Avery "could not be substantiated," Plaintiff was devastated and suffered mental, emotional, and physical distress. He reasonably believed that the Archdiocese had insufficient information to act against Defendant Avery, when in fact that was untrue. This breach of duty inflicted severe emotional distress on Plaintiff and his family.

118. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff demands judgment for compensatory and punitive damages against Defendant, Archdiocese of Philadelphia, in an amount in excess of Fifty Thousand

Dollars (\$50,000.00), together with interest, costs, and any other appropriate relief.

Dated: 9-17-12

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VERIFICATION

I, Michael Dale, verify that I am the Plaintiff and that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Michael K. Dale
Michael Dale

Dated: 9-17-12