

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

RICK GOMEZ,

Plaintiff,

vs.

COMPLAINT

HOLY SEE, (State of the Vatican City), Its
Instrumentalities and/or Agents - Does 1-10,
THE CATHOLIC BISHOP FOR THE DIOCESE
OF ST. PETERSBURG, A CORPORATION SOLE,
SALESIANS OF DON BOSCO d/b/a SALESIAN
SOCIETY, INC., and FATHER WILLIAM BURKE,

Defendants.

COMES NOW the Plaintiff, Rick Gomez, by and through his undersigned counsel, and sues the Defendants, the Holy See (State of the Vatican City), Its Instrumentalities and/or Agents- Does 1-10, The Catholic Bishop for the Diocese of St. Petersburg, a corporation Sole, Salesians of Don Bosco d/b/a Salesian Society, Inc., and Father William Burke and alleges:

ALLEGATIONS MATERIAL TO ALL COUNTS

1. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00).

2. At all times material to the times of the initial incidents complained of, Plaintiff Rick Gomez (hereinafter “Gomez”) was a minor, and a resident of Florida.

3. At all times material to the times of the initial incidents complained of, Defendant Holy See (State of the Vatican City), (hereinafter “Holy See”) is a foreign country. The true names and capacities, whether individual, corporate, associate or otherwise, of Defendants Does 1-10 are unknown to Plaintiff Gomez who therefore sues said Defendants by such fictitious names. When the true names and capacities of said Defendants have been ascertained, Plaintiff will seek leave of court to amend this complaint to allege the true names and capacities. Plaintiff is informed and believes and based thereon alleges that each of the Defendants, as an agent and/or instrumentality of Defendant Holy See, designated as a Doe herein is liable in some manner for the acts, occurrences and omissions hereinafter alleged. Any reference or allegation against Defendant Holy See includes Does 1 through 10.

4. Defendant Holy See is the ecclesiastical, governmental, and administrative capital of the Roman Catholic Church. Defendant Holy See is the composite of the authority, jurisdiction, and sovereignty vested in the Pope and his delegated advisors to direct the world-wide Roman Catholic Church. Defendant Holy See has unqualified power over the Roman Catholic Church and over each and every individual and section of the church. Defendant Holy See directs, supervises, supports, promotes and engages

in providing religious and pastoral guidance, education and counseling services to Roman Catholics world-wide in exchange for all or a portion of the revenues derived from its members for these services. The Holy See engages in these activities through its agents, cardinals, bishops and clergy, including religious order priests and brothers and sisters who engage in pastoral work under the authority of the bishop of a diocese. The Holy See is supported through the contributions of the faithful which are received through donations from the dioceses. Defendant Holy See promotes and safeguards the morals and standards of conduct of the clergy of the Roman Catholic Church. Defendant Holy See does this by and through its agents and instrumentalities, including the Congregation for the Clergy and the Congregation for Religious both delegated by the Pope and acting on his behalf. Defendant Holy See creates, divides and re-aligns dioceses, archdioceses and ecclesiastical provinces. It also gives final approval to the creation, division or suppression of provinces of religious orders. Defendant Holy See promotes the sacred liturgy, directs and coordinates the spreading of its faith and other things necessary to promote the faith. It creates, appoints, assigns and removes bishops, superiors of religious orders and through the bishops and superiors of religious orders it has the power to directly assign and remove individual clergy. All bishops, clergy, and priests, including religious order priests, vow to show respect and obedience to the Pope and their bishop. As such, Defendant Holy See examines and is responsible for the work and

discipline and all those things which concern bishops, superiors of religious orders, priests and deacons of the religious clergy. Defendant Holy See promulgates and enforces the laws and regulations regarding the education, training and standards of conduct and discipline for its members and those who serve in the governmental, administrative, judicial, educational and pastoral workings of the Roman Catholic Church world wide. Defendant Holy See is also directly responsible for removing superiors of religious orders, bishops, archbishops and cardinals from service and/or making them ineligible for positions of leadership in the various divisions and offices of the Roman Catholic Church.

