

DISTRICT COURT OF THE 2nd JUDICIAL DISTRICT DENVER COUNTY, STATE OF COLORADO		DATE FILED: July 21, 2022 9:03 AM FILING ID: 61A0908D72E98 CASE NUMBER: 2022CV32042
Denver District Court 1437 Bannock Street, Room 256 Denver, CO 80202		
Plaintiff: JOHN HA DOE v. Defendants: THE BISHOP AND DIOCESE OF COLORADO (a/k/a EPISCOPAL DIOCESE OF COLORADO); ST. MICHAEL AND ALL ANGELS EPISCOPAL CHURCH; and ST. BARNABAS CHURCH CAMPS (a/k/a ILIUM CHURCH CAMP).		▲ Court Use Only ▲
<i>Attorneys for Plaintiff:</i> Zach Elsner, # 44785 WILHITE, ROSE, MCCLURE & SAWAYA, P.C. 1600 Ogden Street Denver, CO 80218 Phone Number: (303) 839-1650 FAX Number: (303) 832-7102 E-mail: zelsner@sawayalaw.com -and- Adam D. Horowitz Jessica D. Arbour HOROWITZ LAW 110 E. Broward Blvd. Suite 1530 Ft. Lauderdale, FL 33301 Phone Number: (954) 641-2100 Email: adam@adamhorowitzlaw.com, jessica@adamhorowitzlaw.com (pending <i>Pro Hac Vice</i> admission)		Case Number: Courtroom:
CIVIL COMPLAINT AND JURY DEMAND		

COMES NOW the Plaintiff, JOHN HA DOE, by and through his attorneys, Wilhite, Rose, McClure & Sawaya, P.C. and Horowitz Law, and for this Civil Complaint against Defendants THE BISHOP AND DIOCESE OF COLORADO (a/k/a EPISCOPAL DIOCESE OF COLORADO); ST. MICHAEL AND ALL ANGELS EPISCOPAL CHURCH; and ST. BARNABAS CHURCH CAMPS (a/k/a ILIUM CHURCH CAMP), and alleges and avers as follows:

1. At all times relevant to this action, Plaintiff John HA DOE (hereinafter “PLAINTIFF”) was a resident of the State of Colorado. Given the nature of the allegations in this matter, which involve the sexual abuse of Plaintiff while he was a minor child, he has elected to proceed anonymously and will be seeking the accordant court relief. Plaintiff fears retaliation and further psychological injury should his identity be made public in this case. His identity is already known to Defendants and their counsel.

2. Plaintiff is currently a resident of Denver County, Colorado. His address is c/o The Sawaya Law Firm, 1600 Ogden St., Denver, CO 80218.

3. Defendant The Bishop and Diocese of Colorado (a/k/a Episcopal Diocese of Colorado) (hereinafter “DIOCESE”) is a Colorado non-profit corporation with a principal place of business at 1300 N. Washington St., Denver, Colorado 80203-2008.

4. Defendant St. Michael and All Angels Episcopal Church (hereinafter “CHURCH”) is a Colorado non-profit corporation with a principal place of business at 1400 S. University Blvd., Denver, Colorado, 80210-2407.

5. Defendant St. Barnabas Church Camps (a/k/a Ilium Church Camp) (hereinafter “CAMP”) was a Colorado non-profit corporation with a principal place of business at 1300 N. Washington Street, Denver, Colorado 80203-2008 during all times relevant. It has since been dissolved and operates as a subsidiary and/or affiliate of Defendant The Bishop and Diocese of Colorado.

6. Venue is proper in the District Court of Denver County, Colorado, pursuant to C.R.C.P. 98(c) as some or all of the acts and omissions giving rise to this lawsuit occurred in Denver County, Colorado.

FACTUAL ALLEGATIONS

7. Plaintiff incorporates herein by this reference the allegations set forth with specificity in paragraphs 1 through 6 of this Civil Complaint and Jury Demand as if set forth verbatim.

