

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF OLMTED

THIRD JUDICIAL DISTRICT  
Case Type: Personal Injury

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Doe 222,

Plaintiff,

**SUMMONS**

vs.

Diocese of Winona; Lourdes High School  
of Rochester, Inc., a/k/a Lourdes Catholic High School;  
and Rochester Catholic Schools,

Defendants.

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THIS SUMMONS IS DIRECTED TO THE DEFENDANTS ABOVE NAMED.

**1. YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this Summons.

**2. YOU MUST REPLY WITHIN 20 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this Summons a **written response** called an Answer within 20 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this Summons located at Jeff Anderson & Associates, P.A., 366 Jackson Street, Suite 100, St. Paul, MN 55101.

**3. YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

**4. YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.**

If you do not Answer within 20 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the Complaint. If you do not want to contest the claims stated in the Complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the Complaint.

**5. LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

**6. ALTERNATIVE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

Dated: 3/26/16

JEFF ANDERSON & ASSOCIATES, P.A.

  
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STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF OLMDSTED

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Doe 222,

Plaintiff,

**COMPLAINT**

vs.

Diocese of Winona; Lourdes High School  
of Rochester, Inc., a/k/a Lourdes Catholic High School;  
and Rochester Catholic Schools,

Defendants.  

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Plaintiff, for his cause of action against Defendants, alleges that:

**PARTIES**

1. At all times material, Plaintiff Doe 222 resided in the State of Minnesota. The identity of Plaintiff Doe 222 has been disclosed under separate cover to Defendants.

2. At all times material, Defendant Diocese of Winona (hereinafter "Diocese") was and continues to be an organization or entity which includes, but is not limited to, civil corporations, decision making entities, officials, and employees, authorized to conduct business and conducting business in the State of Minnesota with its principal place of business at 55 West Sanborn Street, Winona, Minnesota. The Diocese of Winona was created in approximately 1889. Later, the Diocese created a corporation called the Diocese of Winona to conduct some of its affairs. The Diocese operates its affairs as both a corporate entity and as an organization named the Diocese of Winona, with the Bishop as the top official. Both of these entities and all other corporations and entities controlled by the Bishop are included in this Complaint as being the Diocese. The Bishop is the top official of the Diocese and is given authority over all matters within

the Diocese as a result of his position. The Diocese functions as a business by engaging in numerous revenue producing activities and soliciting money from its members in exchange for its services. The Diocese has several programs which seek out the participation of children in the Diocese's activities including, but not limited to, schools and other educational programs. The Diocese, through its officials, has control over those activities involving children. The Diocese has the power to appoint, supervise, monitor, and fire each person working with children within the Diocese.

3. At all times material, Defendant Lourdes High School of Rochester, Inc., a/k/a Lourdes Catholic High School (hereinafter "Lourdes" or "School") was and continues to be an organization authorized to conduct business and conducting business in the State of Minnesota, with its principal place of business at 2800 19<sup>th</sup> Street NW, Rochester, MN 55901. Lourdes includes, but is not limited to, the school corporation and any other organizations and/or entities operating under the same or similar name with the same or similar principal place of business. At all times material, Defendant Lourdes was and continues to be under the direct authority, control and province of Defendant Diocese and the Bishop of the Diocese of Winona.

4. At all times material, Defendant Rochester Catholic Schools was and continues to be an organization authorized to conduct business and conducting business in the State of Minnesota, with its principal place of business at 2800 19<sup>th</sup> Street SW, Rochester, MN 55901. Upon information and belief, in approximately 1991 Lourdes, located at 2800 19<sup>th</sup> Street NW, Rochester, MN 55901, merged and/or combined with St. John the Evangelist School, St. Pius X School, St. Francis of Assisi School, and in 1993, Holy Spirit Catholic School to form Rochester Catholic Schools. Upon information and belief, Rochester Catholic Schools continued the missions, ministry and education of Lourdes with a continuity of management, personnel, assets,

records and general business operations. Rochester Catholic Schools includes, but is not limited to, the school corporation and any other organizations and/or entities operating under the same or similar name with the same or similar principal place of business. At all times material, Rochester Catholic Schools was and continues to be under the direct authority, control and province of Defendant Diocese and the Bishop of the Diocese.

