THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
Jan 20 2021
SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Appellate Case No. 2020-000804

John Doe, ……Appellant,

v.

Bishop of Charleston, a Corporation Sole, and The Bishop of the Diocese of Charleston, in his official capacity……Respondents.

AMENDED RECORD ON APPEAL
Volume 1 of 3

Lawrence E. Richter, Jr.
Anna E. Richter
The Richter Firm, LLC
622 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464
(843) 849-6000
Attorneys for Appellant

Richard S. Dukes, Jr.
Turner, Padget, Graham & Laney, P.A.
Post Office Box 22129
Charleston, SC 29413-2129
(843) 576-2810
Attorney for Respondents

R. Hawthorne Barrett
Turner, Padget, Graham & Laney, P.A.
Post Office Box 1473
Columbia, SC 29202
(803) 254-2200
Attorney for Respondents

AMENDED RECORD ON APPEAL INDEX

ORDERS AND JUDGMENTS

1. Judge Jefferson's Order of January 21, 2003 in *John Doe v. The Diocese of Charleston, et al, Case No. 2002-CP-10-0770*…….……4

2. Judge Nicholson's Amended Order on Limited Collateral Review of May 3, 2017 in *John Doe 2, et al. v. Bishop of Charleston, et al.*, 2010-CP-10-5520…….…....29

3. Judge Nicholson's Order of July 5, 2017 in *John Doe 193 v. The Bishop of Charleston, a Corporation Sole, et al, 2013-CP-10-3733*……..…36

4. Scheduling Order, June 14, 2019……..…..38

5. Order Denying Defendants' Motion for Partial Summary Judgment and Granting Plaintiff's Motion to Compel, July 24, 2019…….….40

6. Order Granting Defendants' Motion for Summary Judgment based on Charitable Immunity, January 9, 2020……..……46

7. Form 4 Order Denying Motion to Reconsider the Granting of Summary Judgment, May 11, 2020……..……55

PLEADINGS

8. Amended Complaint, August 29, 2018……..58

9. Answer of Defendants, March 19, 2019……...125

TRANSCRIPTS

10. Transcript of Hearing, December 14, 2018…….….136

11. Transcript of Hearing, July 17, 2019…….……..165

12. Transcript of Louisa Storen's deposition, November 18, 2019…….344

13. Transcript of Hearing, December 12, 2019……...…...594

14. Transcript of Hearing, February 18, 2020…….…..…….678

15. Transcript of Hearing, April 6, 2020…….……691

OTHER MOTIONS, MATERIALS OR DOCUMENTS

16. Louisa Storen's writing of June 15, 2016 to Vicar General Msgr. Richard D. Harris……...……471

17. Defendants' Motion for Partial Summary Judgment as to "The Bishop of the Diocese of Charleston, in his Official Capacity," March 29, 2019……..…….742

18. Defendants' Brief regarding Religious Liberty Issues, July 11, 2019…….....749

19. Notice of Filing Supplemental Authority for Defendants' Motion for Partial Summary Judgment July 15, 2019 in *Richard Roe v. The Diocese of Charleston, a Corporation Sole, et al, Case No. 2018-CP-10-4206*……..……758

20. Defendants' Motion for Summary Judgment as to all claims based upon the common law doctrine of Charitable Immunity in effect at the time of the alleged abuse, October 30, 2019……...789

21. Defendants' Motion for Summary Judgment as to all claims based upon the Statute of Limitations/Lack of Admissible Evidence of Repressed Memory, October 30, 2019……..……843

22. Defendants' Motion for Summary Judgment based upon *Res Judicata* effect of 2007 Class Action Settlement, October 30, 2019……....849

23. Defendants' Motion for Summary Judgment Regarding Plaintiff's Negligence, Negligent Retention, Negligent Supervision, and Outrage/Intentional Infliction of Emotional Distress Claims, October 30, 2019…….....953

24. Defendants' Motion for Summary Judgment regarding Plaintiff's Fraud-Based and Contract Claims, October 30, 2019…….…964

25. Defendants' Motion for Summary Judgment as to Plaintiff's Claim for Breach of Fiduciary Duty, October 30, 2019…….……...968

26. Defendants' Motion for Summary Judgment Regarding Plaintiff's Claim of Conspiracy, October 30, 2019…….…….....975

27. Notice of Filing Affidavits Submitted in Support the Diocese's Motion for Summary Judgment, October 30, 2019…….980

28. Motion to Quash Deposition Subpoena by Non-Party Elizabeth Hartnett Diamond, November 15, 2019……....1027

29. Notice of Filing Supplemental/Reply Affidavits in Support of the Diocese's Motions for Summary Judgment, December 10, 2019 …….…….1038

30. Defendants' Memorandum Regarding Inadmissibility of Expert Testimony Under Rule 702, December 11, 2019……..……1158

31. Proposed Order submitted to the Court by Defendants on December 17, 2019……1179

32. Proposed Order submitted to the Court by Plaintiff on December 23, 2019.….1189

33. Plaintiff's Motion to Alter or Amend, January 16, 2020……...1199

Certificate of Counsel

Certificate of Compliance

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**FOR THE NINTH JUDICIAL CIRCUIT**
COUNTY OF CHARLESTON	)	**CASE NO. 02-CP-10-0770**
JOHN DOE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
THE DIOCESE OF CHARLESTON, and JANE DOE,	)	
	)	
	)	
Defendants.	)	
	)	

EXHIBIT "A"

ORDER

FILED
2003 JAN 29 PM 12:07
JEAN ARMSTRONG
CLERK OF COURT
BY _____

Hearing Date:	**September 11, 2002**
Presiding Judge:	**Deadra L. Jefferson**
Attorney for the Plaintiff:	**Greg Meyers**
Attorneys for the Defendant:	**A. Peter Shahid, Jr.**
	James C. Geoly
Court Reporter:	**Stacy Sheppard**

This matter came before this Court on the above date upon three Motions filed by the Defendant, The Diocese of Charleston (hereinafter referred to as the "Diocese") and one Motion filed by the Plaintiff The Diocese, filed a Motion for Summary Judgment, Motion to Dismiss, and Motion to Strike The Plaintiff filed a Motion to Compel Responses to Discovery Appearing on behalf of the Defendant was A Peter Shahid, Jr and James C Geoly, and appearing on behalf of the Plaintiff was Greg Meyers

The Diocese's Motion for Summary Judgment is based upon the Doctrine of Charitable Immunity and the Motion to Dismiss is based on the Statute of Limitations and as to Count One, the Plaintiff's failure to state a claim The Motion to Strike sought to strike several paragraphs

from the Plaintiff's Complaint The Motion to Compel by the Plaintiff sought the Diocese to be required to respond to their set of Interrogatories, dated March 17, 2002

I. FACTUAL BACKGROUND

The Plaintiff, an adult male, filed his Complaint against the Defendants on February 19, 2002 He alleges that beginning in 1959/1960, while he was a minor student at a local parochial school, Sacred Heart Elementary School, owned and operated by the Diocese, he was sexually molested by Edward Fischer, a teacher employed at the school (Fischer was indicted for numerous counts of criminal sexual related offenses in the Charleston County Court of General Sessions Fischer pled guilty to several counts and was sentenced to a term of 20 years imprisonment Fischer died on July 6, 2002) The cornerstone of the Plaintiff's causes of action is that the Diocese knew or should have known that Fischer was engaging in, or had engaged in, illegal acts of sexual misconduct with a minor student Specifically, in the Plaintiff's First Cause of Action, Outrage, the Plaintiff states that the Diocese had a duty to warn parents of Fischer's sexual propensities, to supervise Fischer and to report Fischer's sexual misdeeds The Complaint further alleges that the Diocese acted "intentionally" in breaching these alleged duties, and as such, the Plaintiff is entitled to recover damages against the Diocese

The Plaintiff further alleges in his second cause of action that the Diocese breached a fiduciary or special duty to the Plaintiff arising from its alleged actual or constructive notice of Fischer's conduct in sexually molesting students Likewise, in his third cause of action, the Plaintiff alleges that the Diocese was negligent in supervising Fischer Finally, in the Plaintiff's fifth cause of action, he complains that the Diocese breached an assumed special duty based on its alleged failure to supervise Fischer

The Diocese, as reflected in the Affidavit of Dennis Atwood, Chief Financial Officer, attached to the Memorandum in support of the Defendant's Motion for Summary Judgment, states that the Diocese is a charitable organization According to the affidavit, the Diocese and Sacred Heart School was, at the time of the events alleged in the Complaint, a charitable, tax-exempt organization All of the officers, directors, employees, and agents of the Diocese or Sacred Heart would, therefore, have been personnel of a charitable organization All of the school's activities relevant to this case were within the scope of the school's role as a charity, none of the injuries at issue in this case arise from any for-profit or otherwise non-charitable activities on the part of the school or the Diocese Plaintiff at oral argument conceded these factual points, and thus, there is no factual dispute as to the charitable status of the Defendant

Plaintiff submitted two affidavits in opposition to the Diocese's Motion The first, by "John Doe Number 2" is the affidavit of the Plaintiff "Attachment A" to Plaintiff's affidavit is his handwritten statement provided to the Office of the Solicitor for the Ninth Judicial Circuit in 1999 after Fischer was arrested "Attachment B" is an excerpt of the transcript from the sentencing hearing of Edward Fischer on April 23, 1999, including Plaintiff's own testimony "Attachment C" is a letter from Plaintiff's dentist, dated December 10, 2001 In his affidavit, Plaintiff states that his statements to the Solicitor and at the sentencing hearing are true

In both Attachment A and Attachment B, the Plaintiff provides a detailed description of Fischer's sexual abuse of him while Plaintiff was a student at Sacred Heart Plaintiff testifies that he was born in 1947 (Attachment B at 39) He met Fischer in 1960 as a seventh grader at Sacred Heart (Attachment B at 39-40) Fischer first sexually abused Plaintiff when he was twelve (12) years old (Attachment B at 41) As to one particularly heinous form of abuse,

Plaintiff states, "I cannot describe in words the humiliation, the shame, the embarrassment, the degradation and the total lack of control this put me in " (Attachment A at p 4) Plaintiff also indicates that, at one point, his mother asked him if Fischer had abused him "She asked me if he ever did anything to me that he shouldn't? I asked why She said because if he did, she would kill him And my Mom probably would have So I told her no, and I never said anything to her or anyone else about it " (Attachment A at 9) The Plaintiff elaborated on his knowledge of the above "As time went on, Eddie [Fischer] continued to molest me and I continued to let him, never understanding why I would let him ***I knew that it should not have been happening*** and by the time I got to Bishop England High School, I was getting a little tired of it " (Attachment at 9-10) (Emphasis Added)

Plaintiff does not claim to have ever forgotten Fischer's sexual abuse To the contrary, he provided specific events which occurred in his daily life that served as a constant reminder of the abuse and its effect (Attachment A at 18-19 and Attachment B, 47-48)

Plaintiff admits that in 1991, after he suffered from the abuse he checked himself into a hospital (Attachment A at 19 and Attachment B, p. 48) Plaintiff started Alcoholics Anonymous, and at the first meeting was greeted at the door by Fischer This "triggered" Plaintiff "into talking about what happened to [him] and the pain that [he] tried to hide and the guilt, the fear, the shame and embarrassment that [he has] endured " (Attachment A at 20) Plaintiff shared his story with a friend at AA This friend responded by telling Plaintiff that he knew of others whom Fischer had sexually abused, but that he (the friend) had not been abused (Attachment A at 20)

Plaintiff also identified the causal connection and sought help for his alcohol addiction on June 26, 1992 indicating that "I had had enough pain in my life and checked myself into rehab and started my journey into sobriety " (Attachment B, Partial Transcript Page 48, Lines 7-9) Plaintiff was later treated at Medical University of South Carolina, where he took part in several research studies and was diagnosed with "social phobia" and "post-traumatic stress disorder " (Attachment A at 20-21 and Attachment B, p 48) The Plaintiff also states in attachment A that "As I got sober I started reaching out for recovery from molestation I sought help from M U S C " Plaintiff described also the treatment process, to include seeking help through the proper channels and being diagnosed with sexual phobia and later with post-traumatic stress disorder He elaborated in his affidavit of receiving a book, The Courage to Heal, from Dr Michael Johnson (Also Attachment B Partial Transcript page 48, Lines 19-25) He also reflects that the incident and the effects came back to him while attending his 30th reunion for Bishop England High School Finally, as reflected in this attachment to his affidavit, that after proper medication, at the age of forty-four, he was at ease (Attachment B at 48-49)

Plaintiff also states that he has been diagnosed with "Generalized Anxiety Disorder" and "post-traumatic stress disorder" by Dr Lorraine Dustan, but Plaintiff has not filed an affidavit from Dr Dustan or attached a report from her Plaintiff also states that he was diagnosed "as requiring extensive dental surgery costing no less than $35,000 00 for a stress-related dental condition " Plaintiff attaches a letter from Timothy Assey, D M D , P A , describing his dental condition and opining that it was "most probably caused by the history of sexual abuse [Plaintiff relates] " (Attachment C)

John Doe 10 2010-CP-10-7233 00308

Plaintiff also submits an affidavit from "John Doe Number 1," who claims that he was sexually abused by Fischer at Sacred Heart John Doe Number 1 claims that he heard the principal at Sacred Heart "cursing" Fischer and ordering him off of the property, never to return John Doe presumed, and still presumes, "that he had been caught and that the nun's anger related to his being caught " (Affidavit of John Doe Number 1, ¶9) He also states that when he later saw Fischer between 1967-72, Fischer claimed that the principal's anger was "because he refused to wear a necktie except on Fridays for mass " (Id ¶12)

II. STANDARD FOR SUMMARY JUDGMENT

Rule 56, South Carolina Rules of Civil Procedure, states that a party against whom a claim, counterclaim, or cross-claim is asserted or declared towards a judgment is sought, may, at any time, move, with or without supporting Affidavits, for a summary judgment in his favor as to all or any part thereof

Furthermore, Rule 56(e) South Carolina Rules of Civil Procedure states "When a motion for summary judgment is made and supported as provided in this Rule, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavit or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial "

Summary judgment is appropriate when it is clear that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law Hunt v

Happy Valley Ltd Partnership, 315 S C 428, 434 S B 2d 285 (S C App 1993) See also Yarborough v Rogers, 306 S C 260, 411 S E 2d 424 (1991)

III. CHARITABLE IMMUNITY

The Doctrine of Charitable Immunity was espoused in this State in the landmark case of Linder v Columbia Hospital of Richmond County, 98 S C 25, 81 S E 512 (1914) "The rule is thus stated in 6 CYC 975, 976 'A charitable corporation is not liable to injuries, resulting from the negligent or tortious acts of a servant, in the course of his employment, where such corporation has exercised due care in his selection Linder, at pgs. 512- 513

The doctrine was further developed in Vermillion v Williams College of Due West, 104 S C 197, 88 S E 649 (1916), which stated as follows "These differences and the facts of the two cases make no difference in the applicable law, because the exemption of public charities from liability and actions for damages for tort rests not upon the relation of the injured party to the charity, but upon grounds of public policy, which forbids the crippling or destruction of charities which are established for the benefit of the whole public to compensate one or more individual members of the public for injuries inflicted by the negligence of the corporation itself or of its superior officers, or agents, or of its servants or employees The principle is that in an organized society, the rights of the individual must, in some instances, be subordinated to the public good that being so, what difference can it make whether the tort is out of the corporation itself or its superior officers and agents of that of its servants, liability for the one would effectually embarrass or sweep away the charity as the other It would therefore be illogical to admit liability for one and deny it for the other" Vermillion at 650

In 1959, the Supreme Court decided Izerhart v State Agricultural and Mechanical Society of South Carolina, 235 S C 305, 111 S E 2d 568 (1959), in which the Doctrine of Charitable Immunity was reaffirmed, however, the Court did not extend the Doctrine to activities outside the scope of the charitable organization's mission

The Supreme Court again reaffirmed the Doctrine of Charitable Immunity in a case previously decided in favor of this defendant, in Decker v Bishop of Charleston, 247 S C 317, 147 S E 2d 264 (1966) In Decker, the Plaintiff was injured as a result of injuries she sustained attending a church service at the Cathedral of St John the Baptist The Supreme Court stated "It is our conclusion that the Doctrine of Charitable Immunity should not be over-ruled The Doctrine is particularly applicable in this case Here we have a true charity, the Church, engaged in conducting a religious service and it which Carolyn Gaul Schmicht was participating at the time of her injury " Decker, at p 268

There is no question from the facts gleaned and the law as stated in this case that the Doctrine of Charitable Immunity was in full force and effect during the entire time frame Fischer abused the Plaintiff, or any alleged acts or omissions on the part of the Diocese The events which gave rise to the injuries sustained by the Plaintiff occurred at the time the Doctrine of Charitable Immunity was the law in this State It is an absolute defense to a claim which arose to the acts complained by the Plaintiff against the Defendant

The Doctrine of Charitable Immunity was abolished in the landmark case of Fitzer v Greater Greenville South Carolina Young Men's Christian Association, 277 S C 1, 282 S E 2d 230 (1981), which states as follows "We hold a charitable institution is subject to liability for its

tortuous conduct the same as other person or corporation The Doctrine of Charitable Immunity is abolished in its entirety and reversed and remanded the case for trial Fitzer, at pgs 231- 232

Our Supreme Court has made it clear that the application of the abolition of the Doctrine of Charitable Immunity was not to be applied retroactively "We hold that the Doctrine of Charitable Immunity announced in Fitzer v Greater Greenville South Carolina Young Men's Christian Association, citations omitted, applies prospectively only" Hupman v Erskine College, 281 S C 43, 314 S E.2d 314 (1984) The Doctrine of Charitable Immunity is a bar to claims against charities and was still in effect for other forms of negligence at all times of the events which led to the Plaintiff's cause of action

IV. APPLICATION OF DOCTRINE OF CHARITABLE IMMUNITY

Applying these principles, it is clear that Plaintiff's claims are barred by the Doctrine of Charitable Immunity The Plaintiff has no facts in dispute that the Defendant, Diocese, is a charitable institution and Sacred Heart School, its officers, agents and employees, are all part of a charitable organization The Plaintiff concedes these facts for the purposes of this hearing Furthermore, there is no contention, and neither does the Plaintiff raise one, that the scope or nature of the school's function was operated outside the charitable parameter's of the Diocese during the time in question It is undisputed that the Diocese and Sacred Heart were, and are, "charities" under South Carolina law It is undisputed that the events in question occurred before the abolition of the Doctrine of Charitable Immunity in 1981, and even before the Supreme Court's prospective limitations on its application, such as the intentional torts exception in 1973 Accordingly, at the time of the events in question, it was the law of South Carolina that charities

were immune as to all tort liability Moreover, even if the Court were to apply the intentional torts exception retroactively, the Diocese would still be immune Certainly, Edward Fischer's heinous acts were intentional and criminal, but there are no allegations in the Complaint, nor are there any facts offered by the Plaintiff, suggesting that the Plaintiff's injuries were caused by intentional acts of the Diocese itself The allegations in the Complaint are a quintessential claim for negligence

The Plaintiff does not assert that the Diocese's actions fall outside the protection of the Doctrine of Charitable Immunity as a result of intentional acts on the part of the Diocese In response to the Diocese's Motion for Summary Judgment, the Plaintiff cited Section 15-3-555, South Carolina Code of Laws, (1976, as amended) "An action to recover damages for injury to a person arising out of an act of sexual abuse or incest must be commenced within six years after the person becomes twenty-one years of age or within three years of the time of the discovery by the person of the injury in a casually relationship between the injury and the sexual abuse or incest, whichever occurs later Subparagraph B Parental immunity is not a defense against claims on sexual abuse or incest that occurred before, on or after, this Section's effective date "

Plaintiff claims that the Court should not apply the Doctrine of Charitable Immunity in place at the time of his sexual abuse because that was not the actual time of his injury Instead, Plaintiff claims that his time of injury was some time much later, when he causally connected his symptoms to the sexual abuse Plaintiff points to the language of Section 15-3-555, which adopts a "discovery rule," extending the Statute of Limitations for sexual abuse until "within three years of the time of the discovery by the person of the injury and a causal relationship between the injury and the sexual abuse "

Plaintiff has mistakenly interrupted Section 15-3-555 for a new statutory cause of action He advocates this statute converts the discovery rule into a new accrual rule, allowing for a separate cause of action every time he discovers a new symptom Nothing in this Section provides for a legislative overturning of the Supreme Court's "prospective only" decision in Hupman On the contrary, the statute is clearly intended as an extension of the Statute of Limitations and there is no indication in the language of the statute that the General Assembly intended to modify or alter the application of the Doctrine of Charitable Immunity for causes of action which occurred before 1981 The Statute of Limitations is an utterly different creature from the Doctrine of Charitable Immunity The limitations period is a procedural device designed to require the prompt initiation of claims The discovery rule exception addresses a perceived unfairness to the Plaintiff as a time limit under certain circumstances In contrast, our Supreme Court held in Hupman that changes to charitable immunity were to be applied prospectively only, on the theory that a charity being sued for events at a particular time should have available to it the immunity doctrine in place at the time of those events

The Plaintiff believes that the term "by the person of the injury in the casual relationship between the injury and the sexual abuse or incest" refers to the date of when the injury is manifested or discovered As authority for this contention, the Plaintiff cites Laughridge v Parkinson, 304 S C 51, 403 S E 2d 120 (1991) The victim from this 1991 Supreme Court Case addressed the application of the statute as follows "The alleged tortuous conduct in this case occurred in March of 1979 At that time, Brown had been decided and the legislature had enacted Section 44-7-50 Greenville Hospital argues that at the time of the injury, Section 44-7-50 was in effect and that its liability was therefore limited to $100,000 00 " Laughridge, at 121

John Doe 10 2010-CP-10-7233 00314

While Laughridge certainly stands for the proposition claims and defenses must be applied to the existing rights and defenses as recognized at the time of the injury, there is no interpretation of Section 15-3-555 which proposes "injury" is defined at the moment a particular aspect or manifestation from the wrongful act(s) to then give rise to the cause of action Stated differently, the Plaintiff contends there were certain symptoms from the acts of Fischer that he is suffering which were not revealed until 2001 or 2002 Furthermore, since these injuries were discovered after the abrogation of the Doctrine of Charitable Immunity in 1981, there is now no Doctrine of Charitable Immunity for the Diocese to apply as a shield against the Plaintiff's complaint This is a novel interpretation which is not supported by either Section 15-3-555 or by Laughridge v Parkinson The Plaintiff has cited no other authority which will support this unique interpretation of when an injury occurs Quite the contrary, the acts which give rise to the Plaintiff's case definitely occurred in the late 1950s and early 1960s, when the Doctrine of Charitable Immunity was in effect

