

Velva L. Price
District Clerk
Travis County
D-1-GN-18-006875
Jessica A. Limon

CAUSE NO. D-1-GN-18-006875

JANE DOE 1, JANE DOE 2,
JANE DOE 3, JANE DOE 4,
JANE DOE 5, and JANE DOE 6
Plaintiffs

§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

VS.

53RD JUDICIAL DISTRICT

CATHOLIC DIOCESE OF AUSTIN d/b/a
THE ROMAN CATHOLIC DIOCESE
OF AUSTIN,
REV. ISIDORE NDAGIZIMANA, and
MOST REV. JOE S. VÁSQUEZ
Defendants.

TRAVIS COUNTY, TEXAS

**PLAINTIFFS’ ORIGINAL PETITION, MOTION TO USE PSEUDONYMS,
AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Plaintiffs, JANE DOES 1–6 (pseudonyms),¹ and complain of THE CATHOLIC DIOCESE OF AUSTIN, REVEREND ISIDORE NDAGIZIMANA, and MOST REVEREND JOE S. VÁSQUEZ, referred to hereinafter as Defendants, and for causes of action respectfully show:

I. DISCOVERY CONTROL PLAN

1. Discovery in this case is intended to be conducted under Level 3 pursuant to Texas Rules of Civil Procedure 190.

¹ “Jane Doe” has been substituted for Plaintiffs’ names for all causes of action brought through this petition which would otherwise publish important privacy interests of Plaintiffs, and expose them to notoriety, embarrassment, and further psychological harm arising with the unwanted sexual contact complained of herein. Plaintiffs fear retaliation and for their personal safety, as well as that of their family and friends, as a result of bringing this petition. As such, Plaintiffs respectfully request that this Court allow them to proceed using pseudonyms and for an order mandating such use in all documents which are publicly filed.

II. PARTIES

2. Plaintiff Jane Doe 1 is an individual and a resident of Travis County, Texas. Jane Doe 1 is an adult female who, at all times material to this petition, was living in Travis County, Texas and was a parishioner at St. Thomas More Catholic Church in Austin.

3. Plaintiff Jane Doe 2 is an individual and a resident of Travis County, Texas. Jane Doe 2 is an adult female who, at all times material to this petition, was living in Travis County, Texas and was a parishioner at St. Thomas More Catholic Church in Austin, Texas.

4. Plaintiff Jane Doe 3 is an individual and a resident of Travis County, Texas. Jane Doe 3 is an adult female who, at all times material to this petition, was living in Travis County, Texas and was a parishioner at St. Thomas More Catholic Church in Austin, Texas.

5. Plaintiff Jane Doe 4 is an individual and a resident of Williamson County, Texas. Jane Doe 4 is an adult female who, at all times material to this petition, was living in Williamson County, Texas and was a parishioner at St. Thomas More Catholic Church in Austin, Texas.

6. Plaintiff Jane Doe 5 is an individual and a resident of Williamson County, Texas. Jane Doe 5 is an adult female who, at all times material to this petition, was living in Williamson County, Texas and was a parishioner at St. Thomas More Catholic Church in Austin, Texas.

7. Plaintiff Jane Doe 6 is an individual and a resident of Williamson County, Texas. Jane Doe 6 is an adult female who, at all times material to this petition, was living in Williamson County, Texas and was a parishioner at St. Thomas More Catholic Church in Austin, Texas.

8. Defendant, Catholic Diocese of Austin d/b/a The Roman Catholic Diocese of Austin (hereinafter, the “**Diocese**”), is a Texas nonprofit corporation with its principal place of business in Travis County, Texas. The Diocese does business as an organized religion, including but not limited to the ownership, management, and operation of parishes and Catholic schools

within 25 counties located throughout Central Texas, including Travis County. Plaintiffs are informed, believe, and allege that the Diocese is responsible for the funding, staffing, and direction of the Catholic parishes, parochial schools, fraternal organizations, and other facilities and institutions within the geographic area of Travis County, Texas and Central Texas. The Diocese may be served with process via its registered agent for service, Ronald J. Walker, 6225 U.S. Highway 290 East, Austin, Texas 78723.

9. Defendant, Reverend Isidore Ndagizimana, also known as “Father Izzy,” is an adult male who is a priest who has been employed by Defendant Catholic Diocese of Austin from at least 1995 to the present. At all relevant times mentioned herein, Father Izzy was under the direct supervision, employ and control of Defendant Catholic Diocese of Austin and Bishop Vásquez. Father Izzy held assignments at numerous parishes under the direction and supervision of the Diocese, including St. Thomas More Parish in Austin, Texas, St. Albert the Great Catholic Church in Austin, Texas, Holy Cross Catholic Church in Austin, Texas, St. Ann Catholic Church in Somerville, Texas, and St. Mary’s Parish in Brenham, Texas. Father Izzy may be served with process at 6225 U.S. Highway 290 East, Austin, Texas 78723, or wherever he may be found.

