

Small Claims County Court District Court
 Probate Court Juvenile Court Water Court
Denver County, Colorado
Court Address: 1437 Bannock Street, Denver, Colorado
80202

DELBERT C. NIELSEN, III

Plaintiff,

v.

ARCHDIOCESE OF DENVER,
a corporation sole,

Defendant.

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▲ COURT USE ONLY ▲

Case Number:

05-CV-6451

Div.:

Ctrm:

COMPLAINT

Plaintiff, DELBERT C. NIELSEN, III, brings this Complaint against Defendant, ARCHDIOCESE OF DENVER, as follows:

PARTIES AND JURISDICTION

1. Plaintiff DELBERT C. NIELSEN, III (“NIELSEN”) is an adult male who resides at 1504 Samoa Court in Carlsbad, New Mexico. Plaintiff is seeking compensatory damages in excess of ten million dollars in this lawsuit.

2. Defendant ARCHDIOCESE OF DENVER (the “ARCHDIOCESE”) is a corporation solely responsible for the interests of the Roman Catholic Church (“The Church”) in northern Colorado.

3. At all material times, Father Harold Robert White (“Father White”) was a Catholic priest assigned by the Bishop of the ARCHDIOCESE to serve as pastor or assistant pastor at various parishes within the ARCHDIOCESE. White was removed from clerical status in 2004.

4. Upon information and belief, Defendant, the ARCHDIOCESE’S principal place of business is within the City and County of Denver, making venue proper.

BACKGROUND

5. The Church offers many opportunities for minors and families to become active and involved in Church activities. As a result, priests and clergy have abundant and frequent contacts with minors, individually and in groups.

6. Because of the opportunities to be with minors, The Church attracts many truly caring and giving individuals; however, at the same time, service in The Church attracts an extraordinary number of pedophiles, child molesters and sex abusers.

7. Officials and religious figures at the highest levels of The Church are well aware

of the attraction of The Church to those who will do serious harm to minors.

8. Such persons who will do serious harm to minors seek employment by The Church as clergy, where they will obtain privacy with minors and control over them. As religious figures, they wield enormous influence over minors, who are required to address them as “Father” or such other terms connoting love and authority.

9. Religious figures in The Church are bestowed with an heir of infallibility, and are considered conduits for parishioners to make a connection with the deity and live more meaningful lives.

10. As a result, when these seemingly infallible holy men commit unspeakable, perverted sexual acts with minors, it has an extraordinarily traumatic effect on the victims, psychologically and emotionally.

11. Instead of exercising due care and diligence to protect minors under these circumstances from the serious harm described above, The Church gives clergy complete discretion and freedom to have personal and private encounters with minors. At the same time, The Church has done nothing to screen abusers or protect minors from the sexual predators who infiltrate its ranks.

12. Quite the opposite, The Church has gone to great lengths to protect “its own”. It is the custom, policy and practice of the Roman Catholic Church, through its cardinals, bishops, priests and other officials and agents, to conceal instances of child sexual abuse and complaints by victims. It zealously maintains the secrecy of the horrifying truth of rampant child sexual abuse in The Church, by among other things:

- Failing to disclose complaints to law enforcement officials, parishioners and the public;
- Maintaining secret archives and files of evidence of sex abuse, accessible only to bishops;

- Instructing Church officials in destruction of incriminating documents and spoliation of evidence regarding sexual abuse by clergy;
- Transferring sex offending clergy to The Church facilities in other locations where their pasts would not be known to parishioners, and the abusers would have a “fresh start” with a new group of vulnerable children;
- Threatening and coercing victims and their families to withdraw complaints and retract allegations of sexual abuse;
- Paying “hush money” to victims and their families, in exchange for promises of non-disclosure and confidentiality.

12. Each of the acts and practices set forth above are done to protect and shelter the abuser; 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.

13. The Church’s conduct is outrageous given the enormous trust and confidence placed in its religious figures. The Church actively solicits and encourages this trust and confidence from parishioners and the public.

SEXUAL ABUSE OF DELBERT C. NIELSEN, III

14. NIELSEN was born in 1953. NIELSEN was raised as a devout Catholic.

15. During NIELSEN’s youth, Father White was a close family friend and frequent guest at the NIELSEN’s home. Father White also took vacations and went on social outings with NIELSEN and his family. Because of his status in the community as a Catholic priest, NIELSEN’s parents trusted Father White and allowed him to spend considerable time alone with NIELSEN. NIELSEN’s parents expected that this time that Father White devoted to NIELSEN would be used by Father White to provide pastoral counseling and develop NIELSEN’s religious

education and provide moral training.