### FACTS

5. At all times material, Father Joseph Cashman (hereinafter “Fr. Cashman”) was a Roman Catholic priest employed by the Diocese of Winona, Lourdes, and Rochester Catholic Schools (hereinafter “Defendants”). Fr. Joseph Cashman remained under the direct supervision, employ and control of Defendants. Defendants placed Fr. Cashman in positions where he had access to and worked with children as an integral part of his work.

6. Plaintiff Doe 222 was raised in a devout Roman Catholic family and attended Lourdes in Rochester, in the Diocese of Winona. Plaintiff and his family came in contact with Fr. Cashman as an agent and representative of Defendants, and at Lourdes.

7. Plaintiff participated in school activities, youth activities and church activities at Lourdes. Plaintiff, therefore, developed great admiration, trust, reverence and respect for the Roman Catholic Church, including Defendants and their agents, including Fr. Cashman.

8. During and through these activities, Plaintiff, as a minor and vulnerable child, was dependent on Defendants and Fr. Cashman. Defendants had custody of Plaintiff and accepted the entrustment of Plaintiff. Defendants had responsibility for Plaintiff and authority over him.

9. From approximately 1972 to 1974, when Plaintiff was approximately 14 to 16 years old, Fr. Cashman engaged in unpermitted sexual contact with Plaintiff on multiple occasions.

10. Plaintiff’s relationship to Defendants and Fr. Cashman, as a vulnerable child, student, and participant in religious and school activities, was one in which Plaintiff was subject

to the ongoing influence of Defendants and Fr. Cashman, his abuser. The culture of the Catholic Church over Plaintiff created pressure on Plaintiff not to report Fr. Cashman's abuse of him.

11. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Fr. Cashman was not fit to work with children.

12. Defendants knew or should have known that Fr. Cashman was a danger to children before he sexually molested Plaintiff.

13. Defendants negligently or recklessly believed that Fr. Cashman was fit to work with children and/or that any previous problems he had were fixed and cured; that Fr. Cashman would not sexually molest children and that Fr. Cashman would not injure children; and/or that Fr. Cashman would not hurt children.

14. By holding Fr. Cashman out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, Defendants entered into a fiduciary relationship with the minor Plaintiff. As a result of Plaintiff being a minor, and by Defendants undertaking the care and guidance of the then vulnerable minor Plaintiff, Defendants held a position of empowerment over Plaintiff.

15. By accepting custody of the minor Plaintiff, Defendants established an *in loco parentis* relationship with Plaintiff and in so doing, owed Plaintiff a duty to protect him from injury.

16. Further, Defendants, by holding themselves out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented the then minor Plaintiff from effectively protecting himself and Defendants thus entered into a fiduciary relationship with Plaintiff.

17. Defendants had a special relationship with Plaintiff.

18. Defendants owed Plaintiff a duty of reasonable care because they had superior knowledge about the risk that Fr. Cashman posed to Plaintiff, the risk of abuse in general in its programs and/or the risks that its facilities posed to minor children.

19. Defendants owed Plaintiff a duty of reasonable care because they solicited youth and parents for participation in their youth and school programs; encouraged youth and parents to have the youth participate in their programs; undertook custody of minor children, including Plaintiff; promoted their facilities and programs as being safe for children; held their agents, including Fr. Cashman, out as safe to work with children; encouraged parents and children to spend time with their agents; and/or encouraged their agents, including Fr. Cashman, to spend time with, interact with, and recruit children.

20. Defendants owed a duty to Plaintiff to protect him from harm because Defendants' actions created a foreseeable risk of harm to Plaintiff. As a vulnerable child participating in the program/activities Defendants offered to minors, Plaintiff was a foreseeable victim. As a vulnerable child who Fr. Cashman had access to through Defendants' facilities and programs, Plaintiff was a foreseeable victim.