10. Defendant Most Reverend Joe S. Vásquez is an adult male who is the Bishop of the Catholic Diocese of Austin. Bishop Vásquez was installed as bishop of the Catholic Diocese of Austin on March 8, 2010, and holds the same position to this day. At all times relevant to this petition, Bishop Vásquez supervised and controlled all priests within or assigned to the Diocese, including Father Izzy, all employees or agents of the Diocese, all Diocese properties and entities, and various other Diocesan entities located in the various counties covered by the Diocese. Bishop Vásquez may be served with process at 6225 U.S. Highway 290 East, Austin, Texas 78723, or wherever he may be found.

11. Defendants along with their officers, agents, and other Diocesan officials assigned to handle clerics engaged in immoral and unlawful acts had a duty to protect the welfare of Plaintiffs and other parishioners within the Diocese.

III. VENUE

12. Venue is proper in Travis County, Texas pursuant to Texas Civil Practice and Remedies Code § 15.002(a)(1) because all, or a substantial part, of the events or omissions giving rise to Plaintiffs' claims occurred in Travis County, Texas.

13. Additionally, venue is proper in Travis County, Texas pursuant to Texas Civil Practice and Remedies Code § 15.002(a)(2) and (3) because Defendants each resided in or had their principal offices in Travis County at all times material to this petition.

IV. JURISDICTION

14. This Court has jurisdiction over Defendants because Defendants reside in and are citizens of the State of Texas who have conducted and continue to conduct substantial business in the State of Texas. Further, Plaintiffs' damages are substantial and well in excess of the jurisdictional minimums of this Court. Many elements of damage, including pain, suffering, and mental anguish (past and future), and future lost earning capacity, cannot be determined with mathematical precision. Furthermore, the determination of these damages is within the province of the jury. Plaintiff intends to rely upon the collective wisdom of the jury to determine an amount that would reasonably and fairly compensate Plaintiffs. However, as they are required by rule to designate a level of recovery, Plaintiffs seek monetary relief over \$1,000,000 as set out in Texas Rule of Civil Procedure § 47(c)(5). Plaintiffs also seek judgment for all other relief to which they are entitled.

V. FACTS AND BACKGROUND

A. **Introduction**

15. This case is another chapter in the sad book of sexual abuse by a predatory Catholic priest and the institutional failures of the Catholic Church and Bishops that enabled and protected the predator while failing to protect the victims.

16. The current crisis in the Catholic Church is not only about the sexual abuse of children, as important as that is. It is also about the sexual abuse of all women and men of any age and about abuses of power in the Church more generally. Here, the targets of the abuse were adult women in Central Texas.

17. Simply put, the time is up for the Catholic Church to facilitate, tolerate or hide the sexual abuse or harassment that happens to any person, regardless of the victim's age or gender. The time has come for real, meaningful and complete change. The victims here bring this case to seek justice and change, and to do what they know is right for those who have suffered from the predatory abuse and the lack of action in the Catholic Diocese of Austin: they bring this case to seek justice for themselves and for other victims who are still out there, alone and suffering.

18. This case involves a priest in the Catholic Diocese of Austin who was targeting women with his sexual abuse and harassment. Women complained to the Diocese, the Bishop, and the Archbishop. The Diocese, Bishop, and Archbishop knew they had a predatory priest who was abusing and harassing women. Their solution was to cover it up and move the priest to a different church, where his predatory nature and victimization would begin again.

19. That is how the predator and his abuse came to find these women at St. Thomas More Church in Austin, Texas. This predatory priest had many victims, including those in this lawsuit. The abuse hurt the victims deeply. Many suffered in silence and many complained to the

Diocese and the Bishop. The Bishop and Diocese asked those who complained to stay quiet, do nothing and let the Church handle it. The Diocese promised action for them, but not on a priority level because they were not considered “vulnerable” like children or those with other mental incapacity.

20. Ultimately, the Diocese and the Bishop decided the solution was to send the priest away for short counseling and then move him to yet another new parish in the Diocese without disclosing any of it and without warning anyone at the new parish. But that response is no solution; it simply starts the abusive process over again. The leadership of the Catholic Church is clearly broken. The leadership, and the system, need to change. And—if the Catholic Church will not voluntarily change it—then a Texas jury has the power to change it. The victims here seek that change.

B. The Victims

21. The women victims who seek justice in this action are all Catholic women of faith who have devoted countless hours of service at St. Thomas More parish in Austin. They considered St. Thomas More to be like a home—a sanctuary both literally and figuratively. They are wives, they are mothers, and they are spiritual leaders in their own households and in the community. They are also all victims of sexual abuse at the hands of a priest with a history and pattern of abuse that was known to the Bishop and the Diocese, but unknown to the victims.