The Court also finds compelling the decision of Faulk v Sadler, 341 S C 281, 533 S E 2d 350 (S C App 2000) In this matter, an action was initiated against a Guardian *ad litem*, and the defendant moved for a Rule 12(C), SCRCP, judgment seeking protection pursuant to quasi- judicial immunity "Judicial decisions which create new substantive rights must be given prospective effect only, while the decisions which create new remedies vindicating existing rights may be given retrospective application (citations omitted) Decisions which create liability where not previously existed must be given prospective application (citations omitted)

"Abrogation of immunity has the effect of creating liability when none previously existed, and thus its application would be prospective " Faulk, at p 355

John Doe 10 2010-CP-10-7233 00315

To accept the interpretation of the Plaintiff that his injuries exist from the time of the discovery by him of some recent revelation in 2002 when the Doctrine of Charitable Immunity no longer applied to a defendant would unravel long standing principles of tort jurisprudence in this State This interpretation would eliminate a defense that existed at the time of the facts that arose to cause the injury and create a remedy when none ever existed at the time of the acts which gave rise to the injuries which are the subject of this complaint

The Plaintiff had a cause of action sometime after he turned twenty-one years old As contained in the Plaintiff's affidavits filed just before the hearing on September 11, 2002, the Plaintiff knew of his injuries sometime immediately after he reached the age of twenty-one years According to his affidavit, the Plaintiff discovered that he had an injury in as late as 1991 or 1992 which was causally related to the alleged sexual abuse suffered by Fischer While the Plaintiff may have discovered further injuries after 1991, such discovery is immaterial in his attempt to defeat the implications of the Doctrine of Charitable Immunity The Plaintiff has cited no case authority which interprets "injury" as used in Section 15-3-555 to include a distinct right or claim which did not exist at the moment of the acts of the Defendant This Section did not create a new cause of action or new enforceable right not previously existing This statute simply extended the period of time a plaintiff has to initiate his complaint against a defendant from the time he reached majority status or after he discovered the relationship between the sexual abuse and the injuries he suffered Nothing in the language of this particular Section abrogates the Doctrine of Charitable Immunity

Of particular note is Subsection (B) of 15-3-555 "Parental immunity is not a defense against claims based on sexual abuse or incest that occurred before, on, or after this Section's

effective date " Thus, a clear abrogation of a previous defense to such a claim is announced which is to be applied regardless when the acts, which give rise to the cause of action, may have occurred – before, on, or after – the passage of this statute The statute is silent in the specific abrogation of any other doctrine or defense, specifically, the Doctrine of Charitable Immunity

The Plaintiff does not have the ability to bring a cause of action where none exists If the Plaintiff was barred from seeking redress from the Diocese as a result of this doctrine because the Defendant is a charity and the events occurred before 1981 when the charitable immunity was abrogated, the initiation of Section 15-5-555 does not provide the Plaintiff any relief to the absolute bar against his claim In Hyder v Jones, 271 S C 85, 245 S E 2d 123 (1978) the Court discussed the attempted retroactive application of the abrogation of the parental immunity While statues are to be construed prospectively only unless it is a clear intent for them to be applied retroactively or if the statute is remedial or procedural in nature The remedial exception does not apply if the statute creates a legal remedy where one did not previously exist "Whether we view section 15-5-210 as creating a new cause of action or simply removing a bar to an existing cause of action, the statute supplies a remedy where formally there was none To this extent Section 15-5-210 effects more than a remedial or procedural change to the long standing doctrine of parental immunity and is not exempt from the presumption of prospective application " Hyder, at 125

"The elements of a cause of action in tort for personal injury are(1) duty, (2) breach of that duty, (3) proximate causation, and (4) injury (citations omitted) ' The fundamental test in determining whether a cause of action has accrued [] is whether the party asserting the claim can maintain an action to enforce it '(citations omitted) Stated differently, '[a] cause of action accrues

at the moment when the plaintiff has a legal right to sue on it ' (citations omitted) Grillo v Speedrite Products, Inc 340 S C 498, 532 S E 2d 1, at 3 (S C App 2000)

The Plaintiff's claimed lack of discovery may be a means to avoid the Statute of Limitations, which is the subject of the Diocese's Motion to Dismiss, but it does not defeat the defense of Charitable Immunity The date of discovery of the injury has nothing to do with whether or not the charity was immune at the time of the tort As established in Grillo, Plaintiff's cause of action accrued at the time he had a right to sue, which was at the time of the sexual abuse, regardless of when the limitations period for such a lawsuit began to run In other words, the Plaintiff had a cause of action which he could have attempted to enforce in 1991, 1992 or 1994, because the elements of his cause of action were available to him at any of these points in time

Interpreting the facts and all inferences therein, in the light most favorable to the Plaintiff, there exists no facts to substantiate the Plaintiff was not aware of his injuries within the time constraints of Section 15-3-555 The Diocese is a charity and was at the time of the events in question Sacred Heart School was part of the Diocese, and also was a charitable operation There are no genuine issues of material fact as to any element of the Diocese's affirmative defense of Charitable Immunity It is the Court's finding for the reasons stated above that the Doctrine of Charitable Immunity was in effect at the time of the acts that gave rise to the injury of the Plaintiff and that the Defendant is a charitable organization and that charitable immunity was in full force and effect at the time of these acts, and thus charitable immunity would apply Accordingly, the Diocese is entitled to judgment as a matter of law on said defense The Court, therefore, GRANTS the Diocese's Motion for Summary Judgment pursuant to the South

Carolina common law Doctrine of Charitable Immunity and enters judgment for the Diocese of Charleston as to all claims against it The parties concede that the Doctrine of Charitable Immunity would not apply to an intentional tort such as outrage However, considering the remaining issues of this Order this concession seems moot

VI. MOTION TO DISMISS

A. Introduction

The Diocese has also moved, pursuant to Rule 12(b)(6), SCRCP to dismiss the claims asserted against it on the ground that they are barred by the applicable statute of limitations, Section 15-3-555, South Carolina Code of Laws (1976, as amended) Pursuant to Section 15-3-555, a plaintiff must commence an action arising from child sexual abuse within six years of the time he reaches age 21, or within three years of the time he discovers his injury, and that it was caused by the alleged sexual abuse The Diocese contends that from the face of the Complaint it is clear that the Plaintiff cannot meet this standard

In response, as noted above, the Plaintiff has not filed a memorandum in defense of the motion, but has filed the two affidavits stated above He has also alleged that he has brought his lawsuit within the time period allowed pursuant to Section 15-3-555, "and based on the Diocese having fraudulently concealed its knowledge about Fischer and his actions" (Complaint, ¶13) Plaintiff does not allege any facts indicating that he did not know, or ever forgot that the sexual abuse occurred Indeed, he does not claim to have repressed his memory of these events Notwithstanding the legal conclusion that he is proceeding "under authority of" Section 15-3-555, Plaintiff does not actually allege that he failed to connect the sexual abuse and his injuries

Moreover, there are no facts alleged concerning the date Plaintiff discovered his injuries from sexual abuse, or concerning how or when he came to connect his injuries with the sexual abuse

Plaintiff's only real "discovery" allegation concerns his inability to discover the Diocese's alleged prior knowledge of Fischer's propensities until recently

> Less than three years before this filing Plaintiff obtained information that before he was molested by Fischer the defendants had reason to know of Fischer's inappropriate sexual interest in students Because of the defendants' fraudulent concealment of such information, Plaintiff could not have been aware of their knowledge prior to that time (Complaint, ¶15)

Plaintiff's other allegations concerning his fraudulent concealment theory consist of general allegations that the Diocese's practice was to keep information about sexual abuse secret, and that it did so in the case of Fischer There are no allegations that the Diocese ever interacted with Plaintiff concerning his claims, or Fischer, or that it ever made any public statements about Fischer Indeed, the Plaintiff's fraudulent concealment allegation is that the Diocese failed to announce publicly that Fischer had sexually abused children

As noted above, the Plaintiff has also submitted an affidavit containing much more information about his knowledge of his injuries and the conduct of the Diocese regarding Fischer, and the Court will not repeat that information here

B. Conversion to Motion for Summary Judgment

Rule 12(b), SCRCP provides that when "matters outside the pleading are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56" As noted above, Plaintiff has submitted two affidavits pertaining to the Diocese's Motion to Dismiss As explained below, the Court finds that

Plaintiff's affidavits are dispositive of his delayed discovery and fraudulent concealment claims, entitling the Diocese to judgment as a matter of law

C. **Discussion**

1. **Delayed Discovery**

Plaintiff's own affidavit establishes that he was born in 1947, and therefore, turned twenty-one years of age in 1968 Accordingly, there can be no dispute that the Plaintiff contends that he commenced this action (in 2002) within three years of discovery, not within six years of turning twenty-one years of age (21)

Plaintiff alleges in the Complaint that he was sexually abused by Fischer as a young teenager He does not allege that he was unaware of these events as they were happening, or that he ever lost conscious knowledge of them Plaintiff does not contend in the Complaint that he was ever unaware that he was injured Instead, in oral argument, Plaintiff's counsel suggested that Plaintiff developed certain conditions long after the abuse occurred, such as post-traumatic stress disorder and stress-related dental injuries Plaintiff contends, through counsel, that he did not connect these injuries with the abuse until within the three years preceding the filing of this lawsuit

In his affidavit, Plaintiff provides far more detail about the abuse and his reaction to it He testifies that he met Fischer in 1960 when he was a seventh grader at Sacred Heart (Attachment B at 39-40) Fischer first sexually abused Plaintiff when Plaintiff was twelve years old (Id at 41) Plaintiff states that the abuse caused him direct, immediate and palpable injury at the time it occurred Specifically, Plaintiff testifies that when he was sexually abused, it

caused him to suffer humiliation, shame, embarrassment, degradation and a feeling of a "total lack of control" (Pltf Aff Attachment A at 4)

Plaintiff was under no illusion about whether what was occurring was right or wrong He testifies that he purposely did not tell his mother about the abuse because he knew she would kill Fischer (Id at 9) Whether or not he meant this figuratively or literally, Plaintiff is clearly indicating his contemporaneous understanding that Fischer's acts were the sort that would warrant and would receive severe punishment) As Plaintiff makes clear, "I knew that this should not have been happening to me " (Id at 9-10)

Plaintiff further establishes that he never repressed or suppressed his memory of the abuse acts themselves, or how the abuse made him feel He specifically states that, "as hard as I tried to forget about Eddie Fischer, something would trigger the thoughts " (Id at 18-19) Although Plaintiff does state when, upon seeing Fischer and feeling fear and anxiety, he "had no idea why," he also states that "I would do my best to avoid him, but as small as Charleston is, something would always occur to trigger the memories I tried to forget " (Id) (See also Pltf Aff Attachment B at 47-48) Although Plaintiff did not disclose the abuse to anyone over the years, he clearly remembered it ***and he connected it to his feelings of emotional distress***

> I had sought help through counselors, psychiatrists, psychologists and medical doctors, never once discussing the facts about my teenage years As hard as I tried to forget about them, the thoughts were still there ****I was ashamed of myself and embarrassed about what he did to me, conditions that have haunted me to this day.*** (Pltf Aff Attachment B at 47-48) (Emphasis added)

In light of this testimony from the Plaintiff's own affidavit, the only possible conclusion is that the Plaintiff has, at all times, knew that he was sexually abused, that the abuse was injurious to him, and those injuries were both physical and mental, and the above was caused by

Fischer, who was a teacher at Sacred Heart School Nonetheless, the gist of the Plaintiff's argument is that the specific diagnoses of post-traumatic stress disorder and stress-related dental injury did not occur until within the last three years, and therefore his time to sue upon those injuries has not expired

Plaintiff's own testimony again defeats his claims Plaintiff states that in 1991 or 1992, when he began alcohol recovery, he encountered Fischer at an AA meeting This "triggered" him "into talking about what happened to [him] and the pain and that [he] tried to hide and the guilt, the fear, the shame and embarrassment the [he has] endured " (Pltf Aff Attachment A at 19, Attachment B at 48) Plaintiff shared his story with a friend at AA, who responded by stating that he knew of others whom Fischer had sexually abused (Id) Plaintiff further admits.

> I sought help through the proper channels, at first being diagnosed with social phobia, and then being diagnosed with post-traumatic stress disorder While participating in a research study for social phobia, I brought up the fact that I had been sexually abused, and Dr Michael Johnson asked me to if I had ever talked to anybody about this I said, no, and he gave me the book The Courage to Heal and asked me to read it I went to the library and read everything I could on the subject I talked to different people about it and tried my best to understand why I felt this way I was given proper medication to balance out the serotonin levels that were stopped early by the trauma when I was a teenage boy
> Finally, for the first time in my life after proper medication, I was at ease I was 44 years old

(Attachment B at 48-89) (See also Attachment A at 20-21, admitting diagnosis in 1991 of post-traumatic stress disorder at Medical University of South Carolina) Thus, in 1991 or 1992 (when Plaintiff was 44 years old), he was "diagnosed with social phobia, and post-traumatic stress disorder " He specifically related these injuries to the sexual abuse from Fischer He specifically shared the facts of the abuse with a friend who alerted him that others were abused as well

On this record, there can be only one conclusion Plaintiff knew both of his injuries and their wrongful cause at the latest in 1991 or 1992 when he was diagnosed with post-traumatic stress disorder at Medical University of South Carolina Of course, he was fully aware of the abuse itself from the time it occurred, and of the direct physical and mental injuries flowing therefrom But, to the extent that the Plaintiff asks this Court to treat post-traumatic stress disorder as a separate injury arising at a different date from his more generalized injuries, the Court can still only extend his time of discovery to 1992, at the latest The Court, therefore, finds that there is no genuine issue of material fact as to the Plaintiff's claim of delayed discovery and, in particular, finds that the Plaintiff discovered his injuries and their causal relationship to the sexual abuse no later than 1992 Accordingly, pursuant to Section 15-3-555, Plaintiff's claims against the Diocese were barred as of 1995 at the latest, seven years before the filing of this lawsuit

The Plaintiff's complaint is barred by the Statute of Limitations because he knew of his injuries and the cause of his injuries in 1991, 1992 and 1994 Section 15-3-555 does not permit the Plaintiff to pursue his claim against the Diocese While the General Assembly may extend or restrict the time within which a complaint may be brought by a defendant, as previously stated, the new statute can not revive a claim which was previously barred In Estes v Roper Temporary Services, Inc, 304 S C 120, 403 S E 2d 157, 159 (S C App 1991) the Court addressing an action for breach of contract cited the following as the basis interpreting a statute of limitations "'The great preponderance of authority supports the general view that after a cause of action has become barred it cannot be revived by the legislature by extending the limitation period or repealing the limitation statute ' " S C Code Ann Section 15-3-555 provides

> An action to recover damages for injury to a person arising out of an act of sexual abuse or incest must be commenced within three years from the time of discovery by the person of the injury and the causal relationship between the injury and the sexual incest, whichever occurs later

Applying the modified language of the statute retroactively the Plaintiff's claim is barred because he had notice of the causal relationship between the injury and the sexual incest in 1991, 1992 and 1994

Similarly, in U S Rubber Co v McManus, 211 S C 342, 45 S E 2d 335, 337 (1947), the Supreme Court stated " when a right of action or cause of action has accrued the law is fixed, and no change of the statutes of limitations shall be wrought by any legislation afterwards fixing a different period " "'It is well settled that it is competent for the legislature to change statutes prescribing a limitation to actions, and that the one in force at the time of suit brought is applicable to the cause of action The only restriction upon the exercise of this power is that the legislature cannot remove a bar which has already become complete '" The Plaintiff did not file his complaint within the time restrictions of the Statute of Limitations His failure to do so serves as a complete bar against his claim The enactment of Section 15-3-555 does not extend the Plaintiff's right under any theory to be within the restraints of the Statute of Limitations, because the General Assembly is unable to extend the time to initiate his complaint once it has already been barred

2. Fraudulent Concealment

In order to succeed on a claim of fraudulent concealment, a plaintiff must plead facts indicating an "inducement for delay" in filing the lawsuit Hedgepath v American Telephone &

Telegraph Co., 559 S E 2d 327, 338 (Ct App 2001) See also Black v Lexington School Dist No 2, 327 S C 55, 61, 488 S E 2d 327, 330 (1997) In the Complaint, the Plaintiff makes what can, at best, be called a conclusory assertion of fraudulent concealment by the Diocese For this reason, the pleading is insufficient as a matter of law, since fraudulent concealment, like all fraud, must be pled with particularity pursuant to Rule 9(b), SCRCP Notwithstanding Plaintiff's many allegations that the Diocese favored secrecy and never publicly announced that Fischer had abused children, Plaintiff never alleges that the Diocese ever misrepresented anything to the public or to him in particular

More to the point, there are no allegations - factual, conclusory or otherwise - that the Diocese ever made a misrepresentation that caused Plaintiff to delay in filing his lawsuit Indeed, he alleges no communications with the Diocese at all on the subject Absent such allegations, Plaintiff cannot maintain a claim of fraudulent concealment to toll the statute of limitations

What Plaintiff does allege is that the Diocese kept secret its own alleged imputed knowledge about Fischer Read most broadly, the Complaint alleges that the Diocese engaged in a pattern and practice of concealing information about its agents and employees who sexually abused children

Troubling as these allegations are, they miss the point In order to toll the statute of limitations, Plaintiff must show that he was defrauded in that a misrepresentation caused him to delay in filing his lawsuit Nothing in this Complaint, or in the affidavits submitted by the Plaintiff permit such an inference

To begin with, this was not a Plaintiff who was fooled about his injury Even if the Diocese did conceal that it had knowledge about Fischer either before or after Plaintiff's abuse, that concealment could not take away from Plaintiff his actual knowledge that Fischer, an agent of the Diocese, sexually abused him, and caused him injury His own affidavit substantiates his clear knowledge of the abuse by Fischer through the points in time when they occurred, when he told Fischer to stop, and when he sought and obtained treatment Our courts focus on the plaintiff's knowledge of his own injury, not on the identity of the tortfeasor Brown v Pearson, 326 S C 409, 483 S E 2d 477 (Ct App 1997) (rejecting plaintiffs' contention that statute did not begin to run when they knew of their injuries, but rather when they knew of the Church entities' culpability) Indeed, in Brown, the court specifically observed that even though the plaintiffs "did not know the exact nature of the wrong" at the time of the sexual abuse, "they knew their rights had been invaded " 326 S C at 418, 483 S E 2d at 482 Plaintiff's claim that he did not know of the Diocese's prior knowledge is insufficient and immaterial Nothing the Diocese said or did took away from Plaintiff the knowledge that an agent of the Diocese sexually abused him

Plaintiff further states in his affidavits that in 1991 he told a friend about the abuse and that the friend stated that others had been abused After 1991 or 1992 at the latest, there was nothing preventing Plaintiff from bringing this action He alleges no conduct on the part of the Diocese that stood in his way, or dissuaded him Certainly, he may have had more information to sue with evidence of prior notice, or of other victims, but such evidence was in no way necessary to commence this action Plaintiff's actual knowledge of his claims, and the absence of any misrepresentation by the Diocese to Plaintiff concerning his claims, render his fraudulent

concealment argument a legal impossibility The Plaintiff could have maintained a cause of action in 1991 or 1992

The Court, therefore, finds that there is no genuine issue of material fact as to Plaintiff's fraudulent concealment claim The Diocese made no misrepresentation to the Plaintiff, and Plaintiff had actual knowledge of the sexual abuse by Fischer at all times since it occurred, and had actual knowledge of all his injuries and their cause by 1992 at the latest Accordingly the Diocese is entitled to judgment as a matter of law on Plaintiff's fraudulent concealment claim

E. Conclusion - Motion to Dismiss

For all the foregoing reasons, the Court finds that Plaintiff has failed to plead a claim for which relief can be granted in that all claims against the Diocese are barred by the applicable statute of limitations All claims against the Diocese are therefore dismissed pursuant Rule 12(b)(6) SCRCP

In the alternative, pursuant to Rule 12(b) SCRCP, the Court converts the Diocese's Motion to Dismiss to a motion for summary judgment and, pursuant to Rule 56 SCRCP finds that there is no genuine issue as to any fact material to the Diocese's argument that the Plaintiff's claims are barred by the applicable statute of limitations, and therefore the Court enters judgment as a matter of law in favor of the Diocese and against the Plaintiff

AND IT IS SO ORDERED!

s/ Deadra L. Jefferson

Judge, Presiding Deadra L Jefferson
Court of Common Pleas for the Ninth Judicial Circuit

Dated January 21, 2003
Charleston, South Carolina

ATTEST: A TRUE COPY
JULIE J ARMSTRONG (SEAL)
CLERK, C P & G S
By
DEPUTY CLERK

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)
) FOR THE NINTH JUDICIAL CIRCUIT

JOHN DOE 2 AND JANE DOE 4,)
) CASE NO.: 2010-CP-10-5520
PLAINTIFFS,)
)
V.)
)
THE BISHOP OF CHARLESTON, A CORPORATION SOLE; ROBERT GUGLIEMONE, THE BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; REV. MONSIGNOR MARTIN LAUGHLIN, FORMER ADMINISTRATOR OF THE DIOCESE OF CHARLESTON, IN HIS OFFICIAL CAPACITY; ROBERT J. BAKER, FORMER BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; LAWRENCE E. RICHTER, JR.; DAVID K. HALLER; AND RICHTER & HALLER, LLC,) **AMENDED ORDER ON LIMITED COLLATERAL REVIEW**
)
DEFENDANTS.)

FILED
2017 MAY -4 AM 11:15
JULIE J. ARMSTRONG
CLERK OF COURT

JOHN DOE 10,)
) CASE NO.: 2010-CP-10-7233
PLAINTIFF,)
)
V.)
)
THE BISHOP OF CHARLESTON, A CORPORATION SOLE; ROBERT GUGLIEMONE, THE BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; REV. MONSIGNOR MARTIN LAUGHLIN, FORMER ADMINISTRATOR OF THE DIOCESE OF CHARLESTON, IN HIS OFFICIAL CAPACITY; ROBERT J. BAKER, FORMER BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; LAWRENCE E. RICHTER, JR.; DAVID K. HALLER; AND RICHTER & HALLER, LLC,)
)
DEFENDANTS.)