8. Plaintiff was born in August 1978.

9. As a child, Plaintiff and his family were members of and regularly attended religious services at Defendant CHURCH, where PLAINTIFF was also an altar boy and participated in youth group activities.

10. Through his relationship with Defendant CHURCH, PLAINTIFF came to know Rev. JERRY MCKENZIE (hereinafter “MCKENZIE”), a priest of the DIOCESE who celebrated masses and performed other duties at Defendant CHURCH during the relevant time period. PLAINTIFF often served as MCKENZIE’s altar boy at CHURCH.

11. In addition to performing services at Defendant CHURCH, MCKENZIE recruited children from the CHURCH, including PLAINTIFF, to attend Defendant CAMP, which MCKENZIE ran as part of his duties with DIOCESE. PLAINTIFF later became a camp counselor at Defendant CAMP at MCKENZIE’s urging, and while PLAINTIFF was still a minor child.

12. As a child, PLAINTIFF was taught the Episcopal Catechism, which required him to revere, respect, and obey the commands of Episcopal priests by virtue of their position with Defendants DIOCESE, CHURCH, and CAMP (hereinafter collectively referred to as “DEFENDANTS”), including, but not limited to, MCKENZIE.

13. At all times relevant, PLAINTIFF was a minor child entrusted to the care and custody of the DEFENDANTS by and through its adult agents and employees, including MCKENZIE.

14. Beginning when Plaintiff was 16 years of age, in approximately July 1995, MCKENZIE sexually abused the minor Plaintiff on multiple occasions in a manner that constituted a first degree misdemeanor or a felony offense described in part 3 or 4 of Article 3 of Title 18.

15. MCKENZIE engaged in said sexual misconduct for the purpose of sexual arousal, gratification or abuse.

16. The sexual abuse occurred at multiple locations including CHURCH, CAMP, and at a cabin near Nederland, Colorado, where MCKENZIE hosted “spiritual development” events for teens that were sponsored by DEFENDANTS.

17. MCKENZIE often plied Plaintiff and his friends with alcohol and encouraged them to use illegal drugs in order to facilitate his sexual abuse of Plaintiff.

18. MCKENZIE was ordained and consecrated as an Episcopal priest by DIOCESE in July 1962. He remained a priest in active ministry and the DIOCESE controlled his conduct as its agent and a priest from July 1962 until his resignation in approximately 2001 following multiple allegations of child sexual abuse.

19. At all times relevant hereto, each of the Bishops of the DIOCESE (“the Bishop”), by virtue of their respective office, acted as managing agents of the DIOCESE and were ultimately responsible for the supervision, oversight, management, retention, and control of the actions and conduct of all DIOCESE priests, including MCKENZIE, as well as the administration and oversight of all DIOCESE properties and entities, including CHURCH and CAMP, located within the DIOCESE’s geographic boundaries. During the time MCKENZIE was in active ministry, the following people held the position of the Bishop: Joseph S. Minnis (1955-1969); Edwin B. Thayer (1969-1973); William Frey (1973-1990); and William J. Winterrowd (1991-2004).

20. At all times relevant, the DIOCESE, as principal, and CHURCH and CAMP, as agents, were in an agency relationship such that CHURCH and CAMP acted on the DIOCESE's behalf in accordance with the DIOCESE's instructions and directions on all matters, including (1) policies relating to the hiring, retention, and supervision of adult employees, personnel, and volunteers to oversee youth activities, (2) policies related to the prevention of child sexual abuse, (3) policies relating to DEFENDANTS' employees and volunteers' interactions with children, and (4) controlling the conduct of adults involved in DEFENDANTS' youth-related activities.

21. Upon information and belief, CHURCH and CAMP had additional policies and standards regarding the hiring, supervision, and conduct of adults participating in youth-related activities, and otherwise exercised control over the adults participating in DEFENDANTS' youth-related activities.

22. The acts and omissions of the DEFENDANTS were subject to the DIOCESE's plenary control and CHURCH and CAMP each consented to act subject to the DIOCESE's control on the matters set forth in paragraph 21.