5. It is the policy and practice of Defendant Holy See, by and through its bishops, priests, religious superiors and agents, to conceal allegations of child sexual abuse against its clergy from law enforcement authorities, parishioners and the public. It has created and maintained secret archives and/or sub secreto files containing documents and records regarding child sexual abuse which are accessible only to bishops. These files were not made known or available to law enforcement authorities. As recent as 1990, bishops were instructed and/or advised to comb through these files and personnel files, expunge incriminating documents or records and/or send documents to Defendant Holy See's Delegate in an attempt to obtain sovereign immunity from the laws of the United States. In furtherance of this policy and practice, it has also moved clergy

who have committed child sexual abuse from one jurisdiction to another without notifying any of the laity in the successor location of the sexual abuse. It has routinely engaged in the practice of entering into secret settlements to keep concealed its illegal and criminal conduct. Each of the acts and practices set forth in this paragraph were done to obstruct justice; conceal criminal conduct; evade prosecution; avoid being compelled by criminal and civil courts to turn over information or allegations regarding child sexual abuse; avoid public awareness and scandal about pedophile clergy; and avoid financial loss.

6. At all times material to the times of the initial incidents complained of, Defendant Catholic Bishop for Diocese of St. Petersburg, a corporation Sole (hereinafter “Catholic Bishop”), was and continues to be a non-profit religious corporation, authorized to conduct business and conducting business under the laws of the State of Florida.

7. At all times material to the times of the initial incidents complained of, Defendant Salesians of Don Bosco (hereinafter “Order”), a world-wide Roman Catholic religious order of priests, was and continues to be a non-profit religious organization, with its principal place of business in Italy, doing business in the United States in the name of Defendant Salesians Society Inc., with its principal place of business in New Rochelle, New York. Defendant Order is divided into ninety five provinces world-wide,

two of which are in the United States. Each province is presided over by a Provincial. The Provincials are presided over by the Rector Major, or equivalent, who is located in Rome, Italy. The Rector Major is presided over by Defendant Holy See. Defendant Order has approximately thirteen thousand priests world-wide. For an order, such as Defendant Order, and its priest to operate within a diocese, it must obtain the approval of the local bishop within that diocese or area. At all times material to the complaint, Defendant Order was conducting business in the State of Florida.

8. At all times material to the times of the initial incidents complained of, Brother William Burke (hereinafter “Burke”) was a Catholic Brother and member of Defendant Order. Defendant Burke was educated by and ordained by Defendant Order. Defendant Burke was placed at Mary Help of Christians School by Defendant Catholic Bishop and Defendant Order, as a teacher and spiritual advisor. Defendant Burke was placed at Mary Help of Christians School under the authority of Defendant Catholic Bishop and Defendant Order. At all times material, Defendant Burke was under the direct supervision, employ and control of Defendant Holy See, Defendant Catholic Bishop and Defendant Order. At all times material, Defendant Burke was employed as a teacher and spiritual advisor at Mary Help of Christians School. Defendant Burke was an adult and designated holy figure at the time of the sexual abuse alleged herein. In 1993, Defendant Burke was ordained a Roman Catholic priest by the Superior of

Defendant Order, despite all Defendants' knowledge of Defendant Burke's history of sexual abuse, including the abuse of Plaintiff.

9. On information and belief, Mary Help of Christians School is owned by Defendant Catholic Bishop and is staffed and managed by Defendant Order, both operating under the direct supervision and control of Defendant Holy See.

10. Plaintiff Gomez was raised in a devout Roman Catholic family, and regularly celebrated mass and participated in church-related activities. As a teacher and spiritual advisor, Defendant Burke was a person of great influence and persuasion as a holy man and authority figure. Plaintiff, therefore, developed great admiration, trust, reverence and respect for the Roman Catholic Church and its agents.

11. On information and belief, Defendant Order and Catholic Bishop entered into a secret settlement agreement with another victim of sexual abuse by Defendant Burke arising out of Defendant Burke's employment at Mary Help Christian School. The settlement agreement is in accord with a pattern and practice by the Defendants as set forth in paragraph five of this complaint.