JANE DOE 11,

PLAINTIFF,

V.

THE BISHOP OF CHARLESTON, A CORPORATION SOLE; ROBERT GUGLIEMONE, THE BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; REV. MONSIGNOR MARTIN LAUGHLIN, FORMER ADMINISTRATOR OF THE DIOCESE OF CHARLESTON, IN HIS OFFICIAL CAPACITY; ROBERT J. BAKER, FORMER BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; LAWRENCE E. RICHTER, JR.; DAVID K. HALLER; AND RICHTER & HALLER, LLC,

DEFENDANTS.

CASE NO.: 2012-CP-10-5559

JOHN DOE 193,

PLAINTIFF,

V.

THE BISHOP OF CHARLESTON, A CORPORATION SOLE; ROBERT GUGLIEMONE, THE BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; REV. MONSIGNOR MARTIN LAUGHLIN, FORMER ADMINISTRATOR OF THE DIOCESE OF CHARLESTON, IN HIS OFFICIAL CAPACITY; ROBERT J. BAKER, FORMER BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; LAWRENCE E. RICHTER, JR.; DAVID K. HALLER; AND RICHTER & HALLER, LLC,

DEFENDANTS.

CASE NO.: 2013-CP-10-3733

FATHER DOE 194, PLAINTIFF, V. THE BISHOP OF CHARLESTON, A CORPORATION SOLE; ROBERT GUGLIEMONE, THE BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; REV. MONSIGNOR MARTIN LAUGHLIN, FORMER ADMINISTRATOR OF THE DIOCESE OF CHARLESTON, IN HIS OFFICIAL CAPACITY; ROBERT J. BAKER, FORMER BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; LAWRENCE E. RICHTER, JR.; DAVID K. HALLER; AND RICHTER & HALLER, LLC, DEFENDANTS.	CASE NO.: 2013-CP-10-4175
JOHN DOE 194, PLAINTIFF, V. THE BISHOP OF CHARLESTON, A CORPORATION SOLE; ROBERT GUGLIEMONE, THE BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; REV. MONSIGNOR MARTIN LAUGHLIN, FORMER ADMINISTRATOR OF THE DIOCESE OF CHARLESTON, IN HIS OFFICIAL CAPACITY; ROBERT J. BAKER, FORMER BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; LAWRENCE E. RICHTER, JR.; DAVID K. HALLER; AND RICHTER & HALLER, LLC, DEFENDANTS.	CASE NO.: 2013-CP-10-4176

JOHN DOE 245 AND FATHER DOE 245, PLAINTIFF, V. THE BISHOP OF CHARLESTON, A CORPORATION SOLE; ROBERT GUGLIEMONE, THE BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; REV. MONSIGNOR MARTIN LAUGHLIN, FORMER ADMINISTRATOR OF THE DIOCESE OF CHARLESTON, IN HIS OFFICIAL CAPACITY; ROBERT J. BAKER, FORMER BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; LAWRENCE E. RICHTER, JR.; DAVID K. HALLER; RICHTER & HALLER, LLC, DEFENDANTS.	)	CASE NO.: 2015-CP-10-5486
JOHN DOE 297, PLAINTIFF, V. THE BISHOP OF CHARLESTON, A CORPORATION SOLE; ROBERT GUGLIEMONE, THE BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; REV. MONSIGNOR MARTIN LAUGHLIN, FORMER ADMINISTRATOR OF THE DIOCESE OF CHARLESTON, IN HIS OFFICIAL CAPACITY; ROBERT J. BAKER, FORMER BISHOP OF CHARLESTON, IN HIS OFFICIAL CAPACITY; LAWRENCE E. RICHTER, JR.; DAVID K. HALLER; AND RICHTER & HALLER, LLC, DEFENDANTS.	)	CASE NO.: 2016-CP-10-1632

THIS MATTER CAME BEFORE THE COURT on the motion of Defendants Lawrence E. Richter, Jr., David K. Haller, and Richter & Haller, LLC (collectively, the "Lawyer Defendants") to alter and amend the Court's order of December 7, 2015, denying the Lawyer

Defendants' motion for summary judgment on motions to alter or amend the Court's Order on Limited Collateral Review entered on October 26, 2016 filed by Plaintiffs and the Diocese Defendants. Specifically, the Lawyer Defendants moved that the Court conduct a limited collateral review of the underlying class action and determine whether that action is binding on the plaintiffs in these matters. The Court agrees that a limited collateral review is proper and therefore grants the Lawyer Defendants' motion to alter and amend to the extent that it requests such a review.

In the Complaints, Plaintiffs specifically allege that their causes of action against the Lawyer Defendants are only pertinent if they, as alleged absent class members in a prior class action, are precluded from pursuing claims against the Diocese Defendants. (*See, e.g.* -5520 Compl. ¶¶ 177, 196.) Thus, the Complaints, by their own terms, present a threshold question: Are Plaintiffs precluded from pursuing claims against the Diocese Defendants?

Our Supreme Court set forth the framework for deciding such a question in *Hospitality Management Associates v. Shell Oil Co.*, 356 S.C. 644, 591 S.E.2d 611 (2004). There, the Court held that the trial court should conduct a "limited collateral review" of the prior class action to determine whether it binds the absent class members now trying to bring suit. *Id.* at 660, 591 S.E.2d at 619-20. That review consists of reviewing the record in the prior class action to determine: "(1) whether there were safeguards in place to guarantee sufficient notice and adequate representation; and (2) whether such safeguards were, in fact, applied." *Id.* at 660, 591 S.E.2d at 619-20.

The Court has reviewed the record in the underlying class action and concludes that the class action court did not incorporate safeguards to provide sufficient notice because notice by publication was not provided by the court substantially outside of the geographic territory of South

Carolina.[1] The Court nonetheless recognizes that actual notice was provided to many class members and that notice of the class action was published by numerous media outlets outside of South Carolina and that some class members received sufficient notice by those means. Therefore, the Court now concludes that the notice plan directed by the class action court did not satisfy due process as to putative class members who (1) did not receive actual notice and (2) lived outside of the areas in which notice was published.

In addition, the Court concludes as to Plaintiff John Doe 193, who alleges that he lived in South Carolina but had a repressed memory at the time of class notice, that it would be inconsistent with due process to bind him to the class action settlement if he in fact had a repressed memory of sexual abuse at the time that notice was published. Therefore, if he can prove a repressed memory by a preponderance of the evidence, he will not be bound by the class action settlement. This Order does not address the merits of whether John Doe 193 in fact had a repressed memory as he has alleged.

At this time, the Court has not reviewed—or been asked to review—whether any specific plaintiff in any of the pending cases received sufficient notice of the class action. Counsel may make such arguments as they deem appropriate in light of the conclusions of law set forth herein.

WHEREFORE, based on the pleadings, evidence, discovery materials to date, arguments of counsel and applicable law, the Court has conducted a limited collateral review as set forth above. The Court further grants Plaintiffs' motion to alter and amend to the extent that the Court has corrected the caption to include all *Doe* cases assigned to the Court and to the extent that the Court has clarified the treatment of John Doe 193. The Court denies the Diocese Defendants'

[1] The Court recognizes that some areas bordering South Carolina—such as Augusta, Georgia—did receive notice by publication. Nothing in this order is intended to suggest that the notice provided in such areas was in any way inadequate.

motion to alter or amend.

AND IT IS SO ORDERED.

The Honorable J.C. Nicholson, Jr.
Ninth Judicial Circuit

May 3, 2017
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	Civil Action No.: 2013-CP-10-3733

FILED
2017 JUL -7 PM 3:25
JULIE J. ARMSTRONG
CLERK OF COURT
BY

John Doe 193,

v.

Plaintiff,

The Bishop of Charleston, a Corporation Sole, Robert Guglielmone, The Bishop of Charleston, in his official Capacity, Rev. Monsignor Martin Laughlin, former Administrator of the Diocese of Charleston, in his Official capacity; Robert J. Baker, former Bishop of Charleston, in his official capacity; Lawrence E. Richter, Jr., David K. Haller, and Richter and Haller, LLC,

Defendants.

ORDER GRANTING DIOCESE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
(does not end the entire case)

This matter came before the Court on a Motion for Summary Judgment filed by Defendants The Bishop of Charleston, a Corporation Sole, Robert Gugliemone, The Bishop of Charleston, in his official Capacity, Rev. Monsignor Martin Laughlin, former Administrator of the Diocese of Charleston, in his Official capacity; Robert J. Baker, former Bishop of Charleston, in his official capacity (the "Diocese Defendants") based upon the common law Doctrine of Charitable Immunity. Having considered the Diocese Defendants' Motion and Memorandum of Law and having heard oral arguments from all counsel on June 28, 2017, the Court finds that no genuine issues of material fact exist and that Defendants are entitled to judgment as a matter of law.

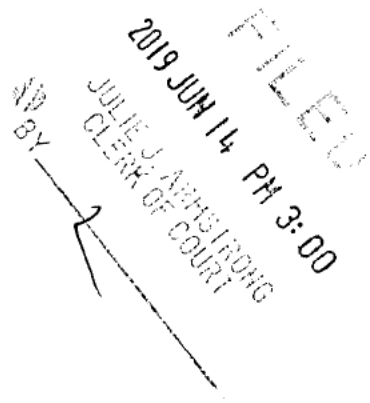
For that reason, the Diocese Defendants' Motion for Summary Judgment is hereby **GRANTED** and Plaintiffs' claims against the Diocese Defendants are **DISMISSED with**

PREJUDICE. All claims against Defendants Richter, Haller, and Richter & Haller, LLC remain pending, as does the claim for Conspiracy against all Defendants.

July 5, 2017
Charleston, SC

The Hon. J.C. Nicholson, Jr.
Circuit Court Judge

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CA No. 18-CP-10-3929
	)	
John Doe,	)	
	)	
Plaintiff,	)	
	)	**Scheduling Order**
vs.	)	
	)	
	)	
The Diocese of Charleston, a Corporation Sole, and The Bishop of the Diocese of Charleston, in his official capacity,	)	
	)	
Defendants.	)	
	)	



This case was filed on the 8th day of August, 2018, and is now before the Court concerning the completion of discovery and the scheduling of pretrial procedures and trial. Having considered the positions of the parties and their consent to a scheduling order, it is hereby ordered as follows:

1. All motions to amend the pleadings and to join additional parties shall be filed on or before August 31, 2019;

2. The Plaintiff and Defendants must identify and disclose any experts on or before September 15, 2019;

3. Discovery shall be completed on or before October 15, 2019. All discovery requests must be served in time for the responses thereto to be served by this date;

4. All dispositive motions shall be filed and served on or before October 30, 2019.

5. This case shall be mediated prior to trial.

6. A pre-trial hearing shall be set on or before November 15, 2019. The pre-trial hearing shall be attended by counsel who will participate in the trial of the case and who is vested with full authority to make agreements as to all matters pertaining to the trial. Counsel shall exchange pre-trial briefs ten (10) days before the pre-trial hearing, which briefs shall list any pending matters to be resolved pre-trial, a list of witnesses, and a good faith estimate of the time needed for trial. All pending matters including all motions will be resolved in this hearing.

7. Upon completion of the pre-trial hearing, the case will be set for a day certain trial to be had within the next ensuing forty-five (45) days.

8. This Order is subject to modification only by the Court for good cause shown.

9. In the event that the dates set herein are continued or otherwise modified, the remaining provisions of this Order shall remain in full force and effect.

10. **FAILURE ON THE PART OF COUNSEL OR AN UNREPRESENTED PARTY TO COMPLY WITH THE REQUIREMENTS OF THIS ORDER WILL SUBJECT THE LAWYER OR COUNSEL TO SANCTIONS UNDER THE RULES AND MAY RESULT IN DISMISSAL OR STIKING OF ALL THE PLEADINGS OF THE FAILING PARTY.**

AND IT IS SO ORDERED.

The Honorable Bentley D. Price

Charleston, South Carolina
June 14th, 2019

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2018-CP-10-03929

John Doe,

Plaintiff,

v.

The Diocese of Charleston, a Corporation Sole, and the Bishop of the Diocese of Charleston, in his official capacity,

Defendants.

ORDER DENYING DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND GRANTING PLAINTIFF'S MOTION TO COMPEL DISCOVERY

FILED
2019 JUL 24 AM 10:02
JULIE J. ARMSTRONG
CLERK OF COURT

DATE OF HEARING:	July 17, 2019
PRESIDING JUDGE:	Bentley D. Price
PLAINTIFF'S ATTORNEY:	Lawrence E. Richter, Jr. and Jennifer S. Ivey
DEFENDANTS' ATTORNEY:	Richard E. Dukes
COURT REPORTER:	Patricia Szoke

THIS MATTER came before the Court for a hearing on July 17, 2019 on Defendant, the Bishop of Charleston, a Corporation Sole's (hereinafter the "Corporation Sole")[1] Motion for Partial Summary Judgment as to the Bishop of the Diocese of Charleston, in his official capacity (hereinafter "the Bishop" and collectively "the Diocese") and Plaintiff's Motion to Compel Discovery.

Present at the hearing were Lawrence E. Richter, Jr. and Jennifer S. Ivey, Counsel for the Plaintiff, and Richard E. Dukes, Counsel for the Defendants. Also present in the courtroom were non-lawyer staff for both Plaintiff and Defendants' Counsel and Dr. Gregory B. Adams.

[1] In its pleadings, including the Motion for Partial Summary Judgment, the Corporation Sole claims that it is incorrectly identified by the Plaintiff as the "Diocese of Charleston, a Corporation Sole." Accordingly, from this point forward, the caption in this case is to be restyled as John Doe v. The Bishop of Charleston, a Corporation Sole, and the Bishop of the Diocese of Charleston, in his official capacity.

After a full review of the pleadings, the legal memoranda filed by the parties, arguments of counsel, and considering the controlling legal authorities, this Court makes the following findings of fact and conclusions of law:

THE BISHOP, IN HIS OFFICIAL CAPACITY AS A PARTY-DEFENDANT

1. The first matter heard by the Court was the Corporation Sole's Motion for Partial Summary Judgment. The Motion for Partial Summary Judgment sought dismissal of the Bishop as a defendant in this case on the basis that: (i) the Bishop is not a real party in interest, and is not a proper defendant; (ii) the Bishop does not have the capacity to sue; and (iii) the Corporation Sole is the only proper party and the only party with the capacity to be sued.

2. Plaintiff argued that the Bishop is a proper and necessary defendant. The Plaintiff presented numerous public documents from multiple lawsuits and records of real estate transactions bearing directly on this issue. Specifically, it was powerfully and persuasively shown that there is a long precedent of the Diocese being sued in the name of the Bishop, as styled in this Complaint (i.e., "the Bishop of Charleston, in his official capacity") in South Carolina and within those same cases the Bishop has answered, sought affirmative relief, entered settlement agreements, and in some instances, been afforded relief. The Plaintiff offered proof that the Bishop has conveyed property pursuant to legal instruments recorded in South Carolina and that the Bishop entered into the 2007 class action settlement in his official capacity, having been sued in that name, not objecting, and represented by counsel throughout that matter, and even showed that the very Counsel who made challenge that the Bishop as referenced in the caption is a non-entity and not capable of being sued actually represented and acted for the Bishop when sued using the exact same nomenclature. Further, it was shown that then general counsel for the Diocese brought a suit using the same name as used herein with the

Diocese/Bishop in the role of Plaintiff seeking a monetary recovery against various insurance carriers. The Plaintiff also chronicled the Bishop's actions in this case, which included numerous responses and acts before the issue of the Bishop not being a proper defendant was raised.

3. The Plaintiff further argued that not only is the Bishop a proper defendant, but that it is necessary for the Bishop to be named as a Defendant for the Plaintiff to obtain the relief he seeks. The Plaintiff presented to the Court S.C. Code § 33-56-180, which provides in pertinent part: "An action against the charitable organization pursuant to this section constitutes a complete bar to any recovery by the claimant, by reason of the same subject matter, against the employee of the charitable organization whose act or omission gave rise to the claim unless it is alleged and proved in the action that the employee acted in a reckless, willful, or grossly negligent manner, and the employee must be joined properly as a party defendant."

4. Based upon the long precedent of the Bishop using South Carolina courts to sue in the name of the Bishop, the Bishop's history of being sued in South Carolina, and other legal acts taken by the Bishop under this South Carolina's laws, I find that the Bishop has the capacity to be sued and is a proper party-defendant to this suit.

5. I further find that the Bishop is a necessary party for relief. Based upon the existence of statutory rules like S.C. Code § 33-56-180(A) and the facts of this case, the inclusion of the Bishop as a party-defendant may be critical to the viability of the Plaintiff's claims.

PLAINTIFF'S MOTION TO COMPEL DISCOVERY

6. The Court also considered the Plaintiff's Motion to Compel Discovery. The Plaintiff seeks to compel responses to: (1) its first set of written discovery, issued to the Bishop on September 5, 2018; and (2) its second set of written discovery, issued to both Diocese Defendants on May 13, 2019.

7. The First Set of Written Discovery: Plaintiff seeks to compel the Bishop's responses to the Plaintiff's First Set of Interrogatories, First Requests for Production, served upon the Bishop on September 5, 2018. Plaintiff also seeks to compel the Bishop's responses to Plaintiff's First Requests for Admission, served to the Bishop on December 4, 2018. The Bishop has objected to all these discovery requests upon him based upon the Corporation Sole's Motion for Partial Summary Judgment. The Diocese has further sought an order of protection as to the Bishop based upon the pendency of the Motion for Partial Summary Judgment.

8. The Second Set of Written Discovery: The Plaintiff also seeks to compel full and complete responses to the Plaintiff's Second Set of Interrogatories and Requests for Production that were issued to the Corporation Sole and the Bishop on May 13, 2019. The Bishop did not respond to this discovery, based upon the pendency of its Motion for a Protective Order, but the Corporation Sole did. However, the Plaintiff argues that the responses made by the Corporation Sole were packed full of dilatory and delay-intentioned objections, and were not valid or sufficient responses. The Diocese maintained its objections and represented to the Court that it is going to be necessary to go line-by-line through every discovery request and have this Court rule on each.

9. The Diocese represented that it cannot produce responses, including responses to the September 5, 2018 discovery issued to the Bishop, the May 13, 2019 discovery issued to both Defendants, and the June 6, 2019 document requests by subpoena *duces tecum* to the Chief Financial Officer of the Diocese, John Barker, and its Vicar General Rev. Msgr. Anthony Droze VG, in the Roe case, until a confidentiality order is entered by the Court. The Diocese has filed a Motion for Entry of a Confidentiality Order. Plaintiff's Counsel has expressed a need for the information the Diocese seeks to shield, and as such, I find it necessary to consider the parties'

positions attendant to a line-by-line review of the Plaintiff's discovery requests and the Diocese's objections. Given the Scheduling Order in this case, I will consider both of these matters on August 19, 2019.

10. The Plaintiff's Motion to Compel is hereby granted. Based upon my foregoing conclusions with respect to the status of the Bishop as a party-defendant, the Bishop is ordered to produce responses to the Plaintiff's September 5, 2018 and December 4, 2018 first set of written discovery as soon as possible, but in any event no later than thirty (30) days from the date of the motions hearing or August 16, 2019. The Diocese is ordered to review and supplement its responses to the May 13, 2019 second set of written discovery as soon as possible, but in any event no later than thirty (30) days from the date of the motions hearing or August 16, 2019. To the extent the Diocese claims privilege or confidentiality to certain documents or information, the Diocese is ordered to have such documents ready and available in advance of the August 19, 2019 hearing. If the Court finds the documents or information are in fact not privileged, the documents and information are to be produced at the August 19, 2019 hearing or within 24 hours. As required by the SCRCP, the Defendants are to compile and send Plaintiff's Counsel a proper privilege log. Additionally, upon entry into a confidentiality order or if the Court declines to enter a confidentiality order, the documents and information are to be turned over to the Plaintiff at the conclusion or the August 19, 2019 hearing, or within 24 hours thereafter.

11. This Court will consider the Plaintiff's request to impose costs, fees, and sanctions on the Diocese under Rule 37, SCRCP at the time of the August 19, 2019 hearing.

NOW, THEREFORE, IT IS HEREBY

ORDERED AND ADJUDGED that Defendants' for Partial Summary Judgment is **DENIED**. Plaintiff's Motion to Compel is **GRANTED** and Defendants' discovery-related motions are rendered moot.

Hon. Bentley D. Price
Circuit Court Judge

29 day of July, 2019
Charleston, South Carolina

ELECTRONICALLY FILED - 2020 Jan 09 9:50 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1003929

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	Civil Action No.: 2018-CP-10-3929

John Doe,

Plaintiff,

vs.

Bishop of Charleston, a Corporation Sole, and The Bishop of the Diocese of Charleston, in his official capacity,

Defendants.

ORDER

THIS MATTER came before the Court on separate motions for summary judgment on all causes of action: (1) Defendants' Motion for Summary Judgment based upon the common law Doctrine of Charitable Immunity; (2) Motion for Summary Judgment on the Statute of Limitations / lack of admissible evidence of repressed memory syndrome; and (3) Motion for Summary Judgment based upon the *res judicata* effect of a 2007 class action settlement. Having analyzed the briefing submitted by the Defendants (Plaintiff did not submit a brief in opposition) and the oral arguments heard on December 12, 2019, the Court orders that the Defendants' Motion for Summary Judgment based on Charitable Immunity is hereby **GRANTED**. Having reached this conclusion, the Court does not rule on the other two dispositive motions before it.

UNDISPUTED FACTS

Plaintiff John Doe alleges he was sexually abused by two teachers at Sacred Heart School, Chris Hartnett and Hal Brooks, during the school year he was in 7th grade – 1970 – 1971. Sacred Heart School is listed in the *Official Catholic Directory* as part of the Roman

ELECTRONICALLY FILED - 2020 Jan 09 9:50 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1003929

Catholic Diocese of Charleston.[1] The record reflects that Hal Brooks taught at Sacred Heart for the Fall semester of 1970 only.[2] Brooks denies engaging in any sexual abuse of Plaintiff Doe.

