

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS:

SUPERIOR COURT DEPARTMENT
C. A. No.

JANE JONES No. 90,
Plaintiff

*
*

v.

*
*

COMPLAINT

ROMAN CATHOLIC BISHOP OF FALL
RIVER, A CORPORATION SOLE,
FR. GREGORY A. MATHIAS, LISA
JOHNSON, SUZANNE L. MEDEIROS,
MICHELLE D'ORDINE, DIANE
WHELAN and GILBERT HERNANDEZ ,
Defendants

*
*
*
*
*
*

JURY TRIAL DEMANDED

INTRODUCTION

1. This action against the ROMAN CATHOLIC BISHOP OF FALL RIVER, FR. GREGORY A. MATHIAS, LISA JOHNSON, SUZANNE L. MEDEIROS, MICHELLE D'ORDINE and DIANE WHELAN arises out of a series of incidents in which the 14 year old plaintiff, JANE JONES, while a member of St. John Neumann Parish, East Freetown, was groomed, then repeatedly sexually harassed, assaulted and raped by GILBERT HERNANDEZ, a religion teacher in the parish, because the pastor, and the teachers, of the parish religious education program knew, because they observed, that HERNANDEZ was constantly engaged in inappropriate, sexualized conduct with the plaintiff, but they took no action to protect her from him, and further, they failed to file any reports pursuant to G.L. c. 119, § 51A.

PARTIES

2. Plaintiff is an individual who resides in Bristol County and brings this action in the name JANE JONES No. 90 ("JANE"). She is identified in a separate Affidavit which will be served upon the defendants.

3. Defendant ROMAN CATHOLIC BISHOP OF FALL RIVER, A CORPORATION SOLE (the "DIOCESE") is a corporation duly organized under the laws of the Commonwealth of Massachusetts, with an usual place of business at 450 Highland Avenue, Fall River, Bristol County, Massachusetts.
4. Defendant FR. GREGORY A. MATHIAS ("MATHIAS") is an individual with a usual place of residence at 230 South Main Street, Centerville, Barnstable County, Massachusetts.
5. Defendant LISA JOHNSON ("JOHNSON") is an individual with a usual place of residence at 113 Lapham Street, Fall River, Bristol County, Massachusetts.
6. Defendant SUZANNE L. MEDEIROS ("MEDEIROS") is an individual with a usual place of residence at 2026 Billys Lane, Dighton, Bristol County, Massachusetts.
7. Defendant MICHELLE D'ORDINE ("D'ORDINE") is an individual with a usual place of residence at 1 Ron Circle, Lakeville, Plymouth County, Massachusetts.
8. Defendant DIANE WHELAN ("WHELAN") is an individual with a usual place of business at 157 Middleboro Road, East Freetown, Bristol County, Massachusetts.
9. Defendant GILBERT HERNANDEZ ("HERNANDEZ") is an individual in the custody of the Massachusetts Department of Corrections, NCCI Gardner, 500 Colony Road, Gardner, Worcester County, Massachusetts.

FACTS COMMON TO ALL COUNTS

10. Plaintiff brings this action pursuant to Massachusetts General Laws, Chapter 260, §§4C & 4C½, as amended by Chapter 145 of the Acts of 2014.
11. At all times relevant to this action defendant DIOCESE was responsible for the operations of its parishes, and their respective personnel, in Bristol and Plymouth

Counties.

12. At all times relevant to this action St. John Neumann Roman Catholic Church (the “Neumann parish”), was a parish of defendant DIOCESE, located at 157 Middleboro Road, East Freetown.
13. At all times relevant to this action defendant DIOCESE was responsible for the operations and administration of the Neumann parish.
14. At all times relevant to this action defendant DIOCESE employed defendant MATHIAS as the Pastor of the Neuman parish.
15. At all times relevant to this action defendant MATHIAS, as the Pastor of the Neuman parish, was responsible for its activities on behalf of the defendant DIOCESE.
16. At all times relevant to this action defendant MATHIAS, as the Pastor, was responsible for the operations and administration of the Neumann parish.
17. At all times relevant to this action defendants D'ORDINE, JOHNSON, MEDEIROS and WHELAN were employees of defendant DIOCESE.
18. At all times relevant to this action defendant MATHIAS, as the Pastor, was responsible for the operation and administration of the Neumann parish religious education program, Confraternity of Christian Doctrine (“CCD”).
19. At all times relevant to this action, defendants D'ORDINE, JOHNSON, MEDEIROS and WHELAN were employees of defendant DIOCESE in its CCD program at the Neumann parish.
20. At all times relevant to this action, defendants D'ORDINE, JOHNSON, MEDEIROS and WHELAN were teachers in defendant DIOCESE's CCD program at the

Neumann parish.