C. The Diocese Sends a Known Predator into the Home Church of the Victims

22. The priest who abused the women victims in this matter is Fr. Isidore Ndagizimana, referred to by the Diocese by the misleadingly innocuous moniker of “Father Izzy.” The Diocese has been assigning Father Izzy to various parishes within its jurisdiction since at least 1995. Before arriving at St. Thomas More in July of 2012, Father Izzy had been placed in numerous parishes

within the Diocese, including St. Albert the Great Catholic Church, Holy Cross Catholic Church, St. Ann Catholic Church and St. Mary's Parish. While at those places, it is reported that he abused women and women complained to the Diocese and Bishop that Father Izzy had abused them, including complaints that he had acted in sexually abusive, offensive or inappropriate ways, and in ways that likely indicated he was trying to groom them to engage in sexual behavior with him. Diocesan employees have indicated to one or more victims here that the Diocese had received a large number of complaints against Father Izzy.

23. The Diocese should have taken appropriate action to protect those victims and to protect other women from becoming victims in the future. Instead, the Bishop and the Diocese simply swept the complaints under the rug and moved Father Izzy to St. Thomas More parish with no warning or disclosure, as if that would somehow solve the problem. On the contrary, it exported the predator and danger to a new and unwitting parish where he would prey upon new victims.

24. At St. Thomas More, Father Izzy preyed on the trust and vulnerability of the unsuspecting new victims. As a priest and pastor, he was a figurehead who was perceived to be a channel to God. The victims trusted him, just like they trusted the Bishops and the Diocese. But Father Izzy, the Diocese, and the Bishop betrayed and abused that trust.

D. The Abuse

25. Once at St. Thomas More, Father Izzy undertook a pattern and practice of abuse that subjected the victims in this matter to an array of abusive and sexually offensive conduct that no person would want any woman, their wife, mother, or daughter to ever endure, particularly from a priest. The abusive conduct included things such as:

- offensive, unwanted and uninvited kissing, hugging, touching, and/or groping at Church property, including in the confessional;
- isolating and/or holding women against their will, including in the confessional, on

Church property and on retreats or conferences;

- unwanted and uninvited arrival at their homes when the victims' husbands were away from home;
- sexual propositions, comments and advances;
- sexual comments and commentary about the victims' bodies; and
- embracing women for excessively long periods of time, with inappropriate squeezing and comments.

26. The confessional was one of Father Izzy's common places of abuse, targeting women who were captive, alone, isolated and vulnerable. In one instance, he scouted when the victim was next to enter the confessional, rearranged the position of chairs so that he was blocking the door after she entered, groped and rubbed the victim's upper thigh while she confessed, made the victim discuss private sexual activity she had with her husband, demanded a hug from her before she could leave (as he was seated in front of the doorway), and then pulled her off balance into him, hugged her, and put his face in her chest and breasts as she got up to try and leave. This victim was pregnant at the time assault.

27. In another, he isolated a victim in the confessional and inappropriately touched, stroked and hugged her, ultimately standing in front of her as she kneeled and placing his hands on her head to give her absolution, but then forcing her head into his groin area with both his hands.

28. In still another, he took a woman to the back area of the church after mass for a "private confession" in a small closet like room where he grabbed and embraced her, pulling her tightly to his chest and breathing heavily on her neck.

29. Later, when a victim complained to the Diocese of being abused by Father Izzy in the confessional, she was told there was nothing the Diocese could do because of the seal of the confessional in the Catholic Church and that everything that happened in the confessional was

confidential and secret.

E. The Diocese Isolates the Victims, Promises Healing, Change and Restitution, and Tells Them to Do Nothing

30. The abuse rocked these women at their core. They felt scared, confused and violated. While each was subjected to abuse of varying types and degree, it shook terribly their belief in God and the special relationship of trust and confidence they had with the Church. It affected their relationships with their husbands and their children. The victims suffered from feelings that spanned shock, confusion, pain, anxiety, fear, shame, sadness, grief, self-blame, depression and isolation. Many suffered from textbook examples of PTSD.

31. Initially, none of these victims knew about other victims. They felt deeply alone, ashamed and betrayed. At first, they were too traumatized and afraid to come forward and report it, even in private to the Diocese. And, when some worked up the courage to come forward and report the abuse to the Diocese, they were effectively silenced. Although the Bishop indicated that he believed the victims, the Diocese sent a clear message that as ‘women of faith’, they did not need legal action or to do anything on their own, and that they should trust the Diocese to handle it. The victims were told that, if they trusted the Diocese and had patience, the Diocese would provide healing and restitution for the victims, and would act to address the systemic concerns raised by the victims.

32. The Diocese gave some of the victims the option to go to an approved counselor group for a number of visits approved by the Diocese. The counselor would then report back to the Diocese on the progress the victim was making. The Diocese explicitly told at least one of the victims they should say nothing to anyone about the abuse, indicating that if they did they could be exposed to legal action, such as defamation lawsuits.

33. In reality, the Diocese was doing little to nothing to help the victims or address the problem, despite saying otherwise to the victims. After receiving abuse complaints, the Diocese gave Father Izzy what he told people was a few weeks off for vacation. After that, incredibly, the Diocese put Father Izzy back among his victims as pastor at St. Thomas More, even disclosing to him the identity of at least two of the women who had reported him for abuse. The victims were aghast and terrified and felt abused all over again. Some complained, but the Diocese continued to assure them it was being handled, that it would provide the restitution, healing, and systemic change requested by the women, and that the victims did not need to do anything else but trust in the Bishop.