12. In approximately 1987, when Plaintiff was approximately 14 years old, Plaintiff attended and resided at Mary Help of Christians School. While there, Defendant Burke, using his position of authority, trust, reverence, and control as a Roman Catholic brother, teacher and spiritual advisor, engaged in repeated unpermitted

and harmful sexual contact upon the person of the Plaintiff. The sexual abuse occurred over thirty times and in several places including the dormitory, classrooms, church and surrounding areas in Tampa, Florida.

13. Plaintiff and his mother thereafter relocated to Easton, Maryland from Florida. In approximately 1989, Plaintiff disclosed the incidents of sexual abuse by Defendant Burke to his mother. Plaintiff's mother immediately reported this information to the law enforcement authorities in Easton, Maryland. The Easton, Maryland law enforcement authorities contacted the law enforcement authorities in Tampa, Florida regarding Defendant Burke's criminal sexual conduct for purposes of criminal investigation and prosecution.

14. Shortly thereafter, law enforcement authorities in Tampa went to interview Defendant Burke. Upon arriving at the school, the authorities were told that Defendant Burke was not there and that they should return later. Authorities returned shortly thereafter but were then informed that Defendant Burke was no longer there or available for interrogation, arrest or prosecution by Florida authorities. Upon information and belief, Defendant Burke was intentionally moved by Defendants out of the jurisdiction of the local law enforcement authorities to New Jersey in order to avoid public scandal and criminal prosecution against Defendant Burke .

15. Plaintiff's mother was told by law enforcement authorities that there would

be no criminal prosecution of Defendant Burke for criminal sexual conduct with her son because it was too difficult and expensive to extradite Defendant Burke from New Jersey back to Florida and to prosecute him.

16. Defendant Order, acting in concert with Defendant Holy See and other Catholic Bishops, has previously engaged in a pattern and practice of obstruction of justice and concealment of its pedophile clergy by systematically transferring the offending clergy from the jurisdiction of the offense once a criminal investigation has commenced. On or about 1999, Father Carlos Peralta, a priest with Defendant Order and serving under the Catholic Bishop in Chicago. Upon information and belief, Father Peralta was moved across national borders and placed with Catholic Bishop of Chicago as a result of numerous acts of sexual abuse against minors while serving outside the United States. Father Peralta's history of sexual abuse was documented and maintained in sub secreto files by Catholic Bishop of Chicago, Defendant Order and Defendant Holy See. At that time, Father Peralta was under criminal investigation by Chicago law enforcement authorities for criminal sexual conduct with a minor. Upon learning of the allegations and investigation, Defendant Order, in concert with Defendant Holy See and Catholic Bishop of Chicago, secretly moved the pedophile cleric from the jurisdiction in Illinois to New Jersey to obstruct justice, avoid criminal prosecution and public scandal, and with the purpose to conceal the criminal activity of their clergy. Later, in

furtherance of this scheme, Defendant Order then transferred Father Carlos Peralta to Mexico City and out of the jurisdiction of United States authorities with the purpose of concealing criminal sexual conduct, obstruction of justice and avoiding public scandal and financial loss.

17. Similarly, in this case, as a result of Defendant Order's, Defendant Catholic Bishop's and/or Defendant Holy See's movement of Defendant Burke across state lines, the authorities in Tampa, Florida were obstructed from criminally prosecuting Defendant Burke for his sexual abuse of Plaintiff.

18. As a direct result of the sexual abuse described herein and the knowing and fraudulent concealment of the wrongful nature of the abuse by Defendant Order, Catholic Bishop and Holy See, Plaintiff has suffered and continues to suffer severe and permanent emotional distress, physical manifestations of emotional distress, humiliation, loss of self-esteem, loss of the capacity for the enjoyment of life and other physical and psychological injuries; was and is permanently prevented from performing his normal daily activities and obtaining the full enjoyment of life; will incur expenses for medical and psychological treatment, therapy and counseling; and has incurred and will continue to incur loss of income and loss of earning capacity.