21. At all times relevant to this action, defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN were supervisors in defendant DIOCESE's CCD program at the Neumann parish.
22. At all times relevant to this action the DIOCESE employed the defendant HERNANDEZ.
23. At all times relevant to this action, defendant HERNANDEZ was employed by defendant DIOCESE as a teacher in defendant DIOCESE's CCD program at the Neumann parish.
24. At all times relevant to this action, defendants D'ORDINE, JOHNSON, MEDEIROS and WHELAN were teachers during the same time period while defendant HERNANDEZ was employed by defendant DIOCESE as a teacher in defendant DIOCESE's CCD program at the Neumann parish.
25. At all times relevant to this action, defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN had supervisory authority over defendant HERNANDEZ while he was employed by defendant DIOCESE as a teacher in defendant DIOCESE's CCD program at the Neumann parish.
26. At all relevant times and in all actions described in this Complaint, defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN, were employees at Neumann parish, and were acting within the scope of their employment with the DIOCESE.
27. Plaintiff JANE was a student in the defendant DIOCESE's CCD program at the Neumann parish in 2018, when she was 14 years old.

28. Defendant HERNANDEZ was JANE's teacher in the CCD program at the Neumann parish in 2018.
29. Defendant HERNANDEZ groomed JANE, and then sexually harassed, assaulted and raped her throughout 2018 at the Neumann parish CCD classes.
30. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN supervised defendant HERNANDEZ at the Neumann parish CCD classes in 2018.
31. During 2018, defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN observed, on multiple occasions, that defendant HERNANDEZ was constantly engaging in inappropriate, and boundary violating, behaviors with JANE.
32. Throughout 2018, defendant HERNANDEZ would have JANE come to his CCD classes at Neumann parish early, when no other students were present.
33. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN observed that JANE was coming early. When they questioned defendant HERNANDEZ about it, he would tell them she was "helping him teach" the class. And they accepted that explanation, although it was clear to them that JANE had neither the qualifications nor the experience to perform that function.
34. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN observed defendant HERNANDEZ was driving JANE to and from class, but did not ask why.
35. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN observed that defendant HERNANDEZ was "counseling" the girls in the class on subjects unrelated to religion, which was not part of his teaching duties, but they did not stop him.

36. Defendant HERNANDEZ was allowed to choose the students who would be in his CCD class, and defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN allowed him to do so.
37. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN all observed that defendant HERNANDEZ spent more time with JANE than any other CCD student, and treated her differently from the other students, but did nothing, and said nothing, about it.
38. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS, and WHELAN observed that defendant HERNANDEZ would frequently sit in a classroom alone with JANE, at a time when there was no class, but they did not question him.
39. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS, and WHELAN observed that defendant HERNANDEZ would frequently make physical contact with JANE, which was not a necessary part of his teaching duties, but they did not question him.
40. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN observed that defendant HERNANDEZ would engage in inappropriate, sexualized behaviors with JANE, which were not part of his teaching duties, but they did not question him.
41. When there were special Masses at Neumann parish, defendant HERNANDEZ would have JANE sit in a separate pew, away from the other people. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN observed this, but never questioned why defendant HERNANDEZ was always alone with JANE.
42. Defendant HERNANDEZ would sexually assault JANE, in the pew, in church, during

those Masses.