16. Instead, Father White used this opportunity to sexually abuse NIELSEN and commence a depraved sexual relationship with NIELSEN, which began in or about 1963.

17. At the time he was abused, NIELSEN was unaware that the ARCHDIOCESE had received other allegations that Father White sexually abused minors. Thus, NIELSEN was also unaware that the ARCHDIOCESE's failure to take any action contributed to his own abuse by FATHER WHITE.

18. The ARCHDIOCESE concealed information that was pertinent and necessary for NIELSEN to bring civil claims in this matter. For instance, several young boys who were parishioners at St. Catherine in Denver and St. Mary in Colorado Springs, where Father White was an assistant pastor, reported Father White's abuse to ARCHDIOCESE officials in the early-to-mid 1960's.

19. After finding out about Father White's abuse, the ARCHDIOCESE actively took steps to conceal the abuse in order to protect Father White, conceal the ARCHDIOCESE's own wrongdoing in supervising Father White, and prevent NIELSEN and other victims of Father White from filing a civil lawsuit.

20. Father White and NIELSEN were in a fiduciary relationship. Father White held a special position of trust and confidence with NIELSEN. NIELSEN looked to Father White for counseling and guidance.

21. The ARCHDIOCESE was in a fiduciary relationship with NIELSEN. The ARCHDIOCESE was in a position of trust and confidence with NIELSEN. NIELSEN looked to the ARCHDIOCESE and its representatives for counseling and guidance. In addition, the ARCHDIOCESE knew that NIELSEN had a special and privileged relationship with Father White. The ARCHDIOCESE owed NIELSEN a fiduciary duty to:

- (a) Investigate and warn NIELSEN of the potential for harm from Father White;

- (b) Disclose its awareness of facts regarding Father White that created a likely potential for harm;
 - (c) Disclose its own negligence with regard to hiring, supervision and retention of Father White;
 - (d) Provide a safe environment for NIELSEN where he would be free from abuse; and
 - (e) Protect NIELSEN from exposure to harmful individuals like Father White.
22. The ARCHDIOCESE breached its fiduciary duty to NIELSEN by failing to:
- (a) Investigate and warn NIELSEN of the potential for harm from Father White;
 - (b) Disclose its awareness of facts regarding Father White that created a likely potential for harm;
 - (c) Disclose its own negligence with regard to hiring, supervision and retention of Father White;
 - (d) Provide a safe environment for NIELSEN where he was free from abuse; and
 - (e) Protect NIELSEN from exposure to harmful individuals like Father White.
23. The ARCHDIOCESE actively and fraudulently concealed information pertinent and relevant to claims relating to the sexual abuse in this matter for the purpose of protecting itself from civil liability and evading same.

NEGLIGENCE

24. Plaintiff repeats and re-alleges Paragraphs 1 through 23 above.
25. At all material times, the ARCHDIOCESE owed a duty to Plaintiff to use reasonable care to ensure the safety, care, well being and health of the minor NIELSEN while he was under the care, custody or in the presence of the ARCHDIOCESE and/or its agents. The

ARCHDIOCESE's duties encompassed the hiring, retention and/or supervision of Father White and otherwise providing a safe environment for NIELSEN.

26. The ARCHDIOCESE breached these duties by failing to protect the minor NIELSEN from sexual assault and lewd and lascivious acts committed by the agent and/or employee of the ARCHDIOCESE, Father White.

27. At all relevant times, the ARCHDIOCESE knew or in the exercise of reasonable care should have known that Father White was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and protection.

28. Despite such actual or constructive knowledge, the ARCHDIOCESE provided Father White unfettered access to NIELSEN and gave him unlimited and uncontrolled privacy.

29. At all relevant times, the ARCHDIOCESE created an environment which fostered child sexual abuse against children it had a duty to protect, including NIELSEN.

30. At all relevant times, the ARCHDIOCESE had inadequate policies and procedures to protect children it was entrusted to care for and protect, including NIELSEN.

31. As a direct and proximate result of the ARCHDIOCESE's negligence, NIELSEN suffered severe and permanent psychological, emotional and physical injuries, including but not limited to shame, humiliation and the inability to lead a normal life.

WHEREFORE, the Plaintiff, Delbert C. Nielson III, prays that judgment be entered in his favor and against the Defendant, the ARCHDIOCESE OF DENVER for compensatory damages, costs, expert witness fees, deposition expenses, pre and post judgment interest and for such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial in this action.

Dated: August 17th, 2005.

Respectfully submitted,

LAW FIRM OF ALAN G. MOLK

By: Duly signed original in office of Alan G. Molk
Alan G. Molk, #10988

-and-

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