34. Meanwhile, other victims of Father Izzy began to come forward to the Diocese. Some of the victims also began to discover one another. Their complaints escalated in number and volume. In one such meeting with the Bishop, the victim was told the Bishop would step out of the room while some of the more sordid details were disclosed by the victim. While many of Father Izzy's acts may have been hard for the Bishop to hear about, they were exceedingly more difficult for the victims to personally endure.

35. The victims were later told that Father Izzy had reluctantly agreed to attend therapy in Houston. After another four months, the victims were shocked to see Father Izzy present at the very public Chrism Mass at St Vincent De Paul Church, standing on the altar, fully robed, right behind Bishop Vásquez among all of the other priests in the diocese. This was traumatizing to victims who attended this Mass. When the victims asked why Father Izzy had returned to the Diocese, they were initially told that Father Izzy had been "healed." Later, the Diocese admitted that it could not be sure that Father Izzy was truly "healed," but it felt comfortable enough to return him to the ministry. The Diocese also assured the victims that it was continuing to handle the

situation.

36. At least one victim voiced to the Diocese that Father Izzy should not be in any type of ministry where he has a staff or parishioners or power over volunteers. She voiced her strong doubt that four months of therapy can undo approximately 20 years of sexually harassing and abusing women. She strongly voiced that it was reckless of the Diocese to put him in a position where he was one-on-one with women hearing confessions, as that is where he assaulted some of his victims. She voiced that it was irresponsible of the Bishop to put him so far away from the direct supervision of Diocesan offices. She further voiced that it was irresponsible of the Bishop to not have a reporting structure in place for anything other than the Diocese's limited definition of "abuse" as indicated in the EIM literature, which was framed by Diocese attorneys to narrowly include only children and "vulnerable adults." She pleaded that vulnerability was situational and could not be narrowly defined by age. The Associate Bishop replied "noted" to her concerns in each conversation.

37. But "noted" did not mean the Diocese would change anything. Soon after, the Associate Bishop informed some victims that Father Izzy would be moved again, and would be serving as an associate pastor in Brenham, Texas. When Father Izzy arrived there, no warning or disclosure was given to the people of the parish. But that stint only lasted a month or so, as Father Izzy was removed as more victims at St. Thomas More continued to come forward to the Diocese and the Diocese continued to indicate it would handle the situation for the victims, provide them with healing, and address their concerns if they would only trust the Diocese's process. The Diocese has not indicated to the victims where Father Izzy serves now, or when the promised restitution, healing, or requested systemic changes might be forthcoming.

38. In August of 2018, a victim contacted the office of Cardinal DiNardo, the President of the U.S. Conference of Catholic Bishops and the Archbishop of Galveston-Houston. She reported that Father Izzy had sexually assaulted her and that Father Izzy had assaulted or harassed 17 women but the Diocese had still reassigned him to a parish in Brenham. She reported that the Diocese had indicated it would do something and acknowledged restitution and healing was needed and would be forthcoming, but that because the victims were adults the Diocese did not have an imminent concern. She reported the Diocese told her that the attorney for the Bishop and the Associate Bishop would handle the matter and had asked her to keep silent and told her as a lay person it was none of her business. She indicated she had been patient, but she implored Cardinal DiNardo to help the victims heal, to value that the Church is comprised of the people, not the business of the Church, and to do something.

39. But Cardinal DiNardo did nothing. His office bluntly indicated that all situations of clergy abuse and harassment must be addressed on the local level and that she should reach back out to the Diocese for an update. If at that point she heard that nothing had changed, she was told to consider asking the other women who were abused and harassed by Father Izzy to come forward to the Diocese.

40. The Diocese knew Father Izzy's predatory behavior was a multi-year, multi-church, multi-victim problem. The abuse and harassment was reported to Bishop Vasquez and the Austin Diocese before the women in this case were victimized at St. Thomas More. Yet, after the detailed report, Bishop Vasquez sent and kept Father Izzy as head pastor at St. Thomas More, then sent him to a church in Brenham after still more reports of abuse. All the while the Diocese and Bishop assured the victims that if this were a matter regarding a minor or older adult, then different immediate actions would be required, but that it was not the business of lay people and the Diocese

would handle it for them.

41. These women, and others who remain silent, have suffered greatly and needlessly at the hands of the Diocese and the Bishop and a broken policy. They seek justice. They seek change. And if the Church will not change its behavior voluntarily, then these victims ask a Texas jury to change it for them.

VI. CAUSES OF ACTION

42. Plaintiffs re-allege and incorporates by reference the preceding paragraphs for all purposes, the same as if set forth herein verbatim.

COUNT ONE: ASSAULT (Father Izzy)

43. As described above, Father Izzy made offensive, physical contact with Plaintiffs on numerous occasions. Such contact was always unwanted and was often lewd and sexual in nature. Such behavior included unwanted kissing, groping, passionate embraces, and touching of Plaintiffs' breasts, thighs, and groin areas. Father Izzy knew or reasonably should have believed that Plaintiffs would regard the contact as highly offensive, provocative, and traumatic.