23. At all times relevant, MCKENZIE was a priest of the DIOCESE working at Defendant CHURCH and CAMP, where he was under the supervision and management of DEFENDANTS.

24. In a purposeful effort to conceal the horrific misdeeds of priests who sexually abused kids entrusted to their care, and to protect DEFENDANTS and their priests from scrutiny, scandal, and potential financial losses, DEFENDANTS explicitly and implicitly, through words, actions and teachings, misrepresented to PLAINTIFF, his family, the Episcopal faithful, and the general public that DEFENDANTS properly screened adults working with youth, and also addressed all allegations of sexual abuse in its ranks swiftly and immediately upon learning of them.

25. DEFENDANTS intended for Plaintiff, his family, the Episcopal faithful and the public to believe, then, that any Episcopal priest in active ministry, or any of DEFENDANTS' employees, had never been accused or suspected of sexual abuse of minors, and that the priest was chaste, safe to be around children, and otherwise fit for ministry. At all times relevant, this included MCKENZIE, who was a priest in active ministry at the time of the misconduct alleged herein.

26. As a result of those representations by DEFENDANTS, the vulnerable Plaintiff, the faithful, and the general public believed and trusted that DEFENDANTS' clergy and employees, including MCKENZIE, were benevolent and trustworthy stewards of God who were properly screened and fit for ministry and acted only in the best interests of the communities they served, including children like the Plaintiff. In reality, these misrepresentations only served to allow predators like MCKENZIE to sexually abuse more children, including Plaintiff.

27. MCKENZIE's sexual abuse of Plaintiff was accomplished in whole or in part by virtue of his position with DEFENDANTS, and the corresponding trust that Plaintiff and his family placed in MCKENZIE as a result.

28. Upon information and belief, MCKENZIE sexually abused other children before, during, and after the time he sexually abused Plaintiff. DEFENDANTS, by and through their agents, managers, employees, and directors, knew, or through the exercise of reasonable care, should have known that the MCKENZIE were serial sexual abusers of minor children, yet they took no action to protect Plaintiff and other children from MCKENZIE.

29. Upon information and belief, at all times relevant, DEFENDANTS individually or collectively had actual or constructive knowledge that MCKENZIE was the subject of other allegations of child sexual abuse, some or all of which occurred before Plaintiff was sexually abused, and all of which was accomplished by virtue of MCKENZIE's position with DEFENDANTS.

30. Upon information and belief, DEFENDANTS each had additional actual or constructive notice that MCKENZIE had a sexual interest in children and that he regularly used his position with DEFENDANTS to groom and sexually abuse minor children prior to 1995.

31. Upon information and belief, despite what it knew or should have known by 1995, each of DEFENDANTS failed to warn Plaintiff, his family, law enforcement, the general public, and/or others outside DEFENDANTS' inner sanctum about MCKENZIE's propensities to sexually abuse minor children.

32. Additionally, at all times relevant, the Bishop knew of a general problem of priests under his supervision and control grooming and sexually molesting children who came into contact with his priests as a result of their ministry and pastoral functions with youth. At all relevant times, the Bishop knew that this was a widespread, ubiquitous, and systemic problem in the DIOCESE involving many priests and numerous victims. Upon information and belief, Bishop William Frey handled at least seven such allegations himself during his 17-year tenure as leader of DIOCESE from 1973 to 1990.

33. Upon information and belief, the DIOCESE had a pattern and practice of withholding information contained in a priest's personnel file from church vestries as a means of protecting the priests it knew or should have known were at risk to commit sexual misconduct before the sexual abuse of Plaintiff.

34. Upon information and belief, and prior to the sexual abuse of the Plaintiff, DEFENDANTS had a pattern and practice of covering up allegations of sexual abuse by its priests, even when the assailant admitted to the misconduct. As part of this *modus operandi*, DEFENDANTS failed to act upon actual reports of sexual abuse, intimidated and threatened victims of abuse into silence, and simultaneously promoted priest-assailants to leadership roles within DEFENDANTS while failing to warn innocent, unsuspecting congregants of the dangers presented by the DEFENDANTS' priests.