21. Defendants' breach of their duties include, but are not limited to: failure to have sufficient policies and procedures to prevent child sex abuse, failure to properly implement the policies and procedures to prevent child sex abuse, failure to take reasonable measures to make sure that the policies and procedures to prevent child sex abuse were working, failure to adequately inform families and children of the risks of child sex abuse, failure to investigate risks of child molestation, failure to properly train the workers at institutions and programs within Defendants' geographical confines, failure to have any outside agency test their safety procedures, failure to protect the children in their programs from child sex abuse, failure to adhere to the applicable

standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, leaders and people as safe, failure to train their employees properly to identify signs of child molestation by fellow employees, failure by relying upon mental health professionals, and/or failure by relying on people who claimed that they could treat child molesters.

22. Defendants failed to use ordinary care in determining whether their facilities were safe and/or to determine whether they had sufficient information to represent their facilities as safe. Defendants' failures include, but are not limited to: failure to have sufficient policies and procedures to prevent abuse at their facilities, failure to investigate risks at their facilities, failure to properly train the workers at their facilities, failure to have any outside agency test their safety procedures, failure to investigate the amount and type of information necessary to represent its facilities as safe, failure to train their employees properly to identify signs of child molestation by fellow employees, failure by relying upon mental health professionals, and/or failure by relying upon people who claimed that they could treat child molesters.

23. Defendants also breached their duty to Plaintiff by failing to warn him and his family of the risk that Fr. Cashman posed and the risks of child sexual abuse by clerics. They also failed to warn them about any of the knowledge that Defendants had about child sex abuse.

24. Defendants also violated a legal duty by failing to report known and/or suspected abuse of children by Fr. Cashman and/or its other agents to the police and law enforcement.

25. Defendants also breached their duty to Plaintiff by actively maintaining and employing Fr. Cashman in a position of power and authority through which Fr. Cashman had access to children, including Plaintiff, and power and control over children, including Plaintiff.

26. Defendants knew or should have known that some of the leaders and people



working at Catholic institutions within the Diocese of Winona were not safe.

27. Defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at Catholic institutions within the Diocese of Winona were safe.

28. Defendants knew or should have known that there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese of Winona.

29. Defendants knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese of Winona.

30. Defendants knew or should have known that Defendants had numerous agents who had sexually molested children. Defendants knew or should have known that child molesters have a high rate of recidivism. They knew or should have known that there was a specific danger of child sex abuse for children participating in their youth programs.

31. Defendants held their leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and families to their programs, marketing to youth and families, recruiting youth and families, and holding out the people that worked in the programs as safe.

32. Defendants were negligent and/or made representations to Plaintiff and his family during each and every year of his minority.

33. As a direct result of Defendants' conduct described herein, Plaintiff has suffered, and will continue to suffer, great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation,

physical, personal and psychological injuries. Plaintiff was prevented, and will continue to be prevented, from performing his normal daily activities and obtaining the full enjoyment of life; and/or has incurred and will continue to incur expenses for psychological treatment, therapy, and counseling, and, on information and belief has and/or will incur loss of income and/or loss of earning capacity.

**COUNT I: NEGLIGENCE AGAINST ALL DEFENDANTS**

Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count.

34. Each Defendant owed Plaintiff a duty of reasonable care.

35. Each Defendant owed Plaintiff a duty of care because each Defendant had a special relationship with Plaintiff.

36. Each Defendant owed Plaintiff a duty to protect him from harm because each Defendant had a special relationship with Fr. Cashman.

37. Each Defendant owed Plaintiff a duty to protect him from harm because each Defendant's active misfeasance created a foreseeable risk of harm.

38. Each Defendant owed Plaintiff a duty to protect him from harm because Defendants invited him onto their property and Fr. Cashman posed a dangerous condition on Defendants' property.