44. Father Izzy's actions caused Plaintiffs to suffer severe mental anguish, psychological trauma, and feelings of humiliation, shame and guilt which they still experience to this day. As a result of Father Izzy's assaults, Plaintiffs seek to recover damages which are within the jurisdictional limits of this court.

COUNT TWO: FALSE IMPRISONMENT (Father Izzy)

45. As noted above and herein, Father Izzy willfully detained Plaintiffs in confessionals, diocesan property and motor vehicles.

46. Father Izzy's victims did not consent to their detention, and Father Izzy had no legal authority or justification to detain them. Father Izzy's wrongful acts caused injury to Plaintiffs, including severe mental anguish, psychological trauma, and feelings of humiliation, shame and guilt which they still experience to this day.

**COUNT THREE: NEGLIGENCE PER SE
VIOLATION OF TEX. PENAL CODE § 21.07
(Father Izzy)**

47. Father Izzy violated Texas Penal Code § 21.07 on numerous occasions by knowingly engaging in acts of sexual contact in a public place, or when not in public, recklessly engaging in acts of sexual contact in the presence of those who were offended and alarmed by the sexual contact.

48. Texas Penal Code § 21.07 is designed to protect a class of persons to which Plaintiffs belong against the type of injury suffered by the Plaintiffs, and Texas Penal Code § 21.07 is the type of statute that imposes tort liability.

49. Father Izzy's violations of Texas Penal Code § 21.07 were without legal excuse, and his breach of the duty imposed by the statute proximately caused injury to Plaintiffs which resulted in injuries, including but not limited to severe mental anguish, psychological trauma, and feelings of humiliation, shame and guilt which they still experience to this day. Plaintiffs seek damages within the jurisdictional limits of this Court.

**COUNT FOUR: VICARIOUS LIABILITY
(Diocese and Bishop Vásquez)**

50. At all times material, Defendant Father Izzy was a priest employed by and under the Diocese and Bishop Vásquez. Specifically, Father Izzy was under the Diocese and Bishop Vásquez's direct supervision and control when he committed the wrongful acts described herein. Father Izzy engaged in this conduct while in the course and scope of his position as a priest

employed by the Diocese and Bishop Vásquez, and accomplished the assaultive, harassing, and wrongful behavior by virtue of his authority as a priest and counselor to Plaintiffs.

51. The Diocese and Bishop Vásquez ratified Father Izzy's conduct by failing to take appropriate action to protect Plaintiffs, other parishioners, or the general public after learning of Father Izzy's unlawful and immoral conduct and dangerous propensities. As a result, the Diocese and Bishop Vásquez are also jointly and severally liable for the wrongful conduct of Father Izzy under the law of vicarious liability, including the doctrines of respondeat superior, concert of action, agency, apparent agency, agency by estoppel, and joint venture liability.

**COUNT FIVE: NEGLIGENT HIRING/SUPERVISION/RETENTION
(Diocese and Bishop Vásquez)**

52. The Diocese and Bishop Vásquez negligently selected, hired, supervised, trained, and/or continued the employment of Father Izzy (and other dangerous priests) in a position of trust, confidence and authority when they knew or should have known of his dangerous sexual propensities, exploitative behavior, and other misconduct.

53. The Diocese and Bishop Vásquez had a legal duty to hire, supervise, train, and retain competent employees who do not physically or sexually assault, harass, and abuse parishioners such as Plaintiffs.

54. The Diocese and Bishop Vásquez breached this duty by hiring and retaining Father Izzy, failing to provide reasonable supervision of Father Izzy, and failing to warn Plaintiffs of Father Izzy's dangerous tendencies. The Diocese and Bishop Vásquez failed to take any action to protect Plaintiffs from Father Izzy's assaultive behavior.

55. As a direct result of the negligence of the Diocese and Bishop Vásquez, Father Izzy was afforded opportunities to repeatedly physically and sexually exploit, assault, and abuse Plaintiffs and other parishioners. Consequently, Plaintiffs have suffered damages that are within

the jurisdictional limits of this Court.

COUNT SIX: PREMISES LIABILITY
(Diocese and Bishop Vásquez)

56. Plaintiffs allege that the Diocese and Bishop Vásquez are liable for premises liability. At all relevant times, Plaintiffs were invitees of Defendants on Defendants' premises—Plaintiffs entered Defendants' premises in response to Defendants' invitation and for their mutual benefit.

57. Plaintiffs allege that Father Izzy's presence on Defendants' premises—especially in a position of trust and authority—posed an unreasonable risk of harm. Father Izzy's criminal and abusive behavior was known to the Diocese and Bishop Vásquez, nevertheless, Farther Izzy was allowed to remain on Defendants' premises and pose an unreasonable risk to the safety and well-being of Plaintiffs and other parishioners.

58. Defendants had a duty to use ordinary care to ensure that the premises did not present a danger to the Plaintiffs. This duty includes the duty to inspect and the duty to warn or to cure. Defendants also owed a duty of care to those who may be harmed by criminal acts on its premises when the risk of criminal conduct is so great that it is both unreasonable and foreseeable.