The Bishop of Charleston, a Corporation Sole, (referred to alternately as "the Diocese") is a charitable entity, and has been since Bishop of Charleston, a Corporation Sole was created by the General Assembly in 1880.[3] Since 1946, the federal government has recognized the United States Conference of Catholic Bishops as having a group designation as a charitable organization and has determined that all agencies and instrumentalities, and the educational, charitable, and religious institutions listed in the *Official Catholic Directory* qualify for charitable status. The record contains the I.R.S. determination from 1970 establishing the charitable status of both the Diocese and Sacred Heart School. Additionally, the Diocese submitted the affidavit of John Barker, Chief Financial Officer of the Diocese, attesting that the Corporation Sole, from its inception until the present, has been a charitable entity.

STANDARD FOR SUMMARY JUDGMENT

Rule 56 of the South Carolina Rules of Civil Procedure provides that a party may move, with or without supporting affidavits, for summary judgment in his favor as to all or part of a claim.[4] The trial court must grant the motion "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a

[1] The Diocese of Charleston's *Official Catholic Directory* listing for 1970 – 1971 is in the record before this Court.
[2] *See Affidavit of Harold Brooks*.
[3] *See* Affidavit of John Barker and Act of the General Assembly, December 13, 1880.
[4] Rule 56(a), SCRCP.

judgment as a matter of law."[5] In situations where the plaintiff bears the burden of proof, a defendant may satisfy its initial burden by "showing"--that is, pointing out to the [trial] court--that there is an absence of evidence to support the plaintiff's case.[6] Once the defendant has carried its initial burden, plaintiff must come forward with admissible evidence to show that there is a genuine issue of fact remaining for trial.[7] The plaintiff must "do more than show that there is some metaphysical doubt as to the material facts," and must show that there is a genuine issue for trial.[8] The plaintiff may not rest upon the mere allegations of his pleadings.[9]

1. There is no genuine issue of material fact that the Diocese of Charleston is, and was in 1970, a charitable entity.

It is clear from the record before this Court that the Roman Catholic Diocese of Charleston was and remains a charity. This includes Sacred Heart School, which is listed in the 1970 *Official Catholic Directory*. All of the officers, directors, employees, and agents of the Diocese or Sacred Heart would, therefore, have been personnel of a charitable organization. All of the school's activities relevant to this case were within the scope of the school's role as a charitable entity. There is no evidence in the record that the injuries in this case arise from any for-profit activities on the part of the Diocese or Sacred Heart School. Likewise, there is no evidence in the record establishing that the Diocese *is not* a charitable entity.[10]

---

[5] *Id.* Rule 56(c).
[6] *Id.* (alteration in original) (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 325, 91 L. Ed. 2d 265, 106 S. Ct. 2548 (1986)).
[7] Baughman, 306 S.C. at 115, 410 S.E.2d at 545.
[8] *Id.*
[9] *Id.*
[10] It is worthy of note that 26 U.S.C. § 7611 contains specific restrictions on efforts to inquire into a church's tax exempt charitable status – that inquiry may only be commenced by the Secretary of the Treasury or another appropriate high-level Treasury official; the inquiry must

ELECTRONICALLY FILED - 2020 Jan 09 9:50 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1003929

ELECTRONICALLY FILED - 2020 Jan 09 9:50 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1003929

Further, while not determinative of this case, several judges in this Circuit have recognized the Diocese's charitable status and have granted summary judgment based upon common law charitable immunity for claims arising before 1981. Notably, Judge Deadra Jefferson granted summary judgment to the Diocese in *Doe v. The Diocese of Charleston*, Civil Action No. 02-CP-10-0770, in which she held that Sacred Heart School and the Diocese were charitable entities and were immune from suit arising from allegations of sexual abuse that occurred in 1960. Likewise, Judge J.C. Nicholson granted the Diocese's summary judgment motions in several cases in 2017. Judge Jefferson's Order is part of the record before this Court, as is one of Judge Nicholson's Orders from 2017.

2. The Doctrine of Charitable Immunity.

For nearly all of the 20th Century, the law in South Carolina was that charities were immune from suit in tort. The Doctrine of Charitable Immunity was espoused in South Carolina in *Linder v. Columbia Hospital of Richmond County*, in which the Supreme Court held "a charitable corporation is not liable [for] injuries resulting from the negligent or tortious acts of a servant, in the course of his employment [if] such corporation has exercised due care in his selection."[11] In *Vermillion v. Williams College of Due West*, the Supreme Court went further:

> [T]he exemption of public charities from liability and actions for damages for tort rests not upon the relation of the injured party to the charity, but upon grounds of public policy, which forbids the crippling or destruction of charities which are

---

begin within 3 years; and suit over the charitable status may only be brought by the government in the United States District Court for the District of Columbia.

[11] *Linder*, 98 S.C. 25, 81 S.E. 512, 512-14 (1914). Notably, the record contains the Affidavit of Dr. Monica Applewhite, the Diocese's expert witness, affirming that the Diocese complied with the standard of care in hiring the two teachers at the time they were hired in around 1970. She detailed the fact that the teachers were very recent college graduates who had no report of predilections toward sexually abusing minors prior to their being hired. Dr. Applewhite also discussed the very limited means available to a school to check the backgrounds of applicants at that time.

ELECTRONICALLY FILED - 2020 Jan 09 9:50 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1003929

> established for the benefit of the whole public to compensate one or more individual members of the public for injuries inflicted by the negligence of the corporation itself or of its superior officers, or agents, or of its servants or employees. The principle is that in a organized society, the rights of the individual must, in some instances, be subordinated to the public good . . . that being so, what difference can it make whether the tort is out of the corporation itself or its superior officers and agents or that of its servants, liability for the one would effectually embarrass or sweep away the charity as the other. It would therefore be illogical to admit liability for one and deny it for the other. [12]

The *Vermillion* Court held that charitable institutions were exempt from liability for the torts of their agents whether they were selected with or without due care.[13]

In 1959, the South Carolina Supreme Court reaffirmed the defense of charitable immunity in *Eiserhardt v. State Agricultural and Mechanical Society of South Carolina*. As before, the Supreme Court held that charitable entities were immune from suit in tort for activities within the scope of the charity's charitable mission.[14] As Judge Jefferson held, Catholic Schools are very much part of the charitable mission of the Roman Catholic Church.

In 1966, the Supreme Court again specifically reiterated the doctrine of absolute charitable immunity and applied it to a tort claim against the Diocese and declared the Church to be a true charity entitled to immunity from suit altogether.[15] The Court further held that a charity's immunity from suit is unaffected by the fact that the charity procured liability insurance that would cover the loss.[16] Rather, the Diocese was immune from suit in tort. The *Decker* Court affirmed the dismissal of a negligence suit on the Diocese's demurrer.

---

[12] *Vermillion v. Williams College of Due West*, 104 S.C. 197, 88 S.E. 649, 650 (1916); *Lindler v. Columbia Hospital*, 81 S.C. 25, 81 S.E. 512 (1914).
[13] *Vermillion*, at *Id.*
[14] *Eiserhardt v. State Agricultural and Mechanical Society of South Carolina*, 235 S.C. 305, 111 S.E.2d 568 (1959) and again in *Decker v. Bishop of Charleston*, 247 S.C. 317, 147 S.E.2d 264, 268 (1966).
[15] *Decker v. Bishop of Charleston*, at 268.
[16] *Id.* at 269.

ELECTRONICALLY FILED - 2020 Jan 09 9:50 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1003929

In 1981, the South Carolina Supreme Court abrogated the doctrine of charitable immunity.[17] However, the Court only did away with charitable immunity going forward – the abrogation could not be applied retrospectively.[18] Thus, a Court must apply charitable immunity as it existed at the time of the allegedly tortious activity.[19]

As late as 1979, in *Douglass v. Florence Gen'l. Hosp.*, the Supreme Court reaffirmed the doctrine of charitable immunity for torts that occurred while the doctrine remained effective.[20] The plaintiff in that case filed suit prior to the Supreme Court's decision in *Brown v. Anderson Cty. Hosp.*, although the case was pending when the *Brown* decision was issued. The trial court dismissed plaintiff's complaint based upon charitable immunity and determined that *Brown* applied only prospectively and could not give life to plaintiff's complaint. The Supreme Court affirmed that decision because *Brown* created liability where, before, there had been none. Florence General Hospital was immune from suit for its employees' negligence, even if heedless or reckless.[21]

There is no question based upon the record before this Court that the Doctrine of Charitable Immunity was in full force and effect during the entire time Hartnett and Brooks are alleged to have abused the Plaintiff. The events that gave rise to the injuries sustained by the Plaintiff occurred at the time the Doctrine of Charitable Immunity was the law in South

---

[17] *Fitzer v. Greater Greenville South Carolina YMCA*, 277 S.C. 1, 282 S.E.2d 230 (1981).
[18] *See Hupman v. Erskine College*, 281 S.C. 43, 44, 314 S.E.2d 314, 315 (1984), *Hasell v. Medical Society of S.C.* 288 S.C. 318, 342 S.E. 594, 595 (1986) *see also Brown v. Anderson Cty. Hosp.*, 234 S.E.2d 873 (S.C. 1977) (modifying charitable immunity as to hospitals only to render them liable for heedless and reckless acts and prospectively only).
[19] *See Laughridge v. Parkinson*, 403 S.E.2d 120, 120 (1991) (holding that charitable immunity law in existence at the time of tortious conduct in 1979 must be applied).
[20] *Douglass v. Florence Gen'l. Hosp.*, 259 S.E.2d 117 (S.C. 1979),
[21] *Douglass*, 259 S.E.2d at 118.

ELECTRONICALLY FILED - 2020 Jan 09 9:50 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1003929

Carolina. It is an absolute defense to a claim which arose from the actions complained of by the Plaintiff against the Defendants.

3. Application of the Doctrine of Charitable Immunity.

Applying these principles, it is clear that Plaintiff's claims are barred by the Doctrine of Charitable Immunity. The record before the Court contains no evidence establishing that there is any factual issue that the Bishop of Charleston, a Corporation Sole is a charitable institution, and the now-shuttered Sacred Heart School, its officers, agents, and employees are all part of a charitable organization. There can be no dispute that the Corporation Sole and Sacred Heart School were "charities" under the law of South Carolina. The events in question happened some eleven years before the Supreme Court abrogated common law charitable immunity in 1981. Accordingly, at the time of the events in question, it was the law of this State that charities were immune from all tort liability.

The Diocese is, and has been, a charity entitled to common law charitable immunity as the law established at the time of any actions alleged in this case. It is without question that both South Carolina and federal authorities have long-determined the Diocese to be a charitable institution.[22] South Carolina law does not permit the courts of this state to substitute its judgment for the judgment of an agency.[23] Unlike the legislatively created limitation on liability

---

[22] In addition to the affidavit of John Barker establishing the Catholic Church's charitable status, the Court can take judicial notice of the *fact* that, since 1946, the federal government has recognized the United States Conference of Catholic Bishops as having a group designation as a charitable organization and has determined that all agencies and instrumentalities, and the educational, charitable, and religious institutions listed in the *Official Catholic Directory* qualify for charitable status. *See Internal Revenue Service Group Determination Letter*, attached as ***Exhibit C*** and ***Exhibit D***, Official Catholic Directory, 1971.

[23] *See e.g.* S.C. Code Ann. § 1-23-380(6).

ELECTRONICALLY FILED - 2020 Jan 09 9:50 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1003929

for charities, immunity from suit is *not* an issue to be applied after a jury verdict. Rather, pre-1981 charitable immunity shields charities from suit altogether.

It is important to note that charitable organizations are recognized as such by the federal government – whose rules, regulations, and enforcement govern whether an organization can be considered a charity and exempt for state and federal taxes. When the General Assembly codified the common law doctrine of charitable immunity, it specifically premised charitable status on the Internal Revenue Service's determination.[24] That is a determination of the federal government that the state is required to honor by the Supremacy Clause of the Constitution. In addition, the federal code contains a specific provision regarding the procedure to review and revoke a charity's status – that can only be done by the Department of the Treasury and for very specific reasons.[25] Federal law affords no private right of action to challenge a church's charitable status.

CONCLUSION

As the Courts of this State have consistently and repeatedly held, Plaintiff's claims are barred by the common law Doctrine of Charitable Immunity. The Corporation Sole, and all its ministries, schools, and affiliates listed in the *Official Catholic Directory* are in fact charities and no amount of pleading or argument can change that. Nor can it change the Internal Revenue Service's determination – not just for the Diocese of Charleston, but for the entirety of the American church – that the Church is a charitable institution. There is no genuine issue of

[24] *See* S.C. Code Ann. § 33-56-20.

[25] 26 U.S.C. § 7611 contains specific restrictions on efforts to inquire into a church's tax exempt charitable status – that inquiry may only be commenced by the Secretary of the Treasury or another appropriate high-level Treasury official; the inquiry must begin within 3 years; and suit over the charitable status may only be brought by the government in the United States District Court for the District of Columbia.

material fact regarding the Church's status as a charitable organization and there is no admissible evidence to the contrary. The Court must apply charitable immunity as it existed in 1971, and, on that basis, Defendants' Motion for Summary Judgment is hereby **GRANTED** and all claims and causes of action of Plaintiff in this case are hereby **DISMISSED WITH PREJUDICE**.

Based upon the foregoing, the Court need not reach the separate motions regarding the statute of limitations or *res judicata*.

IT IS SO ORDERED.

Hon. Bentley D. Price
Circuit Court Judge

8th day of January, 2019
Charleston, South Carolina

ELECTRONICALLY FILED - 2020 Jan 09 9:50 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1003929

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP1003929

John Doe
PLAINTIFF(S)

Diocese Of Charleston The et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** *(CHECK APPLICABLE BOX)*: ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

The Motion to Reconsider the granting of Summary Judgment is DENIED.

ORDER INFORMATION

This order ☑ ends ☐ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 05/08/2020 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2020 May 11 11:31 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1003929

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ELECTRONICALLY FILED - 2020 May 11 11:31 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1003929

ELECTRONICALLY FILED - 2020 May 11 11:31 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1003929

Charleston Common Pleas

Case Caption: John Doe VS Diocese Of Charleston The

Case Number: 2018CP1003929

Type: Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON John Doe, Plaintiff, vs. The Diocese of Charleston, a Corporation Sole, and The Bishop of the Diocese of Charleston, in his official capacity, Defendants.	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CA No. 18-CP-10-3929 AMENDED COMPLAINT **Jury Trial Requested** Outrage, Negligence/Gross Negligence, Breach of Fiduciary Duty, Intentional Infliction of Emotional Distress, Fraudulent Concealment, Civil Conspiracy, Negligent Retention or Supervision, Breach of Contract, Breach of Contract Accompanied by a Fraudulent Act

FILED
2018 AUG 29 PM 3:30
JULIE J. ARMSTRONG
CLERK OF COURT
BY

TO: THE DEFENDANTS ABOVE NAMED

Plaintiff, complaining of the Defendants, alleges and says:

PARTIES AND JURISDICTION

1. John Doe is a pseudonym for a former Charleston County resident who is still a resident of South Carolina and who, while living in the Charleston area, attended schools and churches operated by the Diocese of Charleston and attended and participated in mass, confession, religious training, and various religious and non-religious functions sponsored and operated by the Diocese of Charleston. He is identified in this complaint by a pseudonym because this is a case about childhood sexual abuse upon the Plaintiff, and his identity has been withheld due to the sensitivity and private nature of these allegations. His identity has been disclosed to the Defendants.

2. Defendant The Diocese of Charleston, a Corporation Sole (hereinafter referred to as

"Diocese"), and/or its predecessors, is and was at all times material hereto a corporation organized under the laws of the State of South Carolina, having its principal place of business at 117 Broad Street, Charleston, South Carolina (now located in the same city and county at 901 Orange Grove Road). Diocese is and was the corporate entity through which the religious and other affairs of the Roman Catholic Church in South Carolina are and were conducted. The Diocese and its agents and employees were and continue to be responsible for the selection and assignment of clergy, supervision of clergy and its lay employee activities, the exercise of authority over the various members of its denomination, and the maintenance of the well-being of its members, spiritual and otherwise.

3. The Bishop of the Diocese of Charleston (hereinafter referred to as "Bishop") is sued in his official capacity. The Bishop is ultimately responsible for the priests and others employed by the Diocese. Bishop is the successor in interest to his predecessors in his official position.

FACTUAL SUMMARY

4. Defendant Diocese operates churches and parochial schools in Charleston County and throughout South Carolina offering primary, elementary, and secondary educations. It holds certain assets including schools, rectories, churches, and other properties real and personal in Charleston County and throughout South Carolina and possibly elsewhere. One such property is Sacred Heart Catholic Church and the adjacent school formerly known as Sacred Heart Catholic School, and now known as Charleston Catholic School (hereinafter "Charleston Catholic"), all located in the City of Charleston, South Carolina.

5. Diocese, as part of its general mission, encouraged its parishioners, such as the Plaintiff, to

enter, use, and attend its many activities on its premises and otherwise, including school, worship, social, and religious based functions, and induced Plaintiff and other minor children to participate and/or facilitate illegal gambling operations including bingo, raffle, drawings, door prizes, lotteries, and other games of chance. As such, the Diocese undertook a duty to ensure its premises, functions, and activities were lawful and safe from all dangers which were reasonably foreseeable. In particular, the Defendants and predecessor bishops owed minors, including the then minor Plaintiff, a greater degree of care because of their lack of capacity to appreciate risks and avoid danger. Diocese and Bishop and predecessor bishops represented to parishioners, including the Plaintiff and/or his parents, that its facilities and functions were places of safety and that they would protect parishioners and participants, including the Plaintiff, from harm.

6. At all times relevant, the Diocese owned and operated schools, including Charleston Catholic School, operated as a commercial enterprise to make a profit. By way of example, Charleston Catholic School requires anyone who wants to attend the school to pay a sum of money for the services provided by the school in the form of tuition. Multiple tuition rates are utilized, including one for parishioners of parishes on the Charleston peninsula, a higher rate for parishioners of non-peninsula Catholic parishes, and another rate for Non-Catholic students. Upon information and belief, the Diocese did and does purchase books, supplies, clothing, and other items, marks up the price, and sells the items for a profit. Such an exchange of money goods and services is a business venture.

7. At all times material to the incidents alleged in this complaint, Chris Hartnett ("Hartnett")

and Hal Brooks ("Brooks") were teachers assigned to Charleston Catholic School. Hartnett and Brooks were assigned to Charleston Catholic School by the Diocese and Bishop and, at all times, under the direct supervision, employ and control of the Diocese and its then Bishop.

8. Hartnett and Brooks were each employed by Diocese and Bishop as a teacher, youth leader, advisor, counselor, and in a position of authority over Plaintiff at Sacred Heart Catholic Church and School. In their roles, Hartnett and Brooks came to have access to and to know the most personal and confidential information of parishioners and students including the Plaintiff. Diocese and Bishop encouraged their parishioners to share and trust Hartnett and Brooks as teachers, youth leaders, advisors, counselors, and in a position of authority over Plaintiff. Among other things, Diocese and Bishop encouraged Plaintiff and other parishioners to share with and trust Hartnett and Brooks and other of its employees with deeply personal information and with their personal safety, education, development, and salvation. As part of their employment, Defendants reached out to parishioners of the Diocese and particularly young students and assisted them and cultivated relationships of trust and confidence with them.

9. Plaintiff, a member of a large, prominent and active Catholic family, and a devout member of the Roman Catholic Church, attended and actively participated in activities designed for young boys at Sacred Heart church and school. Among other things, Plaintiff was an altar boy and participated in the youth programs and/or school with which Hartnett and Brooks worked.

10. Plaintiff came to know Hartnett and Brooks through these various church and school related programs and activities. Based on this relationship, as cultivated by Sacred Heart Church and School and encouraged by the Diocese and the Bishop, Plaintiff admired, trusted, revered and respected Hartnett and Brooks as holy men, authority figures, advisors, role models, counselors and teachers. In school and church, he was taught and instructed to do so. As a result, Plaintiff entrusted to Hartnett and Brooks his personal safety and shared with Hartnett and Brooks his most confidential information, and he took direction from them.

11. Because of Plaintiff's position as a minor, together with Hartnett and Brooks' positions in the Roman Catholic Church as teachers, youth leaders, holy men, advisors, counselors, and authority figures, Hartnett and Brooks were able to have control and influence over Plaintiff. By their words and actions, Hartnett and Brooks represented to Plaintiff that their relationship was one in which Hartnett and Brooks were to provide instruction, supervision, counseling, comfort and advice to Plaintiff, and to look out for Plaintiff's well-being and best interests. These representations were untrue and intended to deceive Plaintiff. Hartnett and Brooks used these representations and their various positions to gain Plaintiff's trust and confidence and to obtain control over him.

12. Approximately around the ages of 12 to 14 Plaintiff, then a minor child born in 1957, was sexually assaulted by Hartnett and Brooks. This abuse took place on various occasions at various locations.

13. These incidents occurred while Hartnett and Brooks were employees and youth leaders of Sacred Heart Catholic Church and School and the Diocese. These assaults upon Plaintiff

occurred on the premises of Sacred Heart Church and School complex, property owned and controlled by the Defendants, as well as other locations. For example, Hartnett and Brooks preyed on young boys, including the Plaintiff, in various church properties and elsewhere, such as beaches and other places in the state, for the purposes of molestation.

14. Based on the relationship of trust and confidence cultivated by Hartnett and Brooks and encouraged by Diocese and Bishop and agents and officials thereof, Plaintiff justifiably believed and relied on Hartnett and Brooks and gave Hartnett and Brooks his trust and confidence. By their words and actions, Hartnett and Brooks assured Plaintiff that their abusive conduct was legal and proper. Hartnett and Brooks and Defendants actively concealed the wrongfulness of their exploitation and misconduct involving children, Plaintiff included. As a result, and because Plaintiff was a minor child, plaintiff was unable to understand the wrongfulness and illegality of Hartnett and Brooks' sexual abuse of him and the related injury. Hartnett and Brooks also threatened Plaintiff with recrimination if Plaintiff revealed Hartnett and Brooks' actions and told Plaintiff nobody would believe him if he reported the conduct.

15. Plaintiff is informed and believes that the Defendants knew, or should have known, that Hartnett and Brooks had deviant sexual propensities. Furthermore, the Defendants knew or should have known that Hartnett and Brooks were molesting minor boys on the premises of the Diocese property, and at other locations as well. Nevertheless, the Defendants failed to warn the Plaintiff and other minor children similarly situated, or their parents, of the danger posed by Hartnett and Brooks, failed to protect the Plaintiff on Diocese premises and

activities, and failed in the exercise of the many other duties it undertook. Moreover, it hid the conduct of Hartnett and Brooks and others. In fact, concealment of the conduct of the teachers and other Diocese employees was the official policy of the Diocese and the Catholic Church and was and is, like gambling operations conducted, violative of the laws of South Carolina.