43. At some point defendants D'ORDINE, JOHNSON, MEDEIROS and WHELAN discussed defendant HERNANDEZ's conduct, and his involvement with JANE, with defendant MATHIAS, and a joint decision was made to terminate his services.
44. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN did not disclose to anyone the true reason for terminating defendant HERNANDEZ. Instead, they jointly decided to coverup defendant HERNANDEZ's conduct, and they fabricated a different reason for the termination.
45. Defendant JOHNSON, with the knowledge and complicity of defendants MATHIAS, D'ORDINE, MEDEIROS and WHELAN, sent defendant HERNANDEZ an email stating:

"I have been working over the summer with Fr. Gregg and others to restructure the Confirmation program. . . . After speaking with Father Greg, given the new structure of the program and the particular makeup of this Confirmation 2 class, we ask that you take a break from Confirmation this year. We thank you for volunteering and sharing your faith with our young parishioners over the years. Thank you – God Bless – Lisa Johnson."

46. In fact, there was no program restructure, or any intention for defendant HERNANDEZ to merely "take a break." Instead, defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN conspired to get rid of defendant HERNANDEZ because of his observed conduct with JANE.
47. Defendant HERNANDEZ did not take his termination well. He wrote a long, rambling letter about his CCD service, and more importantly, in the letter he made it clear that he had a special relationship with JANE.

48. Defendant HERNANDEZ showed the letter to defendant MATHIAS, and told him he intended to read the letter at a public meeting of parish CCD parents. Defendant MATHIAS was terrified by the prospect of defendant HERNANDEZ's conduct becoming public, and he convinced HERNANDEZ not to read it.
49. Not once did defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN ever sit down with JANE, to speak with her about defendant HERNANDEZ's conduct, or how she was affected by it, despite many occasions when she was clearly having serious emotional reactions.
50. One day when defendant HERNANDEZ was absent, defendant WHELAN taught JANE's class. JANE was visibly upset and crying. Instead of asking why JANE was upset, or attempting to comfort her, defendant WHELAN started asking her a series of religious questions, and when JANE was unable to answer them satisfactorily, she told JANE she was "going to hell." But she never spoke with JANE about defendant HERNANDEZ.
51. Not once did defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN ever sit down with JANE's parents, to speak with them about defendant HERNANDEZ's conduct.
52. At all times relevant to this action, defendant DIOCESE, and its employees, defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS, WHELAN and HERNANDEZ were each Mandated Reporters who had a duty, under G.L. c. 119, §51A, to report all instances of sexual abuse of students to the Massachusetts Department of Children and Families, or a law enforcement agency.
53. Not once did defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and

WHELAN ever file a §51A report about defendant HERNANDEZ's conduct.

54. Defendant DIOCESE has had a more than 40 year history of sexual abuse of children by its employees, and has adopted programs to train its employees to be aware of signs of sexual abuse, and what actions should be taken when it occurs.
55. Defendant DIOCESE's Bishop Edgar M. da Cunha has stated: "It is our mission, our sacred mission, to remain vigilant in our efforts to protect children and vulnerable adults in our care in our parishes, schools, programs, and ministries."
56. Defendant DIOCESE's Bishop Edgar M. da Cunha further stated: "Since my installation as Eighth Bishop of Fall River in September 2014, I have made it my mission to protect our most vulnerable throughout the Diocese."
57. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN were, or should have been, each trained to understand that defendant HERNANDEZ's conduct was likely to be causing harm to JANE, and they each had an obligation to make a §51A report.
58. Instead, defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN conspired to remove defendant HERNANDEZ from the Neumann parish CCD program, to hide his conduct from JANE's parent, and from the police and the protective authorities, and by doing so, they ratified HERNANDEZ's behaviors, for which defendant DIOCESE is responsible.
59. By these failures to perform this duty, defendant DIOCESE intentionally inflicted emotional distress upon JANE, who then knew defendant HERNANDEZ would suffer no consequences for his acts, and that she was not going to be safe from future assaults by defendant HERNANDEZ.

60. Defendant DIOCESE is strictly and vicariously liable for actions committed by its employees that are within the scope of employment and furthered by their employment.
61. Defendant HERNANDEZ, an employee of defendant DIOCESE, sexually harassed, assaulted, and raped JANE, while he was her teacher and she was a student in the Neumann parish CCD program, operated by defendant DIOCESE.
62. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS, and WHELAN ratified defendant HERNANDEZ's conduct because they took no action to stop HERNANDEZ from future sexual assaults, batteries and harassment, after becoming aware of defendant HERNANDEZ's criminal conduct.
63. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN failed to investigate and discipline defendant HERNANDEZ, failed to disavow defendant HERNANDEZ's unauthorized actions, failed to mitigate the harm caused JANE once the facts have been ascertained, and by these failures they ratified HERNANDEZ's acts of abuse.
64. The ratification by defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN of the sexual assaults, batteries and harassment, perpetrated by defendant HERNANDEZ, caused JANE to suffer, and continue to suffer, severe and permanent mental distress, emotional harm, as well as other consequential damages.
65. JANE's life changed completely after this period of abuse. It took her years before she was able to tell anyone what defendant HERNANDEZ had done to her.
66. On May 9, 2021, defendant HERNANDEZ was indicted in both the Barnstable and