19. The sexual abuse of Plaintiff, and the concealment of the wrongful nature of it by Defendant Order, Catholic Bishop and Holy See, caused Plaintiff to develop

various psychological coping mechanisms and symptoms of psychological distress, including great shame, guilt, self-blame, depression, repression and disassociation. As a result, Plaintiff was unable to discover both the injury and the causal relationship between the injury and the abuse perpetrated upon him by Defendant Burke until recent disclosures made in national news media of sexual abuse by catholic clergy within the last year.

20. Pursuant to their policy and practice, Defendants intentionally removed Defendant Burke outside the jurisdiction of local authorities in order to obstruct justice, avoid public scandal, avoid loss of financial contributions and criminal and/or civil liability. Further, Defendants' conduct communicated to Plaintiff that Defendant Burke's conduct was proper and that legal action was not necessary or that any attempt at legal action would be useless. Therefore, Defendants knew, or should have known, that their actions would silence Plaintiff, his complaints and possible other complaints, and ultimately exacerbate his emotional distress and trauma. Defendants should therefore be estopped from asserting any defense that Plaintiff's action is not timely under Florida law because Defendants, individually and in concert with each other, fraudulently concealed the wrongfulness of Defendant Burke's conduct and the causal relationship of the harm suffered by Plaintiff Gomez.

COUNT I: SEXUAL BATTERY AGAINST DEFENDANT BURKE

21. Plaintiff incorporates each and every allegation contained in paragraphs 1 through 20 of this Complaint as if set forth in full herein.

22. In approximately 1987, when Plaintiff was 14 years of age, Defendant Burke repeatedly engaged in unpermitted, harmful and offensive sexual contact upon the person of the then minor Plaintiff Gomez. As a result, Plaintiff has suffered and will continue to suffer severe and permanent emotional distress, physical manifestations of emotional distress, humiliation, loss of self-esteem, and other psychological injuries; was prevented and will continue to be prevented from performing his normal daily activities and obtaining the full enjoyment of life; will incur expenses for medical and psychological treatment, therapy and counseling; and has incurred and will continue to incur loss of income and loss of earning capacity.

23. As a direct result of the sexual abuse, Plaintiff has suffered the injuries and damages described herein.

COUNT II: NEGLIGENCE AGAINST DEFENDANT CATHOLIC BISHOP

24. Plaintiff incorporates each and every allegation contained in Paragraphs 1 through 20 of this complaint as if set forth in full herein.

25. Defendant Catholic Bishop, by and through its agents, servants and employees, knew or reasonably should have known of Defendant Burke's dangerous and exploitive propensities as a child sexual abuser and/or an unfit agent, and despite such

knowledge, Defendant negligently retained Defendant Burke and/or failed to warn those coming into contact with him, including but not limited to Plaintiff and Plaintiff's family herein. Defendant Burke was therefore able to assume positions of trust and authority as a Roman Catholic brother, teacher and spiritual advisor, where he was able to commit the wrongful acts against the Plaintiff. Defendant Catholic Bishop failed to provide reasonable supervision of Defendant Burke, failed to use reasonable care in investigating Defendant Burke and failed to provide adequate warning to Plaintiff and his family. Upon information and belief, Defendant Catholic Bishop was acting in accordance with the policies, practices, and procedures of Defendant Holy See.

26. As a direct result of this negligent conduct, Plaintiff has sustained and continues to sustain the injuries and damages alleged herein.

COUNT III: VICARIOUS (RESPONDEAT SUPERIOR)
AGAINST DEFENDANT CATHOLIC BISHOP
FOR THE ACTS OF ITS AGENT BURKE

27. Plaintiff incorporates each and every allegation contained in Paragraphs 1 through 20 of this complaint as if set forth in full herein.

28. For the purpose of furthering his assigned duties as Roman Catholic brother, teacher and spiritual advisor, Burke sought and gained Plaintiff's trust, friendship, admiration, and obedience. As a result, Plaintiff was conditioned to comply with Defendant Burke's direction and to look to him as an authority on matters spiritual,

moral, ethical and temporal.

29. Using the power, authority and trust of his position as teacher and spiritual guide to the Plaintiff, Defendant Burke enticed, induced, directed and/or coerced Plaintiff to engage in various sexual acts with him in approximately 1987. Defendant Catholic Bishop is therefore vicariously liable for the negligent acts and omissions of its agent Burke.

