

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CIVIL DIVISION

CASE NO.: 05-013361 CA 12

JOHN DOE NO. 22, JOHN DOE's
MOTHER, and JOHN DOE's FATHER,

Plaintiff,

v.

ARCHDIOCESE OF MIAMI, INC.;
ARCHDIOCESE OF MIAMI, a corporation
sole, and ARCHBISHOP JOHN C.
FAVALORA, as corporate sole of the
Archdiocese of Miami,

Defendants.

ANSWER TO AMENDED COMPLAINT

FL BAR NO.: 305731

Plaintiff.

COME NOW the Defendants, ARCHDIOCESE OF MIAMI, INC.; ARCHDIOCESE OF MIAMI, a corporation sole, and ARCHBISHOP JOHN C. FAVALORA, as corporate sole of the Archdiocese of Miami, by and through their undersigned counsel and in Answer to the Plaintiff's Amended Complaint, state the following:

1. That this Defendant admits the allegations contained in paragraph number 4.
2. That this Defendant denies each and every remaining allegations of the Amended Complaint or is without sufficient knowledge to either admit or deny said allegations and they are therefore denied; furthermore, these Defendants demand strict proof of each and every such allegation.

AFFIRMATIVE DEFENSES

In further Answer to the Amended Complaint, these Defendants would state the following:

1. That neither these Defendants nor any of their agents, employees, or

representatives committed any act of negligence or breached any duty owed to the Plaintiff which was a proximate cause of his alleged damages herein.

2. That the Plaintiff's alleged damages herein were intentional, willful, malicious acts of a non-party for whom these Defendants did not have vicarious, derivative or secondary liability for by law or fact.
3. That the Plaintiff's alleged damages herein were caused in whole or in part by his own negligence and should be reduced and/or extinguished accordingly.
4. That the Plaintiff's alleged damages herein were caused in whole or in part by other third parties for whom these Defendants are not vicariously, derivatively, nor secondarily liable for and the Plaintiff's damages herein, if any, should be reduced and/or extinguished accordingly.
5. That the Plaintiff's alleged damages herein, were caused in whole or in part by third parties not named as Defendants herein and these Defendants reserve the right to name those non-party entities on the verdict form at the time of trial for the purposes of the jury's consideration and finding of fault pursuant to the Messmer/Fabre decisions, including but no limited to John Doe 22's parent and John Doe 21.
6. That John Doe 21 intentionally, willfully, and/or negligently withheld knowledge and information concerning alleged acts by Father Doherty, and by withholding such information fraudulently concealed said information from the Archdiocese of Miami causing them to be unaware of the alleged pattern of behavior of Father Doherty for which John Doe 22 now brings this action.
7. That there is no legally recognized fiduciary duty between the Plaintiff and these Defendants as alleged in the Amended Complaint.

8. That as a matter of law, these Defendants are not liable to the Plaintiff under a *respondeat superior* theory of liability based upon the allegations of Doherty's alleged acts.
9. That in the event a jury awards a verdict herein in favor of the Plaintiff and awards medical bills, the Plaintiffs are only entitled to claim the amount of bills paid or payable.
10. That in the event that a verdict is rendered herein, these Defendants assert all rights and privileges under Florida's apportionment statute 768.81 when judgment is entered.
11. That in the event that a judgment is rendered herein, these Defendants are entitled to an offset for any and all collateral source paid or payable as defined by Florida Statutes.

DEMAND FOR JURY TRIAL

We hereby demand a trial by jury on all issues triable as of right by a jury.

WE HEREBY CERTIFY a true and correct copy of the foregoing was faxed and mailed this 30th day of January, 2006, to: JEFFREY M. HERMAN, ESQ., 18205 Biscayne Boulevard, Suite 2218, Miami, FL 33160.

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