Plymouth Superior Courts for multiple sexual assaults of JANE.

67. Defendant HERNANDEZ was tried in Bristol County, where the jury found him guilty of all charges in eleven (11) indictments, after JANE testified for several days.
68. On April 10, 2024, defendant HERNANDEZ was sentenced to 30 to 40 years in Massachusetts state prison.
69. Because of the several failures of defendants DIOCESE, MATHIAS, D'ORDINE, JOHNSON, MEDEIROS, and WHELAN, JANE has been severely harmed, and will continue to require mental health treatment for the foreseeable future.

COUNT I - NEGLIGENCE

70. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
71. Defendant DIOCESE knew or should have known that defendant HERNANDEZ would sexually assault, and/or sexually harass JANE, and failed to prevent it, or to protect her from future assaults, after becoming aware of defendant HERNANDEZ's criminal conduct.
72. Further, defendant DIOCESE failed to perform its statutory duties under G.L. c. 119, §51A.
73. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of defendant DIOCESE's negligence.

COUNT II - NEGLIGENT HIRING, TRAINING, SUPERVISION AND RETENTION

74. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.

75. Defendant DIOCESE had a duty to exercise reasonable care in hiring, training, supervising and/or retaining defendant HERNANDEZ. It was negligent and breached this duty.
76. As a result of defendant's DIOCESE's negligence and breach of duty in hiring, training, supervising, and/or retaining defendant HERNANDEZ, it allowed and failed to prevent defendant HERNANDEZ from sexually assaulting and sexually harassing JANE, and continuing to sexually assault her after becoming aware of defendant HERNANDEZ's criminal conduct.
77. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of defendant DIOCESE's negligence.

COUNT III - NEGLIGENT HIRING, TRAINING, SUPERVISION AND RETENTION

78. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
79. Defendant DIOCESE had a duty to exercise reasonable care in hiring, training, supervising and/or retaining defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS, and WHELAN. It was negligent and breached this duty.
80. As a result of defendant's DIOCESE's negligence and breach of duty in hiring, training, supervising, and/or retaining defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN, they allowed and failed to prevent defendant HERNANDEZ from sexually assaulting and sexually harassing JANE, and continuing to sexually assault her after becoming aware of defendant HERNANDEZ's criminal conduct.

81. As a result of defendant's DIOCESE's negligence and breach of duty in hiring, training, supervising, and/or retaining defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN, they each failed to perform their statutory duties under G.L. c. 119, §51A.
82. As a result, they allowed and failed to prevent defendant HERNANDEZ from sexually assaulting and sexually harassing JANE, and continuing to sexually assault her after becoming aware of defendant HERNANDEZ's criminal conduct.
83. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of defendant DIOCESE's negligence.

COUNT IV - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

84. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
85. Defendant DIOCESE negligently inflicted emotional distress on JANE, by negligently hiring, training, supervising and/or retaining defendant HERNANDEZ, and/or by allowing and/or failing to prevent defendant HERNANDEZ from sexually assaulting, and/or sexually harassing JANE, and continuing to assault JANE after becoming aware of defendant HERNANDEZ's criminal conduct, and knew or should have known that its negligence would result in emotional distress to JANE.
86. Defendant DIOCESE negligently inflicted emotional distress on JANE, by negligently hiring, training, supervising and/or retaining defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN, who allowed and failed to prevent defendant HERNANDEZ from sexually assaulting and sexually harassing

JANE, and continuing to sexually assault her after becoming aware of defendant HERNANDEZ's criminal conduct, and it knew or should have known that its negligence would result in emotional distress to JANE.

87. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, physical symptoms, as well as other consequential damages as a result of defendant DIOCESE's negligence.

COUNT V - BATTERY

88. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint

89. Defendant HERNANDEZ battered the plaintiff JANE, by engaging in unlawful and non-consensual sexual conduct with her.

90. Defendant DIOCESE is vicariously liable for the batteries of plaintiff JANE because of the ratification of his acts by defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN.

91. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of defendant HERNANDEZ's intentional conduct.

COUNT VI - ASSAULT

92. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.

93. Defendant HERNANDEZ assaulted the plaintiff JANE, by placing her in fear that he would engage, or would attempt to engage, in unlawful and non-consensual sexual conduct with her.

94. Defendant DIOCESE is vicariously liable for the assaults of plaintiff JANE because of the ratification of his acts by defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN.

95. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of defendant HERNANDEZ's intentional conduct.

COUNT VII - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

96. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.

97. Defendant HERNANDEZ negligently inflicted emotional distress upon plaintiff JANE by placing her in fear that he would engage, or would attempt to engage, in unlawful and non-consensual sexual conduct with her in the future.

98. Defendant DIOCESE is vicariously liable for the negligently inflicted emotional distress of plaintiff JANE because of the ratification of his acts by defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN.

99. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of defendant HERNANDEZ's negligent conduct.

COUNT VIII - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

100. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.

101. Defendant HERNANDEZ intentionally inflicted emotional distress upon plaintiff JANE by placing her in fear that he would engage, or would attempt to engage, in

unlawful and non-consensual sexual conduct with her in the future.

102. Defendant DIOCESE is vicariously liable for the intentionally inflicted emotional distress of plaintiff JANE because of the ratification of his acts by defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN.
103. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of defendant HERNANDEZ's intentional conduct.

COUNT IX - CIVIL RIGHTS

104. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
105. Defendant HERNANDEZ interfered with plaintiff JANE's rights under the constitution and laws of the United States, and under the constitution and laws of the Commonwealth of Massachusetts by threats, intimidation and coercion.
106. Defendant HERNANDEZ's conduct deprived plaintiff JANE of her constitutional rights to bodily integrity, and to be free from sexual harassment which constitutes discrimination, based upon her gender, under both Article 1 of the Declaration of Rights, and the Equal Protection clause of the Fourteenth Amendment to the United States Constitution. Defendant HERNANDEZ is liable to the plaintiff in accordance with G.L. c. 12, §§11H & 11I.
107. Defendant DIOCESE is vicariously liable for the denial of plaintiff JANE rights under G.L. c. 12, §§11H & 11I, because of the ratification of his acts by defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN.
108. Plaintiff JANE suffered bodily harm, humiliation, severe emotional distress, and

permanent psychological damages. She has incurred expenses and will likely incur future expenses for medical and psychological treatment, and has suffered loss of earning capacity.

COUNT X - NEGLIGENCE

109. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
110. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN knew or should have known that defendant HERNANDEZ would sexually assault, and/or sexually harass JANE, and failed to prevent it, or to protect her from future assaults, after becoming aware of defendant HERNANDEZ's criminal conduct.
111. Further, defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN failed to perform their statutory duties under G.L. c. 119, §51A.
112. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of the negligence of defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN.

COUNT XI - NEGLIGENT HIRING, TRAINING, SUPERVISION AND RETENTION

113. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
114. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN had a duty to exercise reasonable care in hiring, training, supervising and/or retaining defendant HERNANDEZ. They were negligent and breached this duty.
115. As a result of defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and

WHELAN negligence and breach of duty in hiring, training, supervising, and/or retaining defendant HERNANDEZ, they allowed and failed to prevent defendant HERNANDEZ from sexually assaulting and sexually harassing JANE, and continuing to sexually assault her after becoming aware of defendant HERNANDEZ's criminal conduct..

116. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of the negligence of defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN .

COUNT XII - NEGLIGENT HIRING, TRAINING, SUPERVISION AND RETENTION

117. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
118. Defendant MATHIAS had a duty to exercise reasonable care in hiring, training, supervising and/or retaining defendants D'ORDINE, JOHNSON, MEDEIROS and WHELAN. He was negligent and breached this duty.
119. As a result of defendant MATHIAS' negligence and breach of duty in hiring, training, supervising, and/or retaining defendants D'ORDINE, JOHNSON, MEDEIROS and WHELAN, they allowed and failed to prevent defendant HERNANDEZ from sexually assaulting and sexually harassing JANE, and continuing to sexually assault her after becoming aware of defendant HERNANDEZ's criminal conduct.
120. As a result of defendant MATHIAS' negligence and breach of duty in hiring, training, supervising, and/or retaining defendants D'ORDINE, JOHNSON, MEDEIROS and WHELAN, they each failed to perform their statutory duties under G.L. c. 119, §51A.

121. As a result, they allowed and failed to prevent defendant HERNANDEZ from sexually assaulting and sexually harassing JANE, and continuing to sexually assault her after becoming aware of defendant HERNANDEZ's criminal conduct.
122. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of defendant DIOCESE's negligence.

COUNT XIII - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

123. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
124. Defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN negligently inflicted emotional distress on JANE, by negligently hiring, training, supervising and/or retaining defendant HERNANDEZ, and/or by allowing and/or failing to prevent defendant HERNANDEZ from sexually assaulting, and/or sexually harassing JANE, and continuing to assault JANE after becoming aware of defendant HERNANDEZ's criminal conduct, and knew or should have known that its negligence would result in emotional distress to JANE.
125. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, physical symptoms, as well as other consequential damages as a result of the negligence of defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN.

COUNT XIV - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

126. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.

127. Defendant MATHIAS negligently inflicted emotional distress on JANE, by negligently hiring, training, supervising and/or retaining defendants D'ORDINE, JOHNSON, MEDEIROS and WHELAN, who allowed and failed to prevent defendant HERNANDEZ from sexually assaulting and sexually harassing JANE, and continuing to sexually assault her after becoming aware of defendant HERNANDEZ's criminal conduct, and he knew or should have known that his negligence would result in emotional distress to JANE.
128. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, physical symptoms, as well as other consequential damages as a result of defendant DIOCESE's negligence.

COUNT XV - CONSPIRACY

129. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
130. Defendants DIOCESE, MATHIAS, D'ORDINE, JOHNSON, MEDEIROS, and WHELAN each, intentionally and fraudulently hid the existence of sexual assaults, batteries and rapes of JANE, perpetrated by defendant HERNANDEZ, conspired to keep this information from becoming public knowledge, and protected defendant HERNANDEZ from criminal prosecution.
131. Defendants DIOCESE, MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN each, intentionally and fraudulently hid the existence of sexual assaults, batteries and rapes of JANE, perpetrated by defendant HERNANDEZ, despite their respective obligations under G.L. c.119, §51A, and conspired to keep this information from becoming public knowledge, in order to protect each other from

criminal prosecution for failure to report these crimes to the Massachusetts Department of Children and Families, or law enforcement agencies, or for prosecution under G.L. c. 265, § 13L, for reckless endangerment of a child.

132. Said acts of abuse and said conspiracy were not acts which were undertaken in furtherance of the charitable purposes of defendant DIOCESE.
133. Defendant DIOCESE is liable because its agents, defendants MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN, entered into the conspiracy on its behalf, and to protect its reputation and interests.
134. By virtue of said conspiracy, defendants DIOCESE, MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN ratified the acts by which defendant HERNANDEZ sexually harassed, assaulted and raped JANE.
135. By virtue of said conspiracy, defendants DIOCESE, MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN are jointly and severally liable to the plaintiff for the injuries which she has suffered because of the acts of defendant HERNANDEZ, who was able thereby to commit, and to continue to commit, sexual abuse, assault and rape upon JANE.
136. By virtue of said conspiracy, defendants DIOCESE, MATHIAS, D'ORDINE, JOHNSON, MEDEIROS and WHELAN are jointly and severally liable to the plaintiff for the injuries which she has suffered because of their failures to perform their duty under law, which prevented JANE from understanding that she was the child victim of defendant HERNANDEZ's criminal acts, and she had the right to be protected from him.

COUNT XVI - BATTERY

137. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint
138. Defendant HERNANDEZ battered the plaintiff JANE, by engaging in unlawful and non-consensual sexual conduct with her.
139. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of defendant HERNANDEZ's intentional conduct.