59. Defendants were aware of the criminal acts of assault, harassment, abuse and other immoral and unlawful behavior committed by Father Izzy, and other priests, on their premises, and took no action to warn Plaintiffs or other parishioners of the danger, or otherwise remove the danger from their premises. Defendants' breach of their duty proximately caused significant damages to the Plaintiffs with are within the jurisdictional limits of this Court.

COUNT SEVEN: SEXUAL EXPLOITATION
(All Defendants)

60. Plaintiffs also allege that Defendants are liable for sexual exploitation under Texas

Civil Practice and Remedies Code § 81.002, et seq.

61. Plaintiffs allege that Father Izzy and other priests served as mental health services providers within the meaning of Texas Civil Practice and Remedies code § 81.001. Plaintiffs allege that Father Izzy was a member of the clergy who performed—or purported to perform—mental health services apart from and in addition to religious, moral, and spiritual counseling, teaching, and instruction. At various times, Plaintiffs sought or obtained mental health services from Father Izzy as defined under the statute.

62. Father Izzy's wrongful and assaultive conduct constitutes sexual contact and sexual exploitation of Plaintiffs within the meaning of Texas Civil Practice and Remedies Code § 81.002. Father Izzy's unwanted sexual conduct and sexual exploitation caused the Plaintiffs to suffer damages within the jurisdictional limits of this Court.

63. Plaintiffs further allege that the Diocese and Bishop Vásquez are also liable for Father Izzy's sexual exploitation of Plaintiffs in that they, as employers of Father Izzy and other priests within the Diocese, either: (1) failed to make inquiries of an employer or former employer concerning possible occurrences of sexual exploitation by Father Izzy in the past; or (2) knew or had reason to know that Father Izzy engaged in sexual exploitation of Plaintiffs and others, and failed to report the sexual exploitation as required under § 81.006, or take necessary action to prevent or stop the sexual exploitation.

64. Specifically, Plaintiffs allege that the Diocese and Bishop Vásquez knew or should have known of Father Izzy's dangerous propensities to sexually exploit Plaintiffs and similar situated parishioners, and in fact, had received reports of such occurrences and failed to take necessary action to prevent or stop such sexual exploitation by Father Izzy.

65. Plaintiffs allege that the failure of the Diocese and Bishop Vásquez to make proper inquiries regarding Father Izzy, report Father Izzy's misconduct as required by law, or take necessary action to prevent or stop his sexual exploitation was a proximate and actual cause for the damages suffered by the Plaintiffs. Plaintiffs also seek to recover their reasonable attorneys' fees. Such damages are within the jurisdictional limits of this Court.

**COUNT EIGHT: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(All Defendants)**

66. As described above, Father Izzy's conduct was intentional, extreme, and outrageous. Perhaps equally extreme and outrageous is the fact that—despite knowing about his dangerous propensities and exploitative conduct—the Diocese and Bishop Vásquez continued to place Father Izzy in positions of authority in Plaintiffs' parishes, allowing him to say Mass, hear confessions, and granting him unfettered access to Plaintiffs and other parishioners.

67. Defendants' actions proximately caused severe emotional distress and psychological trauma to Plaintiffs for which they seek to recover damages that are within the jurisdictional limits of this Court.

**COUNT NINE: CONSPIRACY
(All Defendants)**

68. Defendants conspired to conceal their knowledge of Father Izzy and other priests' abusive and unlawful behavior within the Diocese and the history of Father Izzy and other priests' predatory conduct prior to Father Izzy's abusive acts against Plaintiffs and thereafter, thereby exposing Plaintiffs and countless other parishioners to foreseeable harm.

69. Plaintiffs allege that Defendants engaged in a conspiracy to avoid the prosecution of Father Izzy and other priests, and to cover up the sexual abuse, sexual advances, and predatory behavior of Father Izzy and many others. The purpose of this conspiracy was to prevent criminal

prosecution, conceal the priests' (including Father Izzy) criminal and civil wrongdoings despite a duty to report, avoid negative publicity, prevent claims for damages by the numerous victims, and avoid exposure of this conspiracy to conceal the claims arising from the unlawful behavior of Father Izzy and other priests ordained by and/or under the control of the Diocese and Bishop Vásquez.

70. This conspiracy to protect the reputation of Defendants above the safety and well-being of others reflects a total indifference to the duty owed to the Plaintiffs, other parishioners, and the general public.

71. Although Defendants each had knowledge and notice of Father Izzy and other priests' pervasive unlawful and immoral conduct, they acted in concert to cover up his unlawful behavior, failed to report it, regularly placed Father Izzy and other offending priests in ministry, allowed them to lead Mass, hear confessions, and placed them in other positions of authority over parishioners, including the Plaintiffs. But for the conspiracy to protect themselves and conceal their knowledge regarding Father Izzy and other priests' wrongful and abusive behavior, Plaintiffs would have never put themselves in a position to be abused, harassed, and assaulted by Father Izzy.