30. As a direct result of this sexual abuse and breach of trust, Plaintiff has sustained and continues to sustain the injuries and damages described herein.

COUNT IV: NEGLIGENCE AGAINST DEFENDANT ORDER

31. Plaintiff incorporates each and every allegation contained in Paragraphs 1 through 20 of this complaint as if set forth in full herein.

32. Defendant Order, by and through its agents, servants and employees, knew or reasonably should have known of Defendant Burke's dangerous and exploitive propensities as a child sexual abuser and/or an unfit agent, and despite such knowledge, Defendant negligently retained Defendant Burke and/or failed to warn those coming into contact with him, including but not limited to Plaintiff herein and Plaintiff's family herein. Defendant Burke was therefore able to assume positions of trust and authority as a Roman Catholic brother, teacher and spiritual advisor, where he was able to commit the wrongful acts against the Plaintiff. Defendant Order failed to provide reasonable

supervision of Defendant Burke, failed to use reasonable care in investigating Defendant Burke and failed to provide adequate warning to Plaintiff and his family. Upon information and belief, Defendant Order was acting in accordance with the policies, practices, and procedures of Defendant Holy See.

33. As a direct result of this negligent conduct, Plaintiff has sustained and continues to sustain the injuries and damages alleged herein.

COUNT V: VICARIOUS LIABILITY (RESPONDEAT SUPERIOR)
AGAINST DEFENDANT ORDER
FOR THE ACTS OF ITS AGENT BURKE

34. Plaintiff incorporates each and every allegation contained in Paragraphs 1 through 20 of this complaint as if set forth in full herein.

35. For the purpose of furthering his assigned duties as Roman Catholic brother, teacher and spiritual advisor, Defendant Burke sought and gained Plaintiff's trust, friendship, admiration, and obedience. As a result, Plaintiff was conditioned to comply with Defendant Burke's direction and to look to him as an authority on matters spiritual, moral, ethical and temporal.

36. Using the power, authority and trust of his position as teacher and spiritual advisor to the Plaintiff, Burke enticed, induced, directed and/or coerced Plaintiff to engage in various sexual acts with him in approximately 1987. Defendant Order is therefore vicariously liable for the negligent acts and omissions of their agent Defendant

Burke.

37. As a direct result of this sexual abuse and breach of trust, Plaintiff has sustained and continues to sustain the injuries and damages described herein.

COUNT VI: NEGLIGENCE AGAINST DEFENDANT HOLY SEE

38. Plaintiff incorporates each and every allegation contained in Paragraphs 1 through 20 of this complaint as if set forth in full herein.

39. Defendant Holy See, by and through its agents, servants and employees, knew or reasonably should have known of Defendant Burke's dangerous and exploitive propensities as a child sexual abuser and/or an unfit agent, and despite such knowledge, Defendant negligently retained Defendant Burke and failed to warn those coming into contact with him of his propensities, including but not limited to Plaintiff and Plaintiff's family herein. Defendant Burke was therefore able to assume positions of trust and authority as a Roman Catholic brother, where he was able to commit the wrongful acts against the Plaintiff. Defendant Holy See failed to provide reasonable supervision of Defendant Burke, failed to use reasonable care in investigating Burke and failed to provide adequate warning to Plaintiff and his family.

40. As a direct result of this negligent conduct, Plaintiff has sustained and continues to sustain the injuries and damages described herein.

COUNT VII: VICARIOUS LIABILITY (RESPONDEAT SUPERIOR)
AGAINST DEFENDANT HOLY SEE
FOR THE ACTS OF ITS AGENT BURKE

41. Plaintiff incorporates each and every allegation contained in Paragraphs 1 through 20 of this Complaint as if set forth in full herein.

42. At all times material, Defendant Holy See had the right to control its agents, Defendant Catholic Bishop, Defendant Order and Defendant Burke. At all times material, Defendant Burke, Defendant Catholic Bishop, and Defendant Order were the agents of Defendant Holy See, acting in furtherance of the purposes of the Defendant Holy See, doing the kind of acts they were engaged to perform, and were motivated, at least in part, to further the purposes of Defendant Holy See.