35. DEFENDANTS each committed additional acts and omissions regarding MCKENZIE's sexual abuse of children that have not yet been made public but that made Plaintiff vulnerable to sexual abuse by MCKENZIE.

36. Based upon what it knew about its employees generally, and what it knew or should have known about MCKENZIE specifically, DEFENDANTS knew or should have known that MCKENZIE posed a foreseeable risk of harm to minor children before 1995, including but not limited to, Plaintiff.

37. DEFENDANTS placed MCKENZIE in a position to do harm to third parties he encountered by virtue of his position with DEFENDANTS, including the Plaintiff. MCKENZIE used his position with DEFENDANTS to identify potential victims and to gain their trust. It was reasonably foreseeable to DEFENDANTS that MCKENZIE would use his position with DEFENDANTS to sexually abuse and exploit those they encountered by virtue of his position, including Plaintiff.

38. DEFENDANTS failed to take remedial action against MCKENZIE when they knew or should have known, based upon information that, at the time of PLAINTIFF's sexual abuse, was in DEFENDANTS' possession or was otherwise readily available through commonly used practices, that MCKENZIE posed a risk of sexual misconduct to a minor.

39. As a result of DEFENDANTS' acts and omissions set forth herein, Plaintiff suffered severe and permanent psychological, emotional, and physical injuries, shame, humiliation, and the inability to lead a normal life. He has incurred, and will continue to incur, costs for medical treatment and counseling. These injuries are permanent and ongoing in nature.

FIRST CLAIM FOR RELIEF
THE BISHOP AND DIOCESE OF COLORADO
(a/k/a EPISCOPAL DIOCESE OF COLORADO)
Statutory Liability under § 13-20-1202

40. Plaintiff incorporates herein by this reference the allegations contained in Paragraphs 1 through 39 of this Civil Complaint and Jury Demand as if set forth verbatim.

41. At the time of Plaintiff's sexual abuse, Defendant DIOCESE operated and/or managed youth-related activities or programs for minors that were operated by adults placed in positions of trust, responsibility, and/or supervision over the children by DIOCESE, including, but not limited to, MCKENZIE.

42. In order to operate its youth-related activities, Defendant DIOCESE hired, supervised, and retained adults as employees and/or agents of DIOCESE.

43. At all times relevant, Defendant DIOCESE set the standards and policies for adults participating in the youth-related activities.

44. At all times relevant, Defendant DIOCESE controlled the conduct of the adults involved in its youth-related activities, including, but not limited to, MCKENZIE.

45. As part of its responsibilities, Defendant DIOCESE represented to congregant, parents, families, and the general public that the adults involved in its youth-related activities were properly screened and otherwise fit for contact with children.

46. Prior to the sexual abuse of Plaintiff, Defendant DIOCESE knew or should have known that some of the adults, including but not limited to, MCKENZIE, posed a risk of sexual abuse to minor children like Plaintiff.

47. Plaintiff was sexually abused while he was a minor child participating in youth-related activities operated by Defendant DIOCESE.

48. As a result of DIOCESE's acts and omissions set forth herein, Plaintiff suffered severe and permanent psychological, emotional, and physical injuries, shame, humiliation, and the inability to lead a normal life. He has incurred, and will continue to incur, costs for medical treatment and counseling. These injuries are permanent and ongoing in nature. He has suffered permanent impairment as a result of the DIOCESE's acts and omissions.

SECOND CLAIM FOR RELIEF
ST. MICHAEL AND ALL ANGELS EPISCOPAL CHURCH
Statutory Liability under § 13-20-1202

49. Plaintiff incorporates herein by this reference the allegations contained in Paragraphs 1 through 39 of this Civil Complaint and Jury Demand as if set forth verbatim.

50. At the time of Plaintiff's sexual abuse, Defendant CHURCH operated and/or managed youth-related activities or programs for minors that were operated by adults placed in positions of trust, responsibility, and/or supervision over the children by CHURCH, including, but not limited to, MCKENZIE.