72. The conspiracy among Defendants to protect themselves at the expense of Plaintiffs and others is a continuing conspiracy. Due to the continuing conspiracy of Defendants, Plaintiffs have suffered the injuries and damages enumerated herein.

COUNT TEN: EXEMPLARY DAMAGES
(All Defendants)

73. Plaintiffs' injuries resulted from Defendants' gross negligence, fraud, and/or malice, which entitles Plaintiffs to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a)(3).

VII. DAMAGES

74. Plaintiffs re-allege and incorporate by reference the preceding paragraphs for all purposes, the same as if set forth herein verbatim.

75. Plaintiffs allege that the unlawful conduct of Defendants described herein was a proximate cause of damages to Plaintiffs.

76. As a result of Defendants' acts and/or omissions set forth herein, Plaintiffs sustained severe, debilitating, and potentially permanent injuries, including but not limited to severe psychological and emotional injury and harm, humiliation, embarrassment, depression, weight gain, loss of self-esteem, disgrace, guilt and shame. Plaintiffs hereby make claims for all past and future economic and non-economic damages recoverable under Texas law in an amount within the jurisdictional limits of the Court and which the jury deems as just and fair. Such damages include, but are not limited to, the following:

- a. All reasonable and necessary medical and counseling expenses, both in the past and future;
- b. The physical pain and mental anguish, including emotional pain, torment and suffering that Plaintiffs have and will endure;
- c. The pecuniary losses suffered, including but not limited to lost earning capacity and/or lost wages in the past and in the future;
- d. Exemplary damages;
- e. Pre- and post-judgment interest;
- f. Attorneys' fees; and
- g. All other damages available to Plaintiffs under Texas law.

77. The amount of Plaintiffs' damages is substantial and well in excess of the jurisdictional minimum of this Court. Many elements of Plaintiffs' damages, including the non-economic damages, cannot be determined with mathematical precision. Furthermore, the determination of these elements of damages are within the province of the jury. Plaintiffs intend to rely upon the collective wisdom of the jury to determine an amount that would fairly and reasonably compensate Plaintiffs.

VIII. FRAUDULENT CONCEALMENT AND EQUITABLE ESTOPPEL

78. Plaintiffs assert that any applicable statute of limitations is tolled and/or has not expired for Plaintiffs under the legal theories of fraud/fraudulent concealment, quasi and equitable estoppel, ratification, the continuing violations doctrine, undue influence, and the discovery rule.

79. In order to further their own interests, Defendants deliberately concealed factual information regarding the risks that Father Izzy (and potentially other priests) posed to parishioners within the Diocese, and their full knowledge regarding those risks. Defendants systematically concealed the danger that Father Izzy presented by misrepresenting him as priest in good standing and situated him at the highest level of control of St. Thomas More, enabling his continued access to innocent and unsuspecting female parishioners, their homes and families, and allowing him free and unrestricted use of the premises of the Diocese, assigning him to duties specifically involving women, including Plaintiffs, and concealing his prior criminal and assaultive acts. As a result of Defendants' conduct, the factual information as to Defendants' culpability could not have been obtained by Plaintiffs earlier, despite the exercise of the utmost due diligence. Defendants' actions and failure to disclose material facts tolls any applicable limitations period.

80. Despite knowing of Father Izzy's wrongful and exploitative and predatory tendencies, Defendants continued to expose new unsuspecting and innocent populations of

parishioners to danger and harm by transferring and reassigning Father Izzy to various places within the Diocese in an attempt to conceal his wrongful conduct. Further, Defendants failed to inform the police or any other authority regarding Father Izzy's assaultive behavior. Defendants remained silent when they had a duty to speak, thereby allowing Father Izzy's abuse of Plaintiffs' to occur and enabling Defendants to conceal their role in it after the fact. Upon information and belief, Defendants' conspiracy to protect themselves, Father Izzy, and other predatory priests is ongoing.

81. Plaintiffs further allege that Defendants have acted fraudulently to shield themselves from criminal and civil liability and to conceal the actions of predatory priests, including Father Izzy, by retaining such priests, transferring them among parishes, and inducing parishioners—such as Plaintiffs—not to pursue civil or criminal remedies against the offending priests or the Diocese. Defendants directly and indirectly instructed and induced Plaintiffs not to seek civil or criminal redress or remedies, or file claims arising from Defendants' tortious and wrongful conduct by, among other things, representing that Plaintiffs' redress and restitution would be realized internally through the Diocese. Such representations were false and were intended to induce Plaintiffs to delay the filing of a civil or criminal action.

82. Plaintiffs further allege that Defendants exerted undue influence on Plaintiffs by virtue of their status as religious leaders and moral authorities in Plaintiffs' lives. Due to the relationship between Plaintiffs and Defendants, Defendant had a duty to disclose its wrongful acts which harmed or endangered Plaintiffs to Plaintiffs. Defendants took advantage of this relationship and used deception to conceal their wrongdoings and liability, and to cause Plaintiffs to refrain from bringing civil and criminal claims.