COUNT XVII - ASSAULT

140. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
141. Defendant HERNANDEZ assaulted the plaintiff JANE, by placing her in fear that he would engage, or would attempt to engage, in unlawful and non-consensual sexual conduct with her.
142. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of defendant HERNANDEZ's intentional conduct.

COUNT XVIII - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

143. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
144. Defendant HERNANDEZ negligently inflicted emotional distress upon plaintiff JANE by placing her in fear that he would engage, or would attempt to engage, in unlawful and non-consensual sexual conduct with her in the future.

145. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of defendant HERNANDEZ's negligent conduct.

COUNT XIX - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

146. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.

147. Defendant HERNANDEZ intentionally inflicted emotional distress upon plaintiff JANE by placing her in fear that he would engage, or would attempt to engage, in unlawful and non-consensual sexual conduct with her in the future.

148. JANE has suffered and continues to suffer severe and permanent mental distress and emotional harm, as well as other consequential damages as a result of defendant HERNANDEZ's intentional conduct.

COUNT XX - CIVIL RIGHTS

149. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.

150. Defendant HERNANDEZ interfered with plaintiff JANE's rights under the constitution and laws of the United States, and under the constitution and laws of the Commonwealth of Massachusetts by threats, intimidation and coercion.

151. Defendant HERNANDEZ's conduct deprived plaintiff JANE of her constitutional rights to bodily integrity, and to be free from sexual harassment which constitutes discrimination, based upon her gender, under both Article 1 of the Declaration of Rights, and the Equal Protection clause of the Fourteenth Amendment to the United States Constitution. Defendant HERNANDEZ is liable to the plaintiff in accordance

with G.L. c. 12, §§11H & 11I.

152. Plaintiff JANE suffered bodily harm, humiliation, severe emotional distress, and permanent psychological damages. She has incurred expenses and will likely incur future expenses for medical and psychological treatment, and has suffered loss of earning capacity.

DEMANDS FOR RELIEF

Wherefore Plaintiff prays this Honorable Court to grant to the Plaintiff the following relief:

- A. Judgment against defendant DIOCESE on each of the Counts stated, in an amount which is fair, just and adequate for the injuries and damages sustained, and the pain and suffering endured, plus interest, costs, and attorney's fees.
- B. Judgment against defendant MATHIAS on each of the Counts stated, in an amount which is fair, just and adequate for the injuries and damages sustained, and the pain and suffering endured, plus interest, costs, and attorney's fees.
- C. Judgment against defendant D'ORDINE on each of the Counts stated, in an amount which is fair, just and adequate for the injuries and damages sustained, and the pain and suffering endured, plus interest, costs, and attorney's fees.
- D. Judgment against defendant JOHNSON on each of the Counts stated, in an amount which is fair, just and adequate for the injuries and damages sustained, and the pain and suffering endured, plus interest, costs, and attorney's fees.
- E. Judgment against defendant MEDEIROS on each of the Counts stated, in an amount which is fair, just and adequate for the injuries and damages sustained, and the pain and suffering endured, plus interest, costs, and attorney's fees.

- F. Judgment against defendant WHELAN on each of the Counts stated, in an amount which is fair, just and adequate for the injuries and damages sustained, and the pain and suffering endured, plus interest, costs, and attorney's fees
- G. Judgment against defendant HERNANDEZ on each of the Counts stated, in an amount which is fair, just and adequate for the injuries and damages sustained, and the pain and suffering endured, plus interest, costs and attorney's fees.
- H. Such other and further relief as the Court may deem appropriate and just.

DEMAND FOR JURY TRIAL

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL COUNTS.

By her Attorneys,

/s/ Carmen L. Durso
CARMEN L. DURSO, ESQUIRE
BBO # 139340
Law Office of Carmen L. Durso
276 Union Avenue
Framingham, MA 01702
617-728-9123 / carmen@dursolaw.com

/s/ Michael J. Heineman
MICHAEL J. HEINEMAN, ESQUIRE
BBO # 556841
AMANDA BRYANT, ESQUIRE
BBO # 703258
Heinlein Beeler Mingace & Heineman, PC
276 Union Avenue
Framingham, MA 01702
(508) 626-8500
MHeineman@HBMHlaw.com

January 7, 2025