16. Plaintiff has only learned within the past two years of the causal relationship between his injuries and the sexual abuse as well as the Defendants' knowledge of Hartnett and Brooks history, proclivities, and actions, and has similarly only then learned of Defendants' concealment and effort to maintain secrecy concerning same. Other litigation, news reports, and other occurrences have led to Plaintiff now becoming so aware, and Plaintiff could not have so known or learned previously. His memory was repressed.

17. For many years up to and including the present, Defendant Diocese and the Catholic Church itself had knowledge that employees, agents, and officials of the Diocese were sexually abusing children. Defendants took part in a cover up of such actionable and criminal activity, which action was itself illegal.

18. In 1962, the Holy See, (the Vatican) which dictates policy and procedure for the entire church and the Bishops, issued an INSTRUCTION entitled "On the Manner of Proceeding in Cases of Solicitation." (Attached as Exhibit A).

19. The INSTRUCTION identifies as the worst crime any obscene, external act, gravely sinful, perpetrated in any way by a priest with youths of either sex or sex with brute animals (bestiality). (Ex. A) The Vatican INSTRUCTION encourages Bishops and church leaders to

avoid "scandal." (Ex. A) Yet, the INSTRUCTION required the victim to keep his or her victimization secret.

20. This INSTRUCTION was intended to reach all patriarchs, archbishops, superiors and diocesan ordinaries (bishops). At the top of this INSTRUCTION, it states that the document is "to be diligently stored in the secret archives of the Curia as strictly confidential. Nor is it to be published nor added to with any commentaries."

21. The INSTRUCTION contains explicit instructions as to how bishops and church leaders are to proceed in cases where victims are enticed to engage in sexual conduct. The INSTRUCTION specifically mentions that these cases encompass situations where children are sexually abused. (Ex. A) It mentions that church officials could transfer offending priests to different assignments. (Ex. A)

22. Pursuant to the dictates of the INSTRUCTION, at all points in the process of handling sex abuse cases, the matters are to be kept secret and concealed. In particular, if church leaders find, in their own investigation, that the allegations lack foundation, they are mandated to destroy all of the documents. If, however, the allegations are found to have foundation the bishop and church leaders were required to keep the pertinent documents locked in secret archives. (Ex. A)

23. Often, rather than compensating abuse victims and ridding themselves of abusing priests and/or agents, the Diocese would fund mental health or medical treatment of the abusing priests and/or agents. Other times, the Diocese would simply pay the abusing priest to take a sabbatical or to otherwise go on "leave." The Diocese, pursuant to the mandate from the

Holy See, would keep secret and conceal the truth of the matter from parishioners, including the Plaintiff, the general public and law enforcement officials. The funds used for such payments were funds acquired by the Diocese, at least in part, from the commercial operation of its schools and its illegal gambling operations.

24. When payments were made to victims of sexual abuse, these payments were also, pursuant to mandates from the Holy See, kept secret and concealed from parishioners, including the Plaintiff, the general public and law enforcement officials. In some cases, the Diocese first laundered the payments by having an unrelated priest or parish send money to a parish with an abuse victim, without proper disclosure, to pay the victim of sexual abuse by one of its priests and/or agents. The funds used for such payments were funds acquired by the Diocese, at least in part, from the commercial operation of its schools and its illegal gambling operations and contributions.

25. Under Catholic doctrine, "good" Catholics are required to follow the mandates of the Holy See such as the dictates of the INSTRUCTION, or face a potential afterlife of damnation. Diocese, Bishop and their agents and employees, including Chris Hartnett and Hal Brooks, using various relationships of priest, youth leader, advisor, counselor, and a position of authority over Plaintiff, which they cultivated, reinforced this belief.

26. As a result, Plaintiff, a good Catholic, was taught that he must obey the rules, teachings, doctrines, and instructions of the Roman Catholic church and its agents and employees and was, therefore, instructed and led to believe, by the Diocese, Bishop and their agents and employees such as and including Hartnett and Brooks, that he must conceal that Hartnett and

Brooks had committed upon him a horrible sin, or risk an afterlife of damnation.

27. As a result of the actions and/or inactions of the Defendants, and through the operation of the commercial and/or illegal gambling operations described herein, Hartnett and Brooks were allowed, and did, prey upon Plaintiff by engaging in the defined "worst sin." Plaintiff has suffered from Hartnett's and Brooks' conduct and the conduct of the Defendants, by, among other things, years of psychological damage with physical manifestations.

28. Plaintiff's severe psychological damage, the equivalent of a misshapen mind and physical manifestations associated therewith, were proximately caused by the actions and/or inactions of the Defendants; and said damage prevented Plaintiff from recognizing, understanding, and asserting his legal claims relative to the childhood sexual abuse he suffered at the hands of Hartnett and Brooks and the other Defendants.

29. As alleged herein, the Diocese, pursuant to the mandate from the Holy See, would keep secret and conceal the truth regarding its knowledge of the perpetrators of child sexual abuse as well as its illegal acquisition and use of funds from commercial and/or illegal gambling operations to fund the concealment of its knowledge and operations from parishioners, including the Plaintiff, the general public and law enforcement officials. Such conduct prevented Plaintiff from reasonable discovery of the existence of a cause of action and has caused and will cause Plaintiff and others irreparable harm to which there is an absence of an adequate remedy at law.

FOR A FIRST CAUSE OF ACTION:
(OUTRAGE/INTENTIONAL INFLICTION OF EMOTION DISTRESS)

30. The allegations of paragraphs 1 through 28 above are incorporated into this cause of action as

if fully stated herein.

31. The Defendants intentionally inflicted severe emotional distress on Plaintiff or were certain or substantially certain that such distress would result from their conduct. Defendants conduct as alleged above was so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community or society. The actions of Defendants caused Plaintiff emotional distress and the emotional distress suffered was severe such that no reasonable person could be expected to endure it, and it had physical manifestations of pain, loss of sleep, nervousness, stress, and other manifestations.

32. As a direct and proximate result of the outrageous conduct of the Defendants, Plaintiff has been injured and suffered damages. Plaintiff is entitled to judgment against the Defendants for actual damages to be determined by the trier of fact, and punitive damage in a sufficient amount to deter such similar conduct by these Defendants or others. Plaintiff further requests the court enjoin these Defendants from conducting, or having minor children participate and/or facilitate, their illegal gambling operations including bingo, raffle, drawings, door prizes, lotteries, and other games of chance, which Defendants use to fund the cover-up of child sexual abuse by its priests, employees, and agents as alleged herein, and enjoin these Defendants from failing and/or refusing to report allegations of child sexual abuse to the proper legal authorities.

FOR A SECOND CAUSE OF ACTION:
(NEGLIGENCE/GROSS NEGLIGENCE/RECKLESSNESS)

33. The allegations of paragraphs 1 through 28 above are incorporated into this cause of action as

if fully stated herein.

34. As alleged above, Plaintiff was sexually assaulted on multiple occasions around the ages of 12 to 14 by Chris Hartnett and Hal Brooks who were agents of the Defendants, teachers, youth leaders, advisors, supervisors, counselors, and in positions of authority over Plaintiff. Hartnett and Brooks duties to the Plaintiff arose from their employment with Diocese and Bishop.

35. As a result of the relationships between Plaintiff and Hartnett and Brooks, Plaintiff and the Defendants, and/or Hartnett and Brooks and the Defendants, Defendants owed duties of due care toward the Plaintiff. Defendants breached those duties and were negligent, grossly negligent, careless, reckless, willful, or wanton in relation to the Plaintiff, in that they failed to:

a. Monitor Hartnett and Brooks' behavior while on premises of the Defendants including, but not limited to, Sacred Heart Church and School, and/or while engaged in activities associated with school, church, youth development and pleasure activities wherever same took place;

b. Properly investigate Hartnett and Brooks backgrounds through a proper background and thorough check, to determine their proclivities toward deviant sexual conduct perpetrated upon individuals such as the Plaintiff, and to oversee them and their activities with children of the school/diocese;

c. Address Hartnett and Brooks' past conduct either at the time they first became involved with the Defendants or subsequently;

d. Ignoring Hartnett and Brooks' known predilections toward sexually assaulting young boys, when it was known or the Defendants should have known of those predilections;

e. Allowing Hartnett and Brooks to work with young boys, including the Plaintiff, alone and unsupervised;

f. Maintain and keep their property and premises where Hartnett and Brooks worked in a reasonably safe condition;

g. Shield the Plaintiff from dangerous conditions, situations and individuals including child predators such as Hartnett and Brooks

h. Warn the Plaintiff and/or his family of Hartnett and Brooks deviant sexual proclivities;

i. Fulfill their duties *in loco parentis* to the Plaintiff;

j. Educate the Plaintiff and/or his family about the dangers of sexual abuse of minors in youth programs and activities such as those conducted by the Defendants through Hartnett and Brooks;

k. Warn them of teachers known to have a sexual interest in children and known to act inappropriately on that interest;

l. Supervise Hartnett and Brooks in a manner so as to eliminate chances to sexually abuse children;

m. Not allow teachers in schools of the Diocese to travel alone with child students;

n. Take steps to report to civil and criminal authorities a priest, agent, and/or employee

of the Church/School/Diocese who sexually abused children, so those who consider employing him for jobs having contact with children can make an informed decision about whether or not to do so, or the conditions on which to employ him, and so that parents and children can protect against his predatory actions, and because the law of South Carolina requires such reporting;

o. Notify parents of those children who have/had been exposed to Hartnett and Brooks and the now adult victims themselves;

p. Exercise due care for the safety and well-being of Plaintiff and others similarly situated.

36. As a direct and proximate result of the negligent, grossly negligent, reckless, careless, willful, and wanton behavior of the Defendants and/or their employees/agents, Plaintiff has been injured and suffered damages. Plaintiff is entitled to judgment against the Defendants for actual damages, and punitive damage in a sufficient amount to deter such similar conduct by these Defendants or others, all as determined by the trier of facts.

FOR A THIRD CAUSE OF ACTION:
(BREACH OF FIDUCIARY DUTY)

37. The allegations of paragraphs 1 through 28 above are incorporated into this cause of action as if fully stated herein.

38. By and through the relationships described herein, Defendants entered into a fiduciary relationship with the Plaintiff. Additionally, by accepting physical custody of the minor Plaintiff, as student at Sacred Heart School and a parishioner of Sacred Heart Catholic Church, Defendants assumed the duty to act in *loco parentis* with respect to the Plaintiff.

The Defendants undertook a duty to provide a safe environment for Plaintiff, as well as for all children at the schools of the Diocese, at its churches, and at its activities and all interactions by agents and/or employees of Defendants with children. A relationship of trust and confidence, and therefore a fiduciary relationship, was formed.

39. By entering into a fiduciary relationship with Plaintiff, Defendants were obligated to act only in the best interests of Plaintiff. This duty extended to Defendants' agents and employees, Hartnett and Brooks included.

40. Plaintiff reposed trust and confidence in Hartnett and Brooks, his teachers, advisors, counselors, and role models and in the Defendants. As a result of Hartnett and Brooks predatory acts described above and the Diocese and Bishop's failure to act properly on Hartnett and Brooks' conduct, the Defendants breached the duties owed to the Plaintiff.

41. As a proximate result of the negligent actions, inactions and breaches of fiduciary duties by the Defendants and through agents, Plaintiff was harmed and is entitled to actual, compensatory damages in an amount to be determined by the jury, and punitive damages in an amount sufficient to deter similar conduct by these Defendants and others.

FOR A FOURTH CAUSE OF ACTION:
(FRAUDULENT CONCEALMENT)

42. The allegations of paragraphs 1 through 28 above are incorporated into this cause of action as if fully stated herein.

43. Defendants knew or should have known of Hartnett and Brooks sexually deviant propensities with minors prior to the sexual molestation of Plaintiff. Plaintiff could not have known, nor did he reasonably have the opportunity to know, that the Defendants had such knowledge

about Hartnett and Brooks deviant and sexual propensities prior to the abuse perpetrated on him. Further, Plaintiff could not have discovered the truth through reasonable inquiry or inspections. By acts and conduct described herein, Defendants concealed material facts from Plaintiff, inducing Plaintiff and his family into a false belief that children were safe being around Hartnett and Brooks, a false belief that no other children were sexually abused by Hartnett and Brooks, and a false belief that the Defendants did not possess knowledge that Hartnett and Brooks engaged in predatory sexual practices and abused other children, among other things.

44. The Defendants' failure to report, as required by law, along with their active concealment of Hartnett and Brooks' above mentioned propensities, as mandated by the INSTRUCTION attached at Exhibit A, and as required by South Carolina law, constitutes fraudulent concealment of the information about Hartnett and Brooks from their potential prey. This fraudulent concealment lasted until the present.

45. As a direct and proximate result of the outrageous conduct of the Defendants, Plaintiff has been injured and suffered damages. Plaintiff is entitled to a judgment against the Defendants for actual damages to be determined by the trier of fact, and punitive damage in a sufficient amount to deter such similar conduct by these Defendants and others. Plaintiff further requests the court enjoin these Defendants from conducting, or having minor children participate and/or facilitate, their illegal gambling operations including bingo, raffle, drawings, door prizes, lotteries, and other games of chance, which Defendants use to fund the cover-up of child sexual abuse by its priests, employees, and agents as alleged herein, and

enjoin these Defendants from failing and/or refusing to report allegations of child sexual abuse to the proper legal authorities.

FOR A FIFTH CAUSE OF ACTION:
(CIVIL CONSPIRACY)

46. The allegations of paragraphs 1 through 28 above are incorporated into this cause of action as if fully stated herein.

47. Prior to the abuse of the Plaintiff, Plaintiff is informed and believes two or more individuals, including agents of the Defendants were aware of Hartnett and Brooks sexually deviant propensities with minors. The failure of these agents of the Defendants to report Hartnett and Brooks to the proper authorities, the active concealment of their knowledge about Hartnett's and Brooks' deviant activities, and their agreement to do nothing to stop, or at least report, the abusers' activities constitutes a conspiracy, or a conspiracy of silence. The purpose behind this conspiracy was to protect Defendants and Hartnett and Brooks and Defendants at the Plaintiff's expense, proximately resulting in injury to the Plaintiff. The conspiracy of silence constitutes a failure to protect minors who were the potential prey of Hartnett and Brooks and their sexually deviant propensities, this Plaintiff included.

48. As a direct and proximate result of the conspiratorial conduct of the Defendants, Plaintiff has been injured and suffered damages. Plaintiff is entitled to a judgment against the Defendants for actual damages to be determined by the trier of fact, and punitive damage in a sufficient amount to deter such similar conduct by these Defendants or others. Plaintiff further requests the court enjoin these Defendants from conducting, or having minor children participate and/or facilitate, their illegal gambling operations including bingo, raffle, drawings, door

prizes, lotteries, and other games of chance, which Defendants use to fund the cover-up of child sexual abuse by its priests, employees, and agents as alleged herein, and enjoin these Defendants from failing and/or refusing to report allegations of child sexual abuse to the proper legal authorities.

FOR A SIXTH CAUSE OF ACTION:
(NEGLIGENT RETENTION OR SUPERVISION)

49. The allegations of paragraphs 1 through 28 above are incorporated into this cause of action as if fully stated herein.

50. Hartnett and Brooks were hired by agents for the Defendants, or the Defendants themselves, prior to the abuse upon the Plaintiff.

51. The agents for the Defendants knew or should have known about Hartnett and Brooks sexually deviant propensities. Despite such knowledge, the agents for Defendants failed to take steps to protect the minors at Charleston Church and School, including the minor Plaintiff.

52. Despite having knowledge of Hartnett's and Brooks' sexually deviant propensities with minors, the Defendants directly or through agents continued to retain them as youth leaders, advisors, counselors, and teachers, without warning the parents of children, or the children at Sacred Heart Church and School, who were their potential prey. Several of these children, Plaintiff included, became Hartnett's and Brooks' actual prey.

53. Despite having knowledge of Hartnett's and Brooks' sexually deviant propensities with minor students, the agents of the Defendants did not properly supervise them. Consequently, they were able to continue to perpetrate sexually deviant attacks on minors.

54. Plaintiff was a minor child attending Sacred Heart Church and School, where Hartnett and Brooks were assigned. Therefore, if not for Hartnett and Brooks continued employment by Defendants, Plaintiff would not have been injured.

55. Plaintiff was one of those minor students who was injured because the agents of the Defendants failed to supervise Hartnett and Brooks even though they knew or should have known of their sexually deviant propensities with minors.

56. As a direct and proximate result of the Defendants' negligent conduct, Plaintiff sustained and continues to sustain injuries and damages described herein and therefore is entitled to receive actual, compensatory damages in an amount to be determined by a jury, and punitive damages in a sufficient amount to deter similar conduct by these Defendants or others.

FOR A SEVENTH CAUSE OF ACTION:
(BREACH OF CONTRACT)

57. The allegations of paragraphs 1 through 28 above are incorporated into this cause of action as if fully stated herein.

58. By and through the Plaintiff's attendance at Sacred Heart school in exchange for the payment of, among other things, tuition and fees, a legally binding contract was formed between Plaintiff and Defendants. As part of the contract Defendants agreed to keep Plaintiff in a safe environment and condition.

59. Implied in every contract is a covenant of good faith and fair dealing.

60. By and through the conduct described herein, Defendants breached the contract with the Plaintiff.

61. As a direct and proximate result of the Defendants' breach(es), Plaintiff sustained and

continues to sustain injuries and damages described herein and therefore is entitled to receive actual, compensatory damages in an amount to be determined by a jury against these Defendants.

FOR AN EIGHTH CAUSE OF ACTION:
(BREACH OF CONTRACT ACCOMPANIED BY A FRAUDULENT ACT)

62. The allegations of paragraphs 1 through 28 above are incorporated into this cause of action as if fully stated herein.

63. By and through the Plaintiff's attendance at Sacred Heart School in exchange for the payment of, among other things, tuition and fees, a legally binding contract was formed between Plaintiff and Defendants. As part of the contract Defendants agreed to keep Plaintiff in a safe environment and condition.

64. Implied in every contract is a covenant of good faith and fair dealing.

65. By and through the conduct described herein, and further by allowing Defendants' agents/employees to take minor children under their care and supervision away, on out of town travel and otherwise, including the Defendants' concealment of information and knowledge of Defendants' agents/employees conduct from the Plaintiff and others, Defendants breached the contract with the Plaintiff with fraudulent intent relating to the breach of the contract and not merely to its making, and with fraudulent acts accompanying the breach.

66. Moreover, the Diocese acted with fraudulent intent relating to the breach of the contract and not merely to its making, and with fraudulent acts accompanying the breach by actively concealing information regarding the commercial operation of its schools, its illegal

gambling activity, and its secret payments and/or reassignments of priests and/or other abusing employees or agents.

67. As a direct and proximate result of the Defendants' breach(es), Plaintiff sustained and continues to sustain injuries and damages described herein and therefore is entitled to receive actual, compensatory damages in an amount to be determined by a jury, and punitive damages in a sufficient amount to deter similar conduct by these Defendants or others. Plaintiff further requests the court enjoin these Defendants from conducting, or having minor children participate and/or facilitate, their illegal gambling operations including bingo, raffle, drawings, door prizes, lotteries, and other games of chance, which Defendants use to fund the cover-up of child sexual abuse by its priests, employees, and agents as alleged herein, and enjoin these Defendants from failing and/or refusing to report allegations of child sexual abuse to the proper legal authorities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests actual, compensatory and punitive damages against the Defendants in amounts to be determined by the finder of fact for the various causes of action set forth above, injunctive relief as requested herein, that the costs of this action be taxed against the Defendants, and such other and further relief as the Court shall deem just and proper.

Signature page to follow

Respectfully submitted,

THE RICHTER FIRM, LLC

By: _____
Lawrence E. Richter, Jr.
Aaron E. Edwards
622 Johnnie Dodds Blvd
Mt. Pleasant, SC 29464
(843) 849-6000

ATTORNEYS FOR PLAINTIFF

29th day of Aug, 2018
Mount Pleasant, South Carolina

FROM THE SUPREME AND HOLY CONGREGATION OF THE HOLY OFFICE

FOR ALL PATRIARCHS, ARCHBISHOPS, BISHOPS AND OTHER DIOCESAN ORDINARIES "EVEN OF THE ORIENTAL RITE"

INSTRUCTION

CONFIDENTIAL

ON THE MANNER OF PROCEEDING IN CASES OF SOLICITATION

The Vatican Press, 1962

++5++

INSTRUCTION

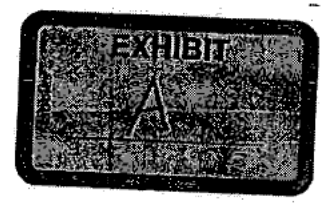
On the manner of proceeding in cases of the crime of solicitation

[This text is] to be diligently stored in the secret archives of the Curia as strictly confidential. Nor is it to be published nor added to with any commentaries.

PRELIMINARIES

1. The crime of solicitation takes place when a priest tempts a penitent, whoever that person is, either in the act of sacramental confession, whether before or immediately afterwards, whether on the occasion or the pretext of confession, whether even outside the times for confession in the confessional or [in a place] other than that [usually] designated for the hearing of confessions or [in a place] chosen for the simulated purpose of hearing a confession. [The object of this temptation] is to solicit or provoke [the penitent] toward impure and obscene matters, whether by words or signs or nods of the head, whether by touch or by writing whether then or after [the note has been read] or whether he has had with [that penitent] prohibited and improper speech or activity with reckless daring (Constitution Sacrum Poenitentiae, § 1).

2. [The right or duty of addressing] this unspeakable crime in the first instance pertains to the Ordinaries of the place in whose territory the accused has residence (V. below, numbers 30 and 31), and this not to mention through proper law but also from a special delegation of the Apostolic See; It is enjoined upon these aforementioned persons to the fullest extent possible, [in addition to their being] gravely encumbered by their own consciences, that, after the occurrence of cases of this type, that they, as s soon as possible, take care to introduce, discuss and terminate [these cases] with their proper tribunal. However, because of particular and serious reasons, according to the norm of Canon 247, § 2, these cases can be directly deferred to the Holy Congregation of the Holy Office or be so ordered. Yet [the right of] the accused respondents ++6++ remains intact in any instance of judgment to have recourse to the Holy Office. However, recourse thus interposed does not suspend, excluding the case of an appeal, the exercise of the jurisdiction of the judge who has already begun to accept the case; and he can therefore be able to pursue the judgment up to the definitive decision, unless it has been established that the Apostolic See has summoned the case to itself (Cfr. Canon 1569).