39. By establishing and operating the Diocese of Winona, Rochester Catholic Schools, and Lourdes, accepting the minor Plaintiff as a student, and holding Defendants Diocese, Rochester Catholic Schools, and Lourdes out to be a safe environment for Plaintiff to study and learn, accepting custody of the minor Plaintiff *in loco parentis*, and by establishing a fiduciary relationship with Plaintiff, Defendants entered into an express and/or implied duty to properly

supervise Plaintiff and provide a reasonably safe working/learning/spiritual environment.

40. By establishing and operating the Diocese of Winona, Rochester Catholic Schools, and Lourdes, which offered educational programs to children and included a school, and by accepting the enrollment and participation of the minor Plaintiff as a participant in those educational programs, Defendants owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from generally foreseeable dangers.

41. Each Defendant breached its duties to Plaintiff. Each Defendant's failures include, but are not limited to, failing to properly supervise Fr. Cashman, failing to properly supervise Plaintiff and failing to protect Plaintiff from a known danger.

42. Each Defendant's breach of its duties was the proximate cause of Plaintiff's injuries.

43. As a direct result of Defendants' negligent conduct, Plaintiff has suffered the injuries and damages described herein.

#### **COUNT II: NEGLIGENT SUPERVISION AGAINST ALL DEFENDANTS**

Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count.

44. At all times material, Fr. Cashman was employed by Defendants and was under each Defendant's direct supervision, employ and control when he committed the wrongful acts alleged herein. Fr. Cashman engaged in the wrongful conduct while acting in the course and scope of his employment with Defendants and/or accomplished the sexual abuse by virtue of his job-created authority. Defendants failed to exercise ordinary care in supervising Fr. Cashman in his assignments and failed to prevent the foreseeable misconduct of Fr. Cashman from causing harm to others, including the Plaintiff herein.

45. As a direct result of Defendants' negligent conduct, Plaintiff has suffered the injuries and damages described herein.

**COUNT III: NEGLIGENT RETENTION AGAINST ALL DEFENDANTS**

Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set forth under this count.

46. Defendants, by and through their agents, servants and/or employees, became aware, or should have become aware, of problems indicating that Fr. Cashman was an unfit agent with dangerous and exploitive propensities, yet Defendants failed to take any further action to remedy the problem and failed to investigate or remove Fr. Cashman from working with children.

47. As a direct result of Defendants' negligent conduct, Plaintiff has suffered the injuries and damages described herein.

**PRAYER FOR RELIEF**

48. Plaintiff demands judgment against Defendants, individually, jointly and severally in an amount in excess of \$50,000.00, plus costs, disbursements, reasonable attorneys' fees, interest, and such other and further relief as the court deems just and equitable.

DEMAND IS HEREBY MADE FOR A TRIAL BY JURY.

Dated:

3/26/16

JEFF ANDERSON & ASSOCIATES, P.A.

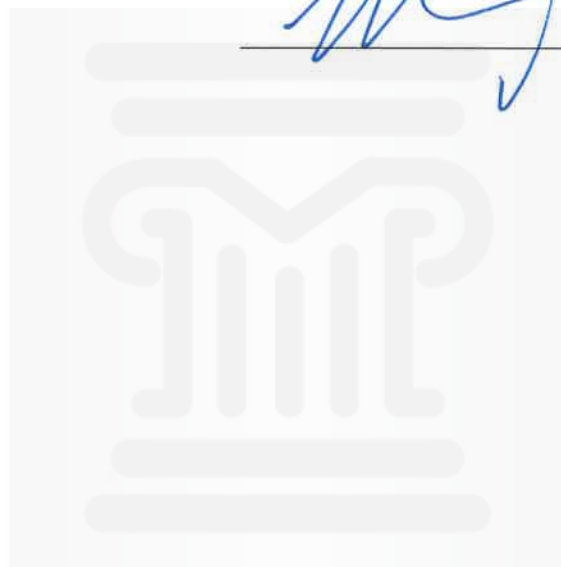
  
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**ACKNOWLEDGMENT**

The undersigned hereby acknowledges that sanctions, including costs, disbursements, and reasonable attorneys' fees may be awarded pursuant to Minn. Stat. § 549.211 to the party against whom the allegations in this pleading are asserted.



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MINNESOTA  
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