43. Defendant Holy See, by and through its agents, granted Defendant Burke faculties to serve and perform as a Roman Catholic brother. Defendant Holy See, by and through its agents, also certified and held Defendant Burke out to the community of the faithful as a fit and competent agent of Defendant Holy See and a minister of Christ. Defendant Burke was acting as Defendant Holy See's agent in ministering to the community of the faithful, including teaching the word of God and the law of the Roman Catholic Church, providing aid, comfort and counseling and obtaining financial support for the church.

44. Plaintiff was molested by Defendant Burke while Plaintiff was under the authority and influence of Defendant Burke as a Roman Catholic brother, which authority was granted to him by Defendants Holy See, Catholic Bishop and Order. The molestation of the Plaintiff occurred while Defendant Burke was acting in the scope of his employment, the agency relationship with Defendants Holy See, Catholic Bishop, and Order, and/or this conduct was committed within the apparent authority arising from this employment and/or agency. Defendant Burke was executing the very employment duties in which he was assigned to perform.

45. Therefore, due to the nature of the employment duties and the vast disparity of power that existed in this relationship, Defendant Holy See is liable for the negligent and/or wrongful conduct of its agents, including Defendant Catholic Bishop and Defendant Order and its brother and teacher Defendant Burke, as described in the causes of action herein under the law of vicarious liability, including the doctrine of respondeat superior.

46. As a direct result of this sexual abuse and breach of trust, Plaintiff has sustained and continues to sustain the injuries and damages described herein.

**COUNT VIII: CIVIL CONSPIRACY TO INTENTIONALLY INFLICT
EMOTIONAL DISTRESS**

47. Plaintiff incorporates each and every allegation contained in Paragraphs 1

through 20 of this Complaint as if set forth in full herein.

48. For purposes of this count, “Defendants” refers to Defendant Holy See, Defendant Diocese and Defendant Order.

49. Defendants knew or should have known that Defendant Burke was engaging in inappropriate sexual conduct with children attending Mary Help Christians School and church. Despite said knowledge, and in furtherance of its practice and policy to transfer offending clergy from one jurisdiction to another, Defendants along with Defendant Burke, conspired to conceal material information of criminal wrongdoing from law enforcement authorities, other parishioners and other students and their parents by moving Defendant Burke to New Jersey. In so doing, Defendants intentionally evaded prosecution, obstructed justice, enjoyed the financial contributions and tuition payments made on behalf of students, avoided public scandal, and induced parents to continue to pay tuition and make contributions to the parish and Diocese. Defendants therefore directly and/or indirectly aided and abetted Defendant Burke in engaging in criminal sexual conduct and in concealing his criminal sexual conduct or pedophilia from prosecuting authorities or the public.

50. At all times material hereto, Defendants, acting together, obstructed justice and prevented law enforcement authorities from investigating Plaintiff’s claims and pursuing criminal charges and prosecution against Defendant Burke and any other

Defendants. None of the Defendants alone would have been capable of this concealment and each acted in concert with the other to conceal the true nature of Defendant Burke's pedophilia and conspired to emotionally injure and silence Plaintiff and prevent him from seeking recovery and healing.

51. After learning of Defendant Burke's abuse, Defendants conspired to cover up his misdeeds and conspired to silence the Plaintiff, and to thus prevent him from obtaining the means and opportunity to heal and recover from emotionally injure.

52. At all times material hereto, the Defendants, through the power of this conspiracy, knowingly and willfully inflicted severe emotional distress on Plaintiff.

53. As a result of the Defendants' conspiracy and the acts they took in furtherance of it, Plaintiff suffered damages including but not limited to, emotional trauma, physical and emotional pain and suffering, loss of the capacity for enjoyment of life, public humiliation and embarrassment.

WHEREFORE, Plaintiff prays for damages, costs, interest, attorneys' fees and such other relief as the court deems appropriate and just.

JURY DEMAND

Plaintiff demands a jury trial on all issues so triable.

Date: _____

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