3. By the name of Ordinaries of the place are understood to be, each for his own territory, the residential bishop, abbot or prelate nullius, the administrator, any vicar or Prefect Apostolic, [and, in the absence of these aforementioned (dignitaries), those who succeed them in power in the meanwhile by the prescription of law or from approved constitutions (Canon 198, § 1); [This norm does not apply], however, to the vicar general, except from his [having been] specially delegated.

4. The Ordinary of the place in these cases is the judge even for regulars [religious], even though exempt. It is indeed strictly prohibited for their superiors to interpose themselves in cases pertaining to the Holy Office (Canon 501, § 2). However, having safeguarded the right of the Ordinary, there is nothing to prevent superiors themselves, if by chance they have discovered [one of their] subjects delinquent in the administration of the sacrament of Penance, from being able and having the obligation of being diligently watchful over those same persons, and, even having administered salutary penances, to admonish and correct, and, if the case demands it, to remove him from some ministry. They will also be able to transfer him to another [assignment], unless the Ordinary of the place has forbidden it because he has already accepted the denunciation and has begun the inquisition.

5. The Ordinary of the place can either supervise these cases himself or commit their acceptance to an ecclesiastic who is serious and of a mature age. But [they may not [commit such cases] on an habitual basis or for the entire group of these cases, but must delegate as often as needed (toties quoties) for cases taken singly and through writing, saving the prescription of Canon 1613, § 1.

6. Although, as a rule, a single judge, by reason of its secrecy, is prescribed for cases of this type, it is not forbidden, however, for the Ordinary in the more difficult cases to approve one or two assessors and counsellors, selected from the synodal judges (Canon 1575); or even to three judges, likewise chosen from the synodal judges, to hand over the case to the judges to be handled with the mandate of proceeding collegially according to the norm of Canon 1577.

7. The promoter of justice, the defender of the accused and the notary, priests who are fittingly serious, of mature age, of integrity, doctors in canon ~~law~~law or otherwise skilled [in canon law] and worthy because of their zeal for justice (Canon 1589); and not found to be at any disadvantage toward the accused, which Canon 1613 treats, are to be nominated in writing by the Ordinary. The promoter of justice, however (who can be different from the promoter of justice of the Curia) [can be appointed] for the entire series of cases. The defender of the accused, however, and the notary are to be appointed each time for each case (toties quoties). Nor is the accused prohibited from proposing a defender seen as favorable to him (Canon 1655), who, however, is to be a priest and approved by the Ordinary.

8. Sometimes (this refers to his own location), the intervention [of the promoter of justice] is required, and, in the case where he has not been cited, unless by chance even if not cited he is still present [at the process], the Acts must be considered [totally] invalid. But, if, however,

he has been legitimately cited and is not present at some [parts of the] Acts, the Acts indeed are valid, but afterwards [those Acts] will be totally subject to his examination so that he is able to comment upon all of them either in words or in writing and to propose what he has judged to be necessary or opportune (Canon 1587).

9. It is fitting that the notary, on the other hand, be present at all the Acts under pain of nullity and to note down with his own hand or at least to affix his signature [to the aforesaid Acts] (Canon 1585, § 1). Because of the special character of these procedures, however, it is necessary for the Ordinary to dispense from the presence of the notary, though because of a reasonable excuse in the acceptance, as will be noted in its own place, of the denunciations and also in the expenditure of the degrees of attention or care expected of a notary in a given situation, as they say, in pursuing and in examining the witnesses inducted [into the case].

10. Minor helpers are to be used for nothing unless it is absolutely necessary; and these are to be chosen, in so far as possible, from the priestly order; always, however, they are to be of proved faithfulness and mature without exception. But it must be noted that, if, when necessity demands it, they can be nominated to accept certain acts, even if they are non-subjects living in another territory or the Ordinary of that territory [can] be interrogated (Can. 1570, § 2), observing, of course, all of the cautions created as above and in Canon 1613.

11. Because, however, what is treated in these cases has to have a greater degree of care and observance so that those same matters be pursued in a most secretive way, and, after they have been defined and given over to execution, they are to be restrained by a perpetual silence (Instruction of the Holy Office, February 20, 1867, n. 14), each and everyone pertaining to the tribunal in any way or admitted to knowledge of the matters because of their office, is to observe the strictest ++7++ secret, which is commonly regarded as a secret of the Holy Office, in all matters and with all persons, under the penalty of excommunication latae sententiae, ipso facto and without any declaration [of such a penalty] having been incurred and reserved to the sole person of the Supreme Pontiff, even to the exclusion of the Sacred Penitentiary, are bound to observe [this secrecy] inviolably. Indeed by this law the Ordinaries are bound ipso jure or by the force of their own proper duty. The other helpers from the power of their oath which they they must always take before they undertake their duties. And these, then, are delegated, are interpolaced, and are informed in their absence by means of the precept in the letters of delegation, interpellation, [or of] information, imposing upon them with express mention of the secret of the Holy Office and of the aforementioned censure.

12. The aforesaid oath, the formula for which is to be found in the appendix of this instruction (Form A), must be used (by those, obviously, who will use it habitually, once for all; by those, however, who are deputed only for some determined piece of business or case, as often as required (toties quoties), in the presence of the ordinary or his delegate done upon the Gospels of God (also by priests) and not otherwise and with the added promise of fulfilling faithfully their duty, to which, however, the excommunication, mentioned above, is not extended. There must be an

avoidance, moreover, by those who are set over those involved in this cases, lest anyone be admitted to a knowledge of the matters from helpers, unless in some way a party or an office to be performed by that person necessarily requires a knowledge of these matters.

13. The oath of keeping the ~~secret~~ must be given in these cases also by the accusers or those denouncing [the priest] and the witnesses. To none of these, however, is there subjection to a censure, unless by chance toward these same pesons some censure has been expressly threatened upon the person himself, for his accusation, his deposition or of his violation (Excussionis?) [of such] by act. The accused, however, should be most seriously warned that even he, with all [the others], especially when he observes the secret with his defender, is under the penalty of suspension a divinis in case of a transgression to be incurred ipso facto.

14. Finally, as for the publishing, the language, the confirmation, the custody of and the accidental nullity, in every way [these matters] must be observed which are prescribed by Canons 1642-43, 379-80-82 and 1680 respectively.

++9++

TITLE NUMBER ONE

THE FIRST KNOWLEDGE OF THE CRIME

15. Since the crime of solicitation takes place in rather rare decisions, lest it remain occult and unpunished and always with inestimable detriment to souls, it was necessary for the one person, as for many persons, conscious of that [act of solicitation], namely, the solicited penitent, to be compelled to reveal it through a denunciation imposed by positive law. Therefore:

16. "According to the Apostolic Constitutions and especially of the Constitution of Benedict XIV Sacramentum Poenitentiae of June 1, 1941, the penitent must denounce the accused priest of the delict of solicitation in confession within a month to the Ordinary of the place or to the Holy Congregation of the Holy Office;, and the confessor must, burdened seriously in conscience, to warn the penitent of this duty." (Canon 904).

17. Moreover, according to the mind of Canon 1935 anyone of the faithful can always denounce the delict of solicitation, of which he will have had a certain knowledge; also, the obligation of denunciation urges as often as the person is bound to it from the natural law itself because of the danger to faith or religion or other imminent public evil.

18. "The faithful, however, who knowingly have disregarded the obligation to denounce the person by whom he was solicited, against the prescription (related above) of Canon 904, within a month, falls into an excommunication reserved latae sententiae, not to be absolved unless after he has satisfied the obligation or has promised seriously that he would so" (Can. 2368, § 2).

19. The duty of denunciation is a personal one and is to be fulfilled regularly by the person himself who has been solicited. But if he is prevented by the most serious difficulties from doing this, then either by

letter or by another person favorable to him should approach the ordinary or the Holy Congregation of the Holy Office or the Sacred Penitentiary, revealing all the circumstances (Instruction of the Holy Office, February 20, 1967, n. 7).

++10++

20. Anonymous denunciations generally must be rejected. However, they can have supportive force or give the occasion for further investigations, if the particular circumstances of the matters involved render an accusation probable (Cfr. Can. 1942, § 2).

21. The obligation of denunciation on the part of the solicited penitent does not cease because of a spontaneous confession by the soliciting confessor done by chance, nor because of his being transferred, promoted, condemned, or presumably reformed and other reasons of the same kind. It ceases, however, at his death.

22. Sometimes it happens that the confessor or another ecclesiastic man is deputed to receive some denunciation, together with an instruction concerning the acts to be assumed for a judicial reason. Then that person is to be expressly warned that he should tell everything to the Ordinary or to the person whom he deputed, keeping no example or trace of it to himself.

23. In receiving the denunciations, this order is to be regularly observed: First, an oath to tell the truth while touching the Holy Gospels is to be given to the person making the denunciation; he should be interrogated according to the formula (Formula E), circumspectly, so that he narrates each and every circumstance briefly, indeed, and decently, but clearly and distinctly, pertaining to the solicitations he has suffered. In no way, however is it to be extracted from him whether he had consented to the solication. Rather, he should be expressly advised that he is not bound to manifest his consent which he perhaps gave. The responses [in uninterrupted fashion], not only as to what pertains to the substance but even to the words themselves of the testimony (Canon 1778) should be consigned to writing. The entire instrument [of the testimony] should be read in a clear and distinct voice to the one denouncing [the priest], giving [the one denouncing the priest] the option of adding, suppressing, correcting, or varying [his testimony]. His signature is then to be exacted [from him], or, if he does not know how to write, or cannot, the sign of the cross. And with him still being present, there should be added the signature of the person receiving the testimony, and if he is present (Cfr. n. 9), of the notary. And before he is dismissed, there should be presented to him, as above, an oath of observing the secret, threatening him, if there is a need, with an excommunciation reserved to the Ordinary or to the Holy See (Cfr. n. 13).

24. Even if, sometimes, for grave obstructing reasons always to be expressed in the acts, this ordinary practice cannot be observed, it is permitted that one or the other form from the prescribed forms, saving however the substance, ++11++be omitted. Thus, if the oath cannot be taken upon the holy Gospels, it can be given with some notion and also with words only. If the instrument of denunciation cannot be put into writing in an uninterrupted fashion, it can be written down at a more opportune time and place by the interviewer (the recipient of the denunciation) and then

confirmed and signed by the person who is denunciating in the presence of the one receiving the denunciation; if the instrument itself cannot be read to the denunouncer, it can be given to him to read.

25. In more difficult cases, however, it is also permitted for the denunciation (the previous permission of the denunciator having been given, lest the sacramental seal seemingly be violated: and on a day convenient to each party and in the confessional itself, it is to be read or given to read, and is confirmed with an oath and with one's proper signature or the sign of the cross (unless to do this is in every way impossible). Concerning all of these things, as has been said in the number above, an express mention must always be made in the Acts.

26. Still, if an entirely serious case also that is also clearly extraordinary urges, then the denunciation can also be done through a written account by the one denouncing, as long as, however, it is before the Ordinary of the place or his delegate and notary, if he is present (cfr. n. 9), and afterwards confirmed by an oath and signed. The same must be said concerning an informal denunciation, through a letter, for example, or given orally in an extrajudicial manner.

27. Any denunciation once accepted, the Ordinary is bound most gravely to communicate this as soon as possible to the promotor of justice who must declare in writing, whether the specific crime of solicitation in the first sense is present in the case or not, and whether the ordinary disagrees with this or not. Within ten days he must submit the matter to the Holy Office.

28. If, on the other hand, the Ordinary and the promotor of justice agree together, or in some way the promotor of justice does not make his recourse to the Holy Office, then the Ordinary, if he has decreed that the specific delict of solicitation was not present, should order the Acts to be put into the secret archives, or he should use his right and duty according to the nature and gravity of the things that have been denounced. If, however, he believed that they were present, then he should proceed to the inquisition (Cfr. Can. 1942, § 1).

FROM THE SUPREME AND HOLY CONGREGATION OF THE HOLY OFFICE

TO ALL PATRIARCHS, ARCHBISHOPS, BISHOPS AND OTHER DIOCESAN ORDINARIES "EVEN OF THE ORIENTAL RITE"

CONFIDENTIAL

INSTRUCTION

ON THE MANNER OF PROCEEDING IN CASES OF SOLICITATION

The Vatican Press, 1962

~~†††~~

INSTRUCTION

On the manner of proceeding in cases of the crime of solicitation

[This text is] to be diligently stored in the secret archives of the Curia as strictly confidential. Nor is it to be published nor added to with any commentaries.

PRELIMINARIES

1. The crime of solicitation takes place when a priest tempts a penitent, whoever that person is, either in the act of sacramental confession, whether before or immediately afterwards, whether on the occasion or the pretext of confession, whether even outside the times for confession in the confessional or [in a place] other than that [usually] designated for the hearing of confessions or [in a place] chosen for the simulated purpose of hearing a confession. [The object of this temptation] is to solicit or provoke [the penitent] toward impure and obscene matters, whether by words or signs or nods of the head, whether by touch or by writing whether then or after [the note has been read] or whether he has had with [that penitent] prohibited and improper speech or activity with reckless daring (Constitution Sacrum Poenitentiae, § 1).

2. [The right or duty of addressing] this unspeakable crime in the first instance pertains to the Ordinaries of the place in whose territory the accused has residence (V. below, numbers 30 and 31), and this not to mention through proper law but also from a special delegation of the Apostolic See; It is enjoined upon these aforementioned persons to the fullest extent possible, [in addition to their being] gravely encumbered by their own consciences, that, after the occurrence of cases of this type, that they, as soon as possible, take care to introduce, discuss and terminate [these cases] with their proper tribunal. However, because of particular and serious reasons, according to the norm of Canon 247, § 2, these cases can be directly deferred to the Holy Congregation of the Holy Office or be so ordered. Yet [the right of] the accused respondents ~~†††~~ remains intact in any instance of judgment to have recourse to the Holy Office. However, recourse thus interposed does not suspend, excluding the case of an appeal, the exercise of the jurisdiction of the judge who has already begun to accept the case; and he can therefore be able to pursue the judgment up to the definitive decision, unless it has been established that the Apostolic See has summoned the case to itself (Cfr. Canon 1569).

3. By the name of Ordinaries of the place are understood to be, each for his own territory, the residential bishop, abbot or prelate nullius, the administrator, any vicar or Prefect Apostolic, [and, in the absence of these aforementioned (dignitaries), those who succeed them in power in the meanwhile by the prescription of law or from approved constitutions (Canon 198, § 1); ~~(This norm does not apply)~~, however, to the vicar general, except from his [having been] specially delegated.

4. The Ordinary of the place in these cases is the judge even for regulars [religious], even though exempt. It is indeed strictly prohibited for their superiors to interpose themselves in cases pertaining to the Holy Office (Canon 501, § 2). However, having safeguarded the right of the Ordinary, there is nothing to prevent superiors themselves, if by chance they have discovered [one of their] subjects delinquent in the administration of the sacrament of Penance, from being able and having the obligation of being diligently watchful over those same persons, and, even having administered salutary penances, to admonish and correct, and, if the case demands it, to remove him from some ministry. They will also be able to transfer him to another [assignment], unless the Ordinary of the place has forbidden it because he has already accepted the denunciation and has begun the inquisition.

5. The Ordinary of the place can either supervise these cases himself or commit their acceptance to an ecclesiastic who is serious and of a mature age. But [they may not [commit such cases] on an habitual basis or for the entire group of these cases, but must delegate as often as needed (cotles quoties) for cases taken singly and through writing, saving the prescription of Canon 1613, § 1.

6. Although, as a rule, a single judge, by reason of its secrecy, is prescribed for cases of this type, it is not forbidden, however, for the Ordinary in the more difficult cases to approve one or two assessors and counsellors, selected from the synodal judges (Canon 1575); or even to three judges, likewise chosen from the synodal judges, to hand over the case to the judges to be handled with the mandate of proceeding collegially according to the norm of Canon 1577.

7. The promoter of justice, the defender of the accused and the notary, priests who are fittingly serious, of mature age, of integrity, doctors in canon ~~++/++~~law or otherwise skilled [in canon law] and worthy because of their zeal for justice (Canon 1589), and not found to be at any disadvantage toward the accused, which Canon 1613 treats, are to be nominated in writing by the Ordinary. The promoter of justice, however (who can be different from the promoter of justice of the Curia) [can be appointed] for the entire series of cases. The defender of the accused, however, and the notary are to be appointed each time for each case (cotles quoties). Nor is the accused prohibited from proposing a defender seen as favorable to him (Canon 1655), who, however, is to be a priest and approved by the Ordinary.

8. Sometimes (this refers to his own location), the intervention [of the promoter of justice] is required, and, in the case where he has not been cited, unless ~~by chance even if not cited~~ he is still present [at the process], the Acts must be considered [totally] invalid. But, if, however,

he has been legitimately cited and is not present at some [parts of the] Acts, the Acts indeed are valid, but afterwards [those Acts] will be totally subject to his examination so that he is able to comment upon all of them either in words or in writing and to propose what he has judged to be necessary or opportune (Canon 1587).

9. It is fitting that the notary, on the other hand, be present at all the Acts under pain of nullity and to note down with his own hand or at least to affix his signatura [to the aforesaid Acts] (Canon 1585, § 1). Because of the special character of these procedures, however, it is necessary for the Ordinary to dispense from the presence of the notary, though because of a reasonable excuse in the acceptance, as will be noted in its own place, of the denunciations and also in the expenditure of the degrees of attention or care expected of a notary in a given situation, as they say, in pursuing and in examining the witnesses inducted [into the case].

10. Minor helpers are to be used for nothing unless it is absolutely necessary; and these are to be chosen, in so far as possible, from the priestly order; always, however, they are to be of proved faithfulness and mature without exception. But it must be noted that, if, when necessity demands it, they can be nominated to accept certain acts, even if they are non-subjects living in another territory or the Ordinary of that territory [can] be interrogated (Can. 1570, § 2), observing, of course, all of the cautions treated as above and in Canon 1613.

11. Because, however, what is treated in these cases has to have a greater degree of care and observance so that those same matters be pursued in a most secretive way, and, after they have been defined and given over to execution, they are to be restrained by a perpetual silence (Instruction of the Holy Office, February 20, 1867, n. 14), each and everyone pertaining to the tribunal in any way or admitted to knowledge of the matters because of their office, is to observe the strictest ~~1771~~ secret, which is commonly regarded as a secret of the Holy Office, in all matters and with all persons, under the penalty of excommunication latae sententiae, ipso facto and without any declaration [of such a penalty] having been incurred and reserved to the sole person of the Supreme Pontiff, even to the exclusion of the Sacred Penitentiary, are bound to observe [this secrecy] inviolably. Indeed by this law the Ordinaries are bound ipso jure or by the force of their own proper duty. The other helpers from the power of their oath which they they must always take before they undertake their duties. And these, then, are delegated, are interpolated, and are informed in their absence by means of the precept in the letters of delegation, interpellation, [or of] information, imposing upon them with express mention of the secret of the Holy Office and of the aforementioned censure.

12. The aforesaid oath, the formula for which is to be found in the appendix of this instruction (Form A), must be used (by those, obviously, who will use it habitually, once for all; by those, however, who are deputed only for some determined piece of business or case, as often as required (toties quoties), in the presence of the ordinary or his delegate done upon the Gospels of God (also by priests) and not otherwise and with the added promise of fulfilling faithfully their duty, to which, however, the excommunication mentioned above, is not extended. There must be an

avoidance, moreover, by those who are set over those involved in this cases, lest anyone be admitted to a knowledge of the matters from helpers, unless in some way a party or an office to be performed by that person necessarily requires a knowledge of these matters.

13. The oath of keeping the secret must be given in these cases also by the accusers or those denouncing [the priest] and the witnesses. To none of these, however, is there subjection to a censure, unless by chance toward these same pesons some censure has been expressly threatened upon the person himself, for his accusation, his deposition or of his violation (Excussionis?) [of such] by act. The accused, however, should be most seriously warned that even he, with all [the others], especially when he observes the secret with his defender, is under the penalty of suspension a divinis in case of a transgression to be incurred ipso facto.

14. Finally, as for the publishing, the language, the confirmation, the custody of and the accidental nullity, in every way [these matters] must be observed which are prescribed by Canons 1642-43, 379-80-82 and 1680 respectively.

++9++

TITLE NUMBER ONE

THE FIRST KNOWLEDGE OF THE CRIME

15. Since the crime of solicitation takes place in rather rare decisions, lest it remain occult and unpunished and always with inestimable detriment to souls, it was necessary for the one person, as for many persons, conscious of that [act of solicitation], namely, the solicited penitent, to be compelled to reveal it through a denunciation imposed by positive law. Therefore:

16."According to the Apostolic Constitutions and especially of the Constitution of Benedict XIV Sacramentum Poenitentiae of June 1, 1941, the penitent must denounce the accused priest of the delict of solicitation in confession within a month to the Ordinary of the place or to the Holy Congregation of the Holy Office;, and the confessor must, burdened seriously in conscience, to warn the penitent of this duty." (Canon 904).

17. Moreover, according to the mind of Canon 1935 anyone of the faithful can always denounce the delict of solicitation, of which he will have had a certain knowledge; also, the obligation of denunciation urges as often as the person is bound to it from the natural law itself because of the danger to faith or religion or other imminent public evil.

18."The faithful, however, who knowingly have disregarded the obligation to denounce the person by whom he was solicited, against the prescription (related above) of Canon 904, within a month, falls into an excommunication reserved latae sententiae, not to be absolved unless after he has satisfied the obligation or has promised seriously that he would so" (Can. 2368, § 2).

19. The duty of denunciation is a personel one and is to be fulfilled regularly by the person himself who has been solicited. But if he is prevented by the most serious difficulties from doing this, then either by

letter or by another person favorable to him should approach the ordinary or the Holy Congregation of the Holy Office or the Sacred Penitentiary, revealing all the circumstances (Instruction of the Holy Office, February 20, 1967, n. 7).

++10++

10. Anonymous denunciations generally must be rejected. However, they can have supportive force or give the occasion for further investigations, if the particular circumstances of the matters involved render an accusation probable (Cfr. Can. 1942, § 2).