83. For these reasons, to the extent any statute of limitations is applicable to Plaintiffs' claims, it is tolled and/or has not expired for Plaintiffs.

IX. MOTION TO USE PSEUDONYMS

84. Plaintiffs respectfully request that the Court order all parties to refer to them by the pseudonyms "Jane Doe 1–6" or "Plaintiffs" in all filings with this Court (including but not limited to, pleadings, exhibits, affidavits, and recorded testimony) and in obtaining witness testimony on examination. Plaintiffs further request that the Court order all parties to redact information personally identifying Plaintiffs (including but not limited to their names, addresses, phone numbers, dates of birth, and names of family members (the "Plaintiffs' Information")) that may be contained in any exhibits filed with the Court or used in obtaining testimony of witnesses.

85. Plaintiffs further request that the Court order Defendants not to disclose any Plaintiffs' Information other than to members of Defendants' legal defense team who must know Plaintiffs' Information in order for Defendants to investigate and defend this litigation, and that such individuals be informed of and bound by this Court's order regarding the use of pseudonyms.

86. Plaintiffs further request that this Court enter an order prohibiting Defendants from disclosing the Plaintiffs' Information—or any other information that could lead to the identity of the Plaintiffs—to the media or in any public forum, to any mass information source, including publication on the internet, or in any press release.

87. Plaintiffs make these requests because of the sincere fears they have for their personal safety and that of their friends and family should their names or personal information be released to the public. Plaintiffs fear that they, their families, and their friends will face retaliation, harassment, stalking and threats by third parties due to the nature of the claims brought in this petition.

88. Additionally, due to the traumatic nature of the unwanted sexual contact suffered by Plaintiffs, Plaintiffs are facing intense humiliation, feelings of guilt and shame, embarrassment, and psychological anguish. The disclosure of their names and accompanying intrusion on their lives by public exposure would only heighten the psychological trauma and damages experienced by the Plaintiffs which form the basis of this action.

89. Further, the public has little legitimate interest in knowing the true names of these six assault victims. Rather, the public interest is better served if Plaintiffs are permitted to proceed with pseudonyms in all public filings, because if Plaintiffs are forced to disclose their identities to the public, many similarly situated litigants would not bring forward their claims for fear of stalking or retaliation.

90. Texas courts have allowed plaintiffs in civil cases to file and proceed under pseudonyms when the facts necessitate such a procedure,² and good cause exists here for Plaintiffs to proceed under pseudonyms.

X. PRESERVATION OF EVIDENCE

91. Plaintiffs demand that Defendants preserve and maintain all evidence pertaining to any claim or defense made the basis of this lawsuit, or the damages resulting therefrom. This request and demand includes any statements, photographs, video footage, audio, surveillance, security footage, information, business records, incident reports, correspondence, facsimile, email, voice-mail, text messages, and any evidence involving the claims and defenses made the basis of this lawsuit. Failure to maintain such evidence will constitute a “spoliation” of evidence.

² See *Topheavy Studios, Inc. v. Doe*, No. 03-05-00022-CV, 2005 Tex. App. LEXIS 6462, at *20–21 (Tex. App.—Austin Aug. 11, 2005, no pet.) (permitting plaintiffs’ use of pseudonym where it would not hinder the defendant’s ability to prepare a defense); *Tex. Dept. Health v. Doe*, 994 S.W.2d 890, fn.1 (Tex. App.—Austin 1999, pet. dism’d by agr.) (allowing plaintiff to sue as “Jane Doe” to keep her identity and HIV-positive status confidential).

XI. JURY DEMANDED

92. Plaintiffs respectfully demand a trial by jury and have tendered the appropriate fee to the Clerk of the Court.

XII. REQUEST FOR DISCLOSURE

93. Under Texas Rule of Civil Procedure 194, Plaintiffs request that Defendants disclose, within 50 days of service of this request, the information or material described in Rule 194.2.

XIII. RULE 193.7 NOTICE

94. Pursuant to Texas Rule of Civil Procedure 193.7, Defendants are hereby notified that any and all documents and tangible things produced or delivered by Defendants to the parties in this matter will be used by Plaintiffs in pre-trial, trial, and post-trial matters regarding this litigation.

XIV. CONCLUSION AND PRAYER

WHEREFORE, PREMESIS CONSIDERED, Plaintiffs request that Defendants be cited to appear and answer, and that on final trial this Court enter judgment against Defendants consistent with the relief requested herein, and for any and all relief to which Plaintiffs may show they are entitled including actual damages, compensatory damages, nominal damages, exemplary damages, court and litigation costs, expert fees, attorneys' fees, statutory interest, and injunctive relief.

Respectfully submitted,

HOWRY, BREEN & HERMAN LLP



Sean Breen

State Bar No. 00783715

sbreen@howrybreen.com

Christopher Lavorato

State Bar No. 24096074

clavorato@howrybreen.com

Ryan D. Ellis

rellis@howrybreen.com

State Bar No. 24087470

1900 Pearl Street

Austin, Texas 78705-5408

(512) 474-7300

(512) 474-8557 FAX

ATTORNEYS FOR PLAINTIFFS