51. In order to operate its youth-related activities, Defendant CHURCH hired, supervised, and retained adults as employees and/or agents of CHURCH.

52. At all times relevant, Defendant CHURCH set the standards and policies for adults participating in the youth-related activities.

53. At all times relevant, Defendant CHURCH controlled the conduct of the adults involved in its youth-related activities, including, but not limited to, MCKENZIE.

54. As part of its responsibilities, Defendant CHURCH represented to congregant, parents, families, and the general public that the adults involved in its youth-related activities were properly screened and otherwise fit for contact with children.

55. Prior to the sexual abuse of Plaintiff, Defendant CHURCH knew or should have known that some of the adults, including but not limited to, MCKENZIE, posed a risk of sexual abuse to minor children like Plaintiff.

56. Plaintiff was sexually abused while he was a minor child participating in youth-related activities operated by Defendant CHURCH.

57. As a result of CHURCH's acts and omissions set forth herein, Plaintiff suffered severe and permanent psychological, emotional, and physical injuries, shame, humiliation, and the inability to lead a normal life. He has incurred, and will continue to incur, costs for medical treatment and counseling. These injuries are permanent and ongoing in nature. He has suffered permanent impairment as a result of the DIOCESE's acts and omissions.

THIRD CLAIM FOR RELIEF
ST. BARNABAS CHURCH CAMPS
(a/k/a ILIUM CHURCH CAMP)
Statutory Liability under § 13-20-1202

58. Plaintiff incorporates herein by this reference the allegations contained in Paragraphs 1 through 57 of this Civil Complaint and Jury Demand as if set forth verbatim.

59. At the time of Plaintiff's sexual abuse, Defendant CAMP operated and/or managed youth-related activities or programs for minors that were operated by adults placed in positions of trust, responsibility, and/or supervision over the children by CAMP, including, but not limited to, MCKENZIE.

60. In order to operate its youth-related activities, Defendant CAMP hired, supervised, and retained adults as employees and/or agents of CAMP.

61. At all times relevant, Defendant CAMP set the standards and policies for adults participating in the youth-related activities.

62. At all times relevant, Defendant CAMP controlled the conduct of the adults involved in its youth-related activities, including, but not limited to, MCKENZIE.

63. As part of its responsibilities, Defendant CAMP represented to congregant, parents, families, and the general public that the adults involved in its youth-related activities were properly screened and otherwise fit for contact with children.

64. Prior to the sexual abuse of Plaintiff, Defendant CAMP knew or should have known that some of the adults, including but not limited to, MCKENZIE, posed a risk of sexual abuse to minor children like Plaintiff.

65. Plaintiff was sexually abused while he was a minor child participating in youth-related activities operated by Defendant CAMP.

66. As a result of CAMP's acts and omissions set forth herein, Plaintiff suffered severe and permanent psychological, emotional, and physical injuries, shame, humiliation, and the inability

to lead a normal life. He has incurred, and will continue to incur, costs for medical treatment and counseling. These injuries are permanent and ongoing in nature. He has suffered permanent impairment as a result of the DIOCESE's acts and omissions.

JURY DEMAND

Trial to a Jury of six (6) is demanded on all issues so triable.

WHEREFORE, Plaintiff JOHN HA DOE prays for Judgment against Defendants THE BISHOP AND DIOCESE OF COLORADO (a/k/a EPISCOPAL DIOCESE OF COLORADO); ST. MICHAEL AND ALL ANGELS EPISCOPAL CHURCH; and ST. BARNABAS CHURCH CAMPS (a/k/a ILIUM CHURCH CAMP), in an amount to be determined at trial, pre-judgment and post-judgment interest, costs and expert witness fees, and for such other and further relief as the Court may deem proper.

DATED: July 21, 2022

Respectfully submitted,

WILHITE, ROSE, MCCLURE & SAWAYA, P.C.

/s/ Zach Elsner
Zach Elsner

-and-

HOROWITZ LAW

/s/ Jessica D. Arbour
Jessica D. Arbour
(pending *Pro Hac Vice* admission)

ATTORNEYS FOR PLAINTIFF