11. The obligation of denunciation on the part of the solicited penitent does not cease because of a spontaneous confession by the soliciting confessor done by chance, nor because of his being transferred, promoted, condemned, or presumably reformed and other reasons of the same kind. It ceases, however, at his death.

21. Sometimes it happens that the confessor or another ecclesiastic man is deputed to receive some denunciation, together with an instruction concerning the acts to be assumed for a judicial reason. Then that person is to be expressly warned that he should tell everything to the Ordinary or to the person whom he deputed, keeping no example or trace of it to himself.

23. In receiving the denunciations, this order is to be regularly observed: First, an oath to tell the truth while touching the Holy Gospels is to be given to the person making the denunciation; he should be interrogated according to the formula (Formula E), circumspectly, so that he narrates each and every circumstance briefly, indeed, and decently, but clearly and distinctly, pertaining to the solicitations he has suffered. In no way, however is it to be extracted from him whether he had consented to the solicitation. Rather, he should be expressly advised that he is not bound to manifest his consent which he perhaps gave. The responses [in uninterrupted fashion], not only as to what pertains to the substance but even to the words themselves of the testimony (Canon 1778) should be consigned to writing. The entire instrument [of the testimony] should be read in a clear and distinct voice to the one denouncing [the priest], giving [the one denouncing the priest] the option of adding, suppressing, correcting, or varying [his testimony]. His signature is then to be exacted [from him], or, if he does not know how to write, or cannot, the sign of the cross. And with him still being present, there should be added the signature of the person receiving the testimony, and if he is present (Cfr. n. 9), of the notary. And before he is dismissed, there should be presented to him, as above, an oath of observing the secret, threatening him, if there is a need, with an excommunication reserved to the Ordinary or to the Holy See (Cfr. n. 13).

24. Even if, sometimes, for grave obstructing reasons always to be expressed in the acts, this ordinary practice cannot be observed, it is permitted that one or the other form from the prescribed forms, saving however the substance, ++11++be omitted. Thus, if the oath cannot be taken upon the holy Gospels, it can be given with some notion and also with words only. If the instrument of denunciation cannot be put into writing in an uninterrupted fashion, it can be written down at a more opportune time and place by the interviewer (the recipient of the denunciation) and then

confirmed and signed by the person who is denunciating in the presence of the one receiving the denunciation; if the instrument itself cannot be read to the denunouncat, it can be given to him to read.

25. In more difficult cases, however, it is also permitted for the denunciation (the previous permission of the denunciator having been given, lest the sarramental seal seemingly be violated, and on a day convenient to each party and in the confessional itself, it is to be read or given to read, and is confirmed with an oath and with one's proper signature or the sign of the cross (unless to do this is in every way impossible). Concerning all of these things, as has been said in the number above, an express mention must always be made in the Acts.

26. Still, if an entirely serious case also that is also clearly extraordinary urges, then the denunciation can also be done through a written account by the one denouncing, as long as, however, it is before the Ordinary of the place or his delegate and notary, if he is present (cfr. n. 9), and afterwards confirmed by an oath and signed. The same must be said concerning an informal denunciation, through a letter, for example, or given orally in an extrajudicial manner.

27. Any denunciation once accepted, the Ordinary is bound most gravely to communicate this as soon as possible to the promoter of justice who must declare in writing, whether the specific crime of solicitation in the first sense is present in the case or not, and whether the ordinary disagrees with this or not. Within ten days he must submit the matter to the Holy Office.

28. If, on the other hand, the Ordinary and the promoter of justice agree together, or in some way the promoter of justice does not make his recourse to the Holy Office, then the Ordinary, if he has decreed that the specific delict of solicitation was not present, should order the Acts to be put into the secret archives, or he should use his right and duty according to the nature and gravity of the things that have been denounced. If, however, he believed that they were present, then he should proceed to the inquisition (Cfr. Can. 1942, §.1).

TITLE NUMBER TWO

THE PROCESS

Chapter I - The Inquisition

29. When the knowledge concerning the crime of solicitation is known first through the denunciations, a special inquisition must be pursued "so that it may become clear whether and on what foundation the imputation rests" (Canon 1939, § 1); and this by the fact or even more so, since a crime of this type, as has already been stated above, is usually done in secret, and direct testimonies concerning [solicitation], especially from the hurt party, can only rarely be obtained.

Once the inquisition is open, and if the denounced priest is a religious, the Ordinary can prevent him from being transferred before the conclusion of the process.

For the most part, there are three areas which such an inquisition must cover, and they are:

a) the past history of the denounced person;
b) the consistency of the denunciation;
c) other persons solicited by the same confessor or, however conscious of the crime, whether any of them, as not rarely happens, have been persuaded [to make the denunciation] by those denouncing.

30. Therefore, as to what pertains to the first letter (a), the Ordinary at the same time as he has accepted some denunciation of the crime of solicitation, if the one denounced, whether from the secular clergy or is a regular (cfr. n. 4), with residence in his territory, should try to find out from the archives whether other accusations against him are on record, even of a different type; and, if by chance he had previously been living in other territories, he should seek, even from the respective Ordinaries, and, if [he is a] religious, also from the regular superiors, whether they have anything which can aggravate the situation in any way. But he will accept these documents, referring to them in the Acts as accumulated together whether for a judgment, by reason of content [continentia] or association of causes [connexio] (cfr. Canon 1567), and thus all the matters will be brought forward together; ++13++ or for the establishment and consideration of an aggravating circumstance of recidivism according to the sense of Canon 2208.

31. If the whole matter concerns a denounced person who does not have residence in his territory, the Ordinary should transmit all the acts to the Ordinary of the one who has been denounced, or, if he does not know who this might be, [he will transmit all the acts] to the Supreme Holy Congregation of the Holy Office, reserving the right, in the meanwhile, to deny to the denounced priest the faculty of exercising the ecclesiastical ministries in his own diocese or of revoking them already by chance conceded to him, in the event that he approaches [the Ordinary for these faculties] or returns [to the diocese of the Ordinary].

32. As to what pertains to the second letter (b), the importance of each denunciation, of their qualities and of the circumstances must be weighed seriously and accurately so that it is evident how they themselves merit belief. It is not sufficient that [this be done] in any way whatsoever, but it is necessary that this become known by means of an established and a judicial form; this customarily is signified in the Tribunal of the Holy Office by the phrase "diligentias persequere" [to undertake all the required formalities].

33. In order to arrive at this purpose [of undertaking all the required formalities], as soon as the Ordinary shall have accepted any denunciation of the crime of solicitation, either personally or through a priest, he will summon, either personally or through a priest specially delegated to do so, two witnesses (he summons them separately and with appropriate circumspection)and with appropriate circumspection) two witnesses, in so far as it is possible, from the ranks of the ecclesiastics. But it is far better, above any exception, to summon persons, who are familiar with both the one denounced and the one denouncing. These persons, with the notary present (cfr. n. 9), who is to put the interrogations and responses in writing, [are put] under the sanctity of an oath to tell the truth and to observe its secret nature, accompanied by the threat, if it seems necessary, of excommunication reserved to the Ordinary of the place or to the Holy See (cfr. n. 13). He will interrogate them (Formula G), concerning the life, morals and public reputation both of the one denounced and of the one denouncing. [They will be asked] whether they think that the one denouncing is worthy of credence; or whether, on the other hand, that person is capable of lying, of calumniating and of perjuring himself; and whether these persons know whether there has ever been any case of hatred, grudge or reason for enmity between the one denouncing and the denounced person.

34. If the denunciations are many in number, there is nothing to prevent the same [character] witnesses to be used for all or [to use different] witnesses, always being careful to have a double testimony as to the denounced and any denouncer.

35. If two witnesses cannot be found where each individual knows both the denounced and the denouncer, or if they cannot be interrogated at the same time without the danger of scandal ++14++ or without detriment to the good name concerning him, then arrangements to be made, so that two persons, by means of a divided [dimidiatae] [testimony], namely, interrogate two witnesses only about the denounced and another two only about the individual denouncers. In this case, however, it will be necessary to inquire elsewhere as to whether hatred, enmity or any other human disaffection against the denunciated [priest] was the case.

36. If not even the divided efforts cannot be pursued, or because capable witnesses cannot be found or because scandal or detriment has to be feared and rightly so, there is the possibility of substituting, cautiously, however, and prudently, [for the witnesses] with extrajudicial information about the denounced and the ones denouncing and their mutual personal relationships, with [all of this] put into writing; or [the same results can come about] also through supportive proofs which corroborate or weaken the accusation.

37. This [article], then, pertains to the third letter (c). If in the denunciations, which happens not rarely, some persons are influenced, perhaps also solicited, or others who can [simply] bring forward testimony concerning for some type of reasons. All of these people must be examined severally (that is, separately) according to the judiciary formula (below.) (formula I). First of all, they must be interrogated through general matters, and then, by degrees, as the matter evolves, arriving at the particulars, whether and how they had really been solicited, or did they know or hear that other persons had been soliciced (Instruction of the Holy Office, February 20, 1867, n. 9).

38. The greatest circumspection must be used in inviting these persons to this interview; for it will not always be opportune to bring them to a public place such as the chancery, especially if these are girls who are being subjected to the examination, married women, or those who are domestics. If those to be examined live either in monasteries, in hospitals or in pious homes for girls, then, the particular [persons] should be summoned with great diligence and on different days according to circumstances (Instruction of the Holy Office, July 20, 1890).

39. What was said above about the way to receive the denunciations, will also be applied, changing what has to be changed [mutatis mutandis), to the examination of persons who have been brought forward.

++15++

40. [If the examination of these persons, who corroborate each other by positive evidence, and because of which examinations there exists [therefore] either an arraigned priest or another person weighed down [with some accusations], then the denunciations that are true and strictly speaking denunciations and all the rest of the information about these [denunciations] are pursued regarding the qualification of the crime, regarding the resumption of the preceding acts and of the resumption of the efforts to be taken in accordance with what is prescribed above.

41. Once, however, all these matters are taken care of, the Ordinary is to communicate the Acts to the promoter of justice, who will see now whether all the procedures [actions] have been performed corectly or not. And, if he thinks that there is nothing against their acceptance, he should declare the inquisitorial process closed.

Chapter II : Canonical Directives and the Admonition of the Accused.

42. When the inquisitorial process has been closed, the Ordinary, having heard the promoter of justice, should proceed as follows, namely:

a) if it is evident that the denunciation totally lacks a foundation, he should order this to be declared in the Acts, and the documents of the accusation should be destroyed;

b) if the indications of the crime are vague and indeterminate or uncertain, he should order that the Acts be put into the archives, to be taken up again if something else happens in the future;

c) if, however, there are indications of a crime serious enough but not yet sufficient to institute an accusatorial process, as especially in the

case where only one or two denunciations are had, where, indeed, [the regular process was followed] with diligence but were not corroborated by any or insufficient proofs (cfr. n. 36), or even many [proofs] but with uncertain procedures or procedures that are deficient, he should order that the accused be admonished according to the different [types of] cases (Formula H) the first or second [time?], paternally, seriously or most seriously according to the norm of Canon 2307, adding, if necessary, an explicit threat of the trial process, should some other new accusation is laid upon [the accused]; the Acts, as above, should be kept in the archives and in meanwhile a check should be kept on the morals of the accused (Canon 1946, § 2, n. 2):

d) If then certain or at last probable arguments to institute the accusation are present, he should order the accused to be cited and be subjected to the matters [which are prescribed for this trial].

++1644

43. The admonition, concerning which treatment is made in the preceding number with the letter (c), is always to be given secretly; it can be done, however, through a letter or by an intermediary, but in each case, it must be clear from some document to be kept in the secret archives of the Curia (cfr. Canon 2309, § 1 and 5), adding the information about the manner in which the accused accepted it.

44. If, after the first admonition, other accusations against the same accused take place concerning solicitations, preceding the admonition itself, the Ordinary should see, according to his own choice and conscience, whether the first admonition shold be considered sufficient or whether he should proceed to a new admonition or even to further measures (Ibidem, § 6).

45. It is the right of the Promoter of Justice to appeal and to have recrecourse for a accused against the canonical prescriptions of this kind it to the Holy Congregation of the Holy Office within ten ten days from thetheir dissemination or intimation. In this case, the Acts of the case wilhave to be transmitted to the same Holy Congregation according to the prepprescription of Canon 1890.

46. These actions, however, even if put into effect, do not extextinguish the penal action. and therefore, when other accusations by chance take place, a method will be followed concerning those matters which also have given cause to the said canonical instructions.

Chapter III - The decrees for the accused persons

47. When once there is a sufficiency to institute an accusation, as was said above in number 42 (d), arguments should be made openly, and the Ordinary, having heard the promoter of justice and having observed everything, in so far as the peculiar nature of these cases allows, which is stated concerning the citation and denunciation of judicial acts in Book IV, Title VI, Chapter II, of the code, shall issue a decree (Formula O) ~~concerning the accused in the presence of the Ordinary, or before a judge delegated by himself~~ (cfr. n. 5), ~~citing [him] for crimes~~ introduced and brought against him, which in the forum of the Holy Office are said in

unclassical parlance "Reum constitutis subiicere" [to subject the accused to an indictment]; and he will take care to bring this information to the accused himself in accordance with canonical principles.

48. The judge should paternally and gently exhort the accused, who has now been cited, when he appears, and before the indictments are formally begun, to confession, and, when he has consented to these exhortations, the judge, having summoned the notary or ~~notaries~~, if he has found it more opportune (cfr. n. 9) without his intervantion, can receive the confession.

49. In this csae, if the confession is found corroborated by the Acts and substantially complete, a vow first having been taken, the Promoter of Juscice puts the case in writing, omitting the other formalities (See below, in Chapter IV), and he will be able to conclude [all of this] with a definitive decision, having given, however, to the accused the option of accepting the decision itself or of petitioning to have the regular and complete process carried out to the end.

50. If, however, on the other hand, the accused has denied the crime, or has made a confession that is not substantially integral, or even has summarily refused the decision in view of his confession, the judge, with the notary present, should read him the decree by which he declares, concerning which peragraph 47 speaks, and the deliberations are then opened.

51.The trial opened, the judge can, having heard the Promoter of Justice according to the mind of Canon 1956, suspend the accused respondent either from exercising any sacred ministry at all or only from hearing the sacramental confessions of the faithful up until the time of the judgment. If, however, by chance he thinks that [the accused] can impose fear upon the witnesses or secretly instigate them [to thwart the trial] or in any way impede the course of justice, he can also, having also heard the promoter of justice, order that he go to a predefined location and remain there under special vigilance (Canon 1957). And, on the other hand, [however], each decree of this type is not given a remedy in law (Canon 1958).

52. These things having been taken care of, there should be a procedure to present the accusation to the person accused, according to formula P, having cautiously and most diligently made sure that the persons of the accused and especially of those denouncing him be not revealed, and, on the part of the accused, that he in no way violate the sacramental seal. Now if something in the surge of speech slips out which seems to savor of either a direct or indirect violation of the seal, the judge should not permit this to be referred to in the Acts by the notary; and if, by chance, it has been inconsiderately [put into the Acts], he should order, as soon as he notices it, to be completely deleted. In every way the judge is to remember that it is never right for him to bind the accused by an oath to tell the truth (Cfr. Canon 1744).

53. The indictment of the accused having been completed in all matters and the Acts having been seen and approved by the Promoter of Justice, the judge is to issue a decree concerning the conclusion of the case (Canon 860), and, if by chance he is a delegated judge, he should transmit all the papers of the proceedings] to the Ordinary.

++18++

54. If it happens, however, that the accused remains contumacious, or, for some grave reasons the indictments cannot be pursued in the diocesan Curia, the Ordinary, saving to himself the right of suspending the accused *a divinis*, should defer the entire case to the Holy Office.

Chapter IV - The Discussion of the Case, the Definitive Decision, and the Appeal

55. The Ordinary, having received the Acts, unless he wishes himself to proceed to the definitive decision, should delegate the judge (cfr. n. 5), another one, in so far as it can be done, different from the one who conducted the inquisition or the indictment (cfr. Canon 1941, § 3). The judge, however, whoever he is, whether the Ordinary or his delegate, should designate, according to his prudent decision a space of time for the defender to prepare a defense and to tender this in a double copy, one copy to be given to the judge himself and the other copy to the Promotor of Justice (cfr. Canons 1862-63-64). However, the promoter of justice, within a time period likewise previously established by the judge, should tender in writing his own inquiry (requisitoriam), as they now call it.

56. Still, a congruent time having been interposed (Canon 1870), the judge, according to his conscience informed from the Acts and from the proofs (Canon 1869), will pronounce a definitive decision, either a condemnatory decision, if he is certain of the crime, an acquittal, if he is certain of his innocence; or an abandonment of the charges, if he is invincibly doubtful because of the lack of proofs.

57. The decision is rendered according to the respective formulas connected to this Instruction and will have been to put in writing, with the addition of an executory decree (Canon 1918). First of all, the Promoter of Justice having been notified beforehand, the decision must be solemnly made known to the accused, who has been cited for this by the judge who is presiding at the Tribunal, with the notary present. If, however, the accused, rejecting the citation, has not appeared, the intimation of the decision should be made through letter, having obtained exact testimony of its reception through the public post office.

58. Both the accused, if he thinks that he has been [wrongly treated], and the promoter of justice have the right of appealing from this decision to the Supreme Tribunal of the Holy Office, according to the prescription of Canon 1879 and following within ten days from the solemn notification of the same; and the appeal of this type has the effect of suspending the decision [suspensive], but not so, if it is given (Cfr. n. 51) for a suspension from the hearing ++19++of sacramental confessions or from exercising a sacred ministry.

59. The appeal having been made, the judge must transmit an authentic copy or the original itself of all the acts of the case to the Holy Office, as quickly as it can be done, adding information, as necessary or as he has judged to be opportune (Canon 1890).

60. As for the complaint, then, of nullity, as sometimes might occur, let those details prescribed by Canons 1892-97 be observed to the last detail.

However, what pertains to the execution of the decision, those prescriptions should also be observed, according to the nature of these cases, as is found in Canons 1920-24.

++20++

TITLE NUMBER THREE

PENALTIES

61. "He who has committed the crime of soliciation...; should be suspended from the celebration of Mass and from the hearing of sacramental confessions or even, according to the gravity of the delict, should be declared incapable of accepting them. He should be deprived of all benefices and dignities, of his active and passive voice, and be declared incapable for all these [honors and capacities], and in the more grievous cases also be subjected to reduction [to the lay state]. Thus states the Code in Canon 2368, § 1.

62. For a correct and practical application of this canon, in penalties decreed against priests convicted of the crime of solicitation with an equal regard for the mind of Canon 2218, § 1, these matters, especially for estimating the gravity of the crime, should be kept before one's eyes, namely: the number of persons solicited and their condition, as, for example, if they are minors in age or especially consecrated through religous vows to God; the form of solicitation, if perhaps, especially, it is joined with false teaching or false mysticism; the turpitude of the acts not only formal but also material and especially the connection of solicitation with other delicts; the length of the obscene conversation [between the parties involved]; the repetition of the crime, the recidivism after his admonition, and the obstinate malice of the solicitor.

63. To the greatest penalty of degradation, there can be added for a religious who is accused the reduction to the status of a lay-brother. This is only then imposed when, having weighed everything, it evidently appears that the accused, immersed in the depths of malice in the abuse of his sacred ministry, combined with the grave scandal that is harmful to the faithful and their souls, exists to such a degree of foolhardiness and habit, so that there is no hope, humanly speaking, or almost no hope, of his amendment that is evident any more.

64. On top of the penalties properly imposed, in order to obtain the effect of these penalties more fully and securely, there will be supplementary sanctions in cases of this type, namely:

++21++

a) Upon all accused persons judicially convicted there should be interposed congruous, to the degree of the faults, and salutary penances, not in substitution for the penalties properly speaking in the sense of Canon 2312, § 1, but as a complement [to them], and among these (cfr: Canon 2313) especially spiritual exercises for some days in some religious house to be performed with a suspension, during these times, from the celebration of Mass.

b) Upon the accused convicted who has confessed, moreover, there should be imposed an abjuration, according to the different cases, if there is a light or a strong suspicion of heresy into which because of the nature of the crime soliciting priests fall into, or even of formal heresy if by chance the crime of solicitation has been joined to false dogma.

c) Those who are in danger of falling back [into their former ways], and therefore of becoming greater recidivists should be submitted to particular vigilance (Canon 2311).

d) As often as, in the prudent judgment of the Ordinary, it seems necessary for the amendment of the delinquent, for the removal of the near occasion [of soliciting in the future], or for the prevention of scandal or reparation for it, there should be added a prescription for a prohibition of remaining in a certain place (Canon 2302).

e) Then, when concerning the absolution of an accomplice, as this is outlined in the Constitution Sacramentum Poenitentiae, there is no indication at all in the external forum, and, therefore, of the sacramental seal, there can be reason to add at the end of the condemnatory sentence an admonition to the accused that, if he has by chance absolved his accomplice, he should quiet his conscience by having recourse to the Sacred Penitentiary.

65. According to the norm of Canon 2236, § 3, all of these penalties, as they have been applied once by the judge ex officio, cannot be remitted except by the Holy See through the Supreme and Sacred Congregation of the Holy Office.

TITLE IV

OFFICIAL COMMUNICATIONS

66. Whenever an Ordinary immediately accepts a denunciation of the crime of solicitation, he should not omit telling this to the Holy Office. And if by chance he treats of a priest whether secular or religious having residence in another territory, he should transmit at the same time (as already has been stated above, n. 31) to the Ordinary of the place, where the denounced actually is staying, or, if the address is not known, he should send to the Holy Office an authentic copy of the denunciation itself with the procedures, in the best manner possible, and with opportune information and declarations.

67. Any Ordinary who ahs proceeded correctly against some priest who is soliciting, should not omit informing the Holy Congregation of the Holy Office, and, if it is a matter in which a religious is involved, also the General Superior concerning the outcome of the case.

If any priests condemned of the crime of solicitation, or even only admonished, should transfer his residence to another territory, the Ordinary a quo should immediately warn the Ordinary ad quem of the things that preceded taht person and of his juridical status.

69. If any priest suspended in a case of solicitation from hearing sacramental confessions but not from sacred preaching happens to go to another territory to preach, the Ordinary of this territory should be reminded by the prelate of the accused, whether secular or religious, that he cannot be utilized for hearing sacramental confessions.

70. All these official communications shall always be made under the secret of the Holy Office; and, since they concern the common good of the Church to the greatest degree, the precept of doing these things obliges under serious sin [sub gravi].

TITLE V

THE WORST CRIME

71. By the name of the worst crime is understood at this point a signification of any obscene external deed, gravely sinful, in any perpetrated by a claric or attempt with a person of his own sex.

72. Those things that have been stated concerning the crime of solicitation up to this point are also valid, changing only those things necessary to be changed by their very nature, for the worst crime, if someone by chance in the presence of the Ordinary of the place, concerning which (which may God prevent) happens to be accused, having accepted the obligation of the denunciation from the positive law of the Church, unless

perhaps it has been joined with the crime of solicitation in sacramental confession. In decreeing penalties, however, against delinquents of this type, besides those which are found spoken of above, and they should also be kept before one's eyes (Canon 2359, § 2).

73. To have the worst crime, for the penal effects, one must do the equivalent of the following: any obscene, external act, gravely sinful, perpetrated in any way by a cleric or attempted by him with youths of either sex or with brute animals (bestiality).

74. Against accused clerics for these crimes, if they are exempt religious, and unless there takes place at the same time the crime of solicitation, even the regular superior can proceed, according to the holy canons and their proper constitucions, either in an administrative or a judicial manner. However, they must communicate the judicial decision pronounced as well as the adminsitrative decision in the more serious cases to the Supreme Congregation of the Holy Office.

++24++

FROM THE AUDIENCE OF THE HOLY FATHER, MARCH 16, 1962

Our Most Holy Father John XXIII, in an audience granted to the most eminent Cardinal Secretary of the Holy Office on March 16, 1962, deigned to approve and confirm this instruction, ordering upon those to whom it pertains to keep and observe it in the minutest detail.

At Rome, from the Office of the Sacred Congregation, March 16, 1962.

A. Cardinal Ottaviani

Place of the seal

++25++

APPENDIX

FORMULAS TO BE USED ACCORDING TO THE CIRCUMSTANCE

(Omitting other matters which are found in various places among the authors)

++27++

FORMULA A

THE FORMULA FOR TAKING AN OATH TO EXERCISE ONE'S OFFICE FAITHFULLY AND TO OBSERVE THE SECRET OF THE HOLY OFFICE

In the name of the Lord.

I...appearing before....and touching the most holy Gospels of God placed before me, swear and promise to exercise my duty faithfully....Likewise, under the pain of excommunication late sententiae ipso facto and to be incurred without any declaration, from which outside of the moment of death, I can be absolved by no one except by the Holy Father, excluding even the Cardinal of the Penitentiary, and, under other most serious penalities, at the disposition of the Supreme Pontiff to be inflicted upon me in the case of transgression, I promise sacredly, vow and swear, to observe inviolably the secret in all matters and details which will take place in exercising the aforesaid duty, excepting precisely those matters at the end and at the completion of this negotiation [or of these negotiations] which can be legitimately published. Further, I shall observe this secret absolutely and in every way with all who have no legitimate part in the treatment of this same matter [or, who are not constricted by the same sworn bond]; nor [will I ever], directly or indirectly, by means of a nod, or of a word, by writing, or in any other way and under whatever type of pretext, even for the most urgent and most serious cause [even] for the purpose of a greater good, commit anything against this fidelity to the secret, unless a particular faculty or dispensation has been expressly given to me by the Supreme Pontiff.

++28++

FORMULA B

Formula of Renunciation (Abjuration)

I (name, family name, etc. of the one abjuring, which, if he is a religious, he should add his name, etc. which he used in the world) the son of (name of the father), being ...years of age, and personally brought to trial [arraigned], and, having genuflected before you (name, family name, qualities, etc. of the person who is to receive the abjuration), and having before me and touching with my hand the most holy Gospels and knowing that no one can be saved unless he believes what the Holy Catholic and Apostolic Roman Church holds, believes, preaches, professes and teaches, I confess and I am sorry that I have erred seriously against [that church] through the abuse and profanation of the sacrament of penance [and through the profession and doctrine of false dogma].

Now, sorrowful and penitent for the aforesaid [errors and heresies, persuaded about their falsity and of the truth of the Holy Catholic faith], I abjure all the same [errors I made] with a sincere heart and a real faith and I detest [in the same way in general all other errors and heresies contrary to the Holy Catholic and Apostolic Roman Church] and at the same time humbly accept and promise faithfully to implement all the penances given to me by R.P.D. [The reverend dignitary?]...that have already been imposed or will be disposed: and if I have not stood firmly in some matter despise these promises and oaths of mine (May God prevent this) I subject myself to all the penalties and castigations which have been stated and promulgated by the sacred canons and other general constitutions against deliquents [who have acted] in this way. Thus, may God help me and these Holy Gospels of His, which I touch with my hands.

I...the aforesaid have abjured, sworn, promised and obligated myself as above, and in testimony [of my good faith] in this matter I have signed with my hand this written promise of my abjuration ++29++which I have related orally with words (here is noted the place in which the abjuration has been made).

On this ...day of the month of...in the year...

Signature

After the absolution has been imparted, the one who received the abjuration and gave the absolution will put his signature here in the way it is noted in Formula C, which follows.

++30++ FORMULA C

The Formula of Absolution

Once the penitent, kneeling on both knees and having first touched the Holy Gospels of God, has read and signed the formula of abjuration, [the bishop or his delegate] absolves him, wearing at least the purple stole; and, while sitting, will recite the psalm Miserere or De Profundis with the Gloria Patri.

Then, standing, he will say:

Kyrie, eleison, Christe eleison, Kyrie, eleison.
Pater noster, secretly up to
And lead us not into temptation.
But deliver us from evil.
Save your people, Lord,
My God, they are hoping in you.
Lord, hear my prayer.
And let my cry come unto you.
The Lord be with you.
And with your spirit.

Let us pray

God, of whom it is proper always to have mercy and to treat with forbearance, we supplicantly beseech you, that the compassion of your holiness absolve with clemency this servant of yours whom the shackle of excommunication binds. Through Christ our Lord. Amen.

Then, again sitting down, he should absolve the penitent still kneeling before him with these words:

By the Apostolic authority which I exercise in this matter, I absolve you from the bond of excommunication, which you [perhaps] have incurred, and I restore you ++31++to the holy sacraments of the church, to the communion and unity of the faithful, in the Name of the Father + and of the Son, and of the Holy Spirit. Amen.

With these acts, the one who has imparted the absolution should impose the salutary penances (for the most part [a penance] of reciting determined prayers, of performing some pious pilgrimage, of accomplishing other works of piety, of observing a particular fast, or of dispensing alms in pious causes, etc.), and finally, then, the formula of abjuration and he signs below in this way:

[In the execution of the orders of R.P.D. (the reverend superior) (the name, etc. of the one delegating him)] the aforesaid (name, etc., of the penitent) was administered by myself [the delegate] the abjuration concerning (e.g. formal, or grave or light) ... and the salutary penances in the usual form of the church, these on the day and year given above.

So be it. I (the signeture of the person absolving the other)

(The delegate will transmit the formula [evidently this means the document itself] directly to him from whom he has received his delegation together with the instruction, and other letters also received, if he has any, keeping nothing at all for himself).

++32++

FORMULA D

The Formula of Delegation to Receive a Denunciation

The ... day of the month of ... in the year ...

We...delegate with these letters...to receive [without the intervention of the notary] under the secret of the Holy Office and according to the attached instruction, the denunciation which the named person intends to make.

L. S. The signature of the Ordinary of the place who is delegating

(Formula E is connected to the letter).

The Manner of Receiving the Denunciation Pertaining Particularly to Solicitation

[Note 1. Whatever words are included within the brackets are valid in the case in which the denunciation is received by the delegate, or, respectively, without the intervention of a notary.]

If the the delegate, however, having signified a serious reason, cannot observe this manner of receiving the denunciation, he should make recourse for some instruction from whom he has received the delegation.]

The notary, if he is present, or he who is to receive the daunmciation will begin with these words or in words similar to these:

On the...day of the month of...in the year...

On my own accord I personally appeared before the undersigned (there should be written the name, the family name, etc. of that person who is to receive the [denunciation], who, if the notary is not present, should write: before me the undersigned) taking place in (here there are noted the place and the diocese where the person who is to receive the action [that is, the deunciation) lives) (Delegated specially only for this action by R.P.D. [The reverend person delegating?)..., as [will be seen) from his letter directed [to me] and given under the date (Lec there be expressed on what day the letter itself was written) applying to the present situation) N.N.(there should be written the name, family name, the name of the father, the country of origin [that is, nationality), age, situation (no doubt the type of work the person does) and the hoce address of the person denouncing; and if this person is a religious, also the name the person was called by in the world) to whom, having made an oath to speak the truth, which he took having touched the Holy Gospels of God (which he must touch with his hand, even a priest) it was explained as below, that is:

This person denouncing in ordinary language [he must declare that he knows that this faculty was obtained from the ordinary of the place to receive without the intervention of the notary what he is about to relate to exonerate his conscience, and therefore because he cannot present himself to the Most Reverend Bishop concerning the just causes; then] he must continue to narrate, in words, however, discrete and contracted [brief] what pertains to the solicitations made to him or what ++341++were the words, the writings, or the acts, accurately describing the place, time, occasion, times and singular circumstances, and whether in the act of confession either before or after the sacramental absolution these things took place. He must identify the confessional seat and the soliciting confessor himself, and in so far as he either does not know his name and family name or has forgotten it, he shall describe accurately the person of that man, noting distinctly all his characteristics, so that he might be recognized. He should note who receives the denunciation, that he should avoid interrogating the denunciating person whether he gave consent to the obscene deed in any way or refused, since the witness is not bound to manifest his defects; nay, the one denouncing is expressly advised that he is not bound to manifest consent as perchance he gave it. With these words uttered as they are, the case

narrated, and, in so far as possible, in the same words of the one denouncing, what follows here, nor is anything more required.

The interrogation: Whether he knows or heard it said, that said N.N. (naming the person), the confessor, solicited other penitents to obscene things?

He responds: (If the response was affirmative, he will seek the name and family name of the persons and the source (cause?) of the knowledge).

The interrogation: Concerning the good name of the aforesaid confessor N.N. with you yourself as with others?

He responds:...

The interrogation: Whether he made the declarations from hate or from love, and from enmity or other general reasons, etc.

He responds: Correct (if he will say that he had denounced in order to exonerate his own conscience.)

If more than one month had passed since the solicitation, moreover, there should be added:

The Interrogation: Why then did you delay the denouncing of the aforesaid matters to your Ordinary and the exoneration of your conscience?

He responds:

All of these matters having been absolved, there should read to the denouncing person everything which was given in writing, or, having given a just reason in writing, a just cause in writing, the instrument should be given to him so that he may read it in the presence of him who receives the denunciation; all of these matters proved and accepted, together with the corections, additions and erasures, if there are some, ~~+35+~~he is invited to write his signature below, and, having given an account of his taking an oath to observe the secret, he should be dismissed.

All of thse matters will be described in these words:

Having these matters and having accepted them, the one denouncing having been dismissed has sworn to obseve the secret, again touching the Holy Gospels of God (he swears an oath upon the Gospel again); and in confirmation of what has been testified by word he writes his signature (or, if he cannot write: since he cannot write, as he asserted, (let the cause be noted), he made the sign of the cross).

After the one denouncing here has signed or made the sign of the cross, the notary should sign, if he is present, in this way:

These are the Acts signed by myself, the notary (and if he has been assumed only for this act: assumed only for this act).

Finally, he signs who receives the denunciation.
L. X S.

If, however, the notary was not present, then the one who receives the denunciation signs in this way:

These Acts are signed by myself, N.N. [specially delegated only for this act by R.P.D. (the reverend delegating person) N.N.].

[The delegate then delivers the entire act directly to him from whom he has received the delegation together with the instruction and the letters received, keeping nothing for himself].

++36++ FORMULA F

Formula of Delegation to Undertake the Investigation

A) TO UNDERTAKE THE COMPLETE INVESTIGATION

The...day...of the month of...in the year....

We...ask you that you will take the customary diligence in pursuing [this investigation] according to the affixed instruction about a false denunciation made by (for example, a woman or women).....
against the priest.....by interrogating [them] separately, formally and under oath to tell the truth and observe the secret, two witnesses, in so far as is possible from the ecclesiastical body, but more important than anything else [to interview somebody], who knows well both the denounced person and the one denouncing (or, if the denouncing are many in number, one and all denouncers). If you cannot find only two witnesses who know together the one denounced and each and every one denouncing, you will call many, as many, namely, as it will be fitting so that there will be a double testimony as to the denunciated and each one denouncing. An authentic copy of the Acts, however, you shall transmit to us directly and in a safe way, together with the instruction and these letters, retaining nothing for yourself.

L.S. The Signature of the Ordinary of the place, the one delegating

(Formula G is joined to the letter)

B) TO UNDERTAKE A PARTIAL INVESTIGATION

On the...day of the month of... in the year....

We...ask you to undertake the investigation according to the affixed instruction.....++37++by interrogating [them] separately, formally and under an oath to speak the truth and of observing the secret, two witnesses, in so far as is possible, from the group of ecclesiastics, as greater than any exception, who (e.g. the woman or women) know [them] more closely.

You will transmit an authentic copy, however, of the acts to us directly and in a safe way, together with the instruction and this letter, keeping nothing for yourself.

Signature of the delegating Ordinary of the place

L.S.

(To the letter is joined Formula H)

FORMULA C

Way of Undertaking the Entire Investigation (Note 1)

[Note: Whatever is included between the brackets is valid in the case in which the work is done by a delegate.]

On the...day of the month of...in the year of....

Having been summoned, this person personally came into the presence of myself, the undersigned, (let there be written the place and diocese where he is located) [for this act only specially delegated by R.P.D.... as [is evident] from the letters of the same person delegating directed and given to me on this date...(there should be expressed on what day the letter was written) binding to the present position].

N...N...(the name, family name and qualities of the Respondent witness) who, having reported his taking his oath to tell the truth, which he gave (even if a priest), having touched the holy Gospels of God, was by myself:

1. The Interrogation: whether he knew the priest N.. N... (name, family name and qualities of the person denounciated).

He responded:....(let there be written the language that the witnesses use and his response).

2. The Interrogation: what is the lifestyle of this priest, what are his morals, what is the opinion of people [about him]?

He responds:....

3. The Interrogation: Whether he knew N....N... (name, family name, and qualities of the one denouncing, or, if there are many, of each one of them).

He responds:...

4. The Interrogation: What is his (each one of them) life-style, morals, and his opinion among the people?

He responds:...

5. The Interrogation: Whether he thought that he or she is worthy of faith or capable, on the other hand, of lying, calumniating in court and even of perjury?

He responds:...

6. The Interrogation: Whether he knows whether perhaps between him and the aforesaid priest there ever existed any reason for hate or enmity?

He responds:...

Then, have duly read the work and brought him to take the oath of observing the secret, which he took as above, he is dismissed and, before he goes away, signs in confirmation of what has been stated (or, if he cannot write, when he asserts that he cannot write (let the reason be noted), he makes the sign of the cross).

After the witness has signed here or made the sign of the cross, he signs that he received the testimony in this way:

These acts are signed by myself, N.N., [specially delegated only for this act].

L.X S.

[The delegate then directly transmits the act to him from whom he has received delegation together with the instruction and the letter he received, keeping nothing at all with himself].

++40++

FORMULA 4

The Way of Undertaking Partial Investigations (Note 1)

(Note 1. Anything included in brackets is valid in the case where the investigation is done by a delegate).

On the...day of the month of...in the year...

Having been called personally there apepared before me the undersigned (let there be written the name, family name, etc., of the person who is to do the activity) taking place in (let there be noted the place and diocese where he is to be found) [specially delegated only for this act by R.g.D....., as [can be seen] in the letter of that same person directed and given to me on this date (let there be expressed on what exact day the letter was written) attached to the present document. N...N...(name, family name and qualities of the respondent witness) who, having been brought to take the oath to tell the truth, which he does (even a priest) having touched God's holy Gospels, performed this for me.

1. Interrogation: whether he knew (for example, the woman) N...N...? (name, family name and qualities of the indicated person).

He responded:....(this should be written in the same language the witnesses uses for his response).

2. The Interrogation: what is his lifestyle, what are his morals, what is his reputation among the people?

He responded:...

3. Interrogation: Whether he thinks that he [or she] is worthy of credence or on the other hand thinks that he or she is capable of lying, calumniating in court and even of committing perjury?

He responded:...

4. The Interrogation: Whether he knows whether perhaps between him or her and the priest there exists or has existed a cause for hate or enmity?

He responded:...

Then, the act duly read to the witness, having signified his taking an oath to observe the secret, which he does as above, the witness will be dismissed, ++41++ and before he leaves, signs as a confirmation of what has preceded (or, if he cannot write: when he cannot write, as he asserted (let the cause be noted), he made the sign of the cross).

After the witness signed here or made the sign of the cross he who received the testimony signed himself in this way:

These are acts done through me N...N... [especially delegated only for this act].

L.X.S.

[Then the delegate will transmit the act directly to him from whom he received the delegation together with the instruction and letter keeping nothing for himself].

FORMULA I

Way of Conducting an Examination Through Generalities

Note: Whatever appears within the brackets is valid in the case where the examination is by the delegate, or respectively, without the intervention of a notary.

If the delegate, however, having given a grave reason, cannot observe this way of administering an examination, he should recur to him from whom he received the delegation for [further] instructions.

The notary, if he is present, otherwise, he who is to undertake the examination will begin the procedures in these or in similar words:

On the...day of the month of...in the year,..

By force of the decree of R.P.D. [The Most Reverend Bishop] (let there be written the name, etc. of the Ordinary of the place) given on the date of ..... having been summoned there appeared before the undersigned (let there be written down the name, the family name, etc. of the person who is to receive the act, and who, if the notary is not present, will write: in the presence of myself the undersigned), taking place in (let there be noted the place and diocese where he is to bound who is to receive the action) (especially delegated only for this action by R.P.D....., as appears from his letter directed to me and given to me on the date (let there be expressed on what precise day the letter was written), this person, N.N. (here there should be written the name, family name, father's name, homeland, age, condition and address of the person summoned; and, if he is a religious, also the name by which this person is known in the world), having been brought to take an oath to tell the truth, which he does touching God's holy Gospels (which he must touch with his hand), was:

Asked: Whether he knows or imagines the reason for his being called for the present examination?

He responded: ...(Let there be written his response in that language which the summoned person uses).

Asked:...For how many years have you been approaching the sacrament of penance?

He responded:...

Asked: Whether he always went to receive the sacrament of penance from the one and same confessor ++43++ or whether from many priests; moreover, whether he always went to receive the sacrament of penance in the one and same church?

He responded: ...

Aske: Whether from each of the priests to whom this person confessed he received holy admonitions and opportune instructions, which gave edification to the person being examined, and kept him from evil.

He responded:...

If the response was affirmative, that is, if he says that he had always been directed well, then he will be interrogated in the following manner:

Asked: Whether he knows or remembers if at any time it was said or heard that a certain confessor had not acted in such a holy and honest manner toward penitents, so that murmurs or even contemptible words against the confessor had been proferred; for example, had the person being examined heard similar things from one or from many penitents, and over the past year or over four or three months?

He responded:...

If after this interrogation and commentary the person being examined continues to deny, let the action be concluded with the usual formula, which appears at the bottom of this instruction.

But if there had appeared to be something against any confessor, according to those things concerning which he is being asked, then he will be interrogated further as follows:

Asked: That he tell the name, family name, office, and age of the confessor, and the place or seat of his confession; or whether he was a secular or a religious priest, etc.

He responded:...

Asked: That he tell, in order, sincerely and clearly, using, however, discrete and constricted words, all of those things less than honorable which he had heard in the sacramental confession either before or after or on the occasion of confession: whether there had been something performed with him less than honest by nods, touches or action, etc., by the priest.

He responds:...

At this point, the judge solicitously will take care that the description is in the same words which the confessor used, the obscene words, the seductipns, the invitations to meet in some place for an immoral purpose, and all the other things which constitute the crime of solicitation, using the vernacular language for the answers which are to be sedulously and truthfully recorded++44++ and, in so far as possible, with the same words in which they were offered; he should add the temperament of the person examined, if he notices that he seems impeded by too much fear or bashfulness from telling the truth, assuring him that everything will be kept under an inviolable secret. Then he should ask him the time from which the solicitations began, how long they perdured, how often they were repeated, in what words or acts smacking of an immoral purpose they had been expressed. He will diligent avoid asking about the consent of the person himself being examined with regard to the solicitation, and, even more, he should advise him expressly that he is not bound to manifest whether by chance he gave consent. Likewise, he will avoid any interrogation which he give evidance of a desire to know the sins of that person.

Asked: Whether he knows or heard it said that the aforesaid confessor had solicited other penitents toward obscenities; and if affirmative, he should name them (and he will help give the name, family name, etc., or at least the better indications by which the other solicited persons can be detected).

He responded:...

Asked: Whether the aforesaid person being examined, had given testimony out of a love for justice and truth, or rather from another motive of enmity or of hate, etc.?

He responded:...

With all of this taken care of, there should be read to the person being examined everything that has been put down in writing, or, for a just cause expressed in the notes, the instrument [that is, the document upon which the notary has written the answers] should be given to him so that this person may read it to himself in the presence of the one who accepted the examination; then, everything that has been approved and accepted by that person, together with the corrections, additions and erasures, if there are any, he should be invited to sign and led to take an oath to observe the secret, and then he should be dismissed. All of these matters shall be described in this words:

The accused, having received and accepted all these matters, was dismissed, having sworn to observe the secret, once again touching God's holy gospels (He will swear again on the Gospel book) and, in attestation of what he had stated, he signed it (or, if he cannot write; when he asserted that he could not write (let the cause be noted), he made the sign of the cross).

After the person being examined has signed here or has made the sign of the cross [on the document], the notary will sign, if he is present, in this way:

These acts are signed by myself, N.N., Notary (and if he has been authorized only for this action; authorized only for this action).
L.X.S.

Finally, he who been administered the examination will sign it. If, however, the notary was not present, then the one who accepted the examination will sign in this way:

These acts are signed by myself, N.N., [specially delegated for this act only by R.P.D., N.N.].

[The delegate will then transmit the action [documentation for the lawsuit] directly to him from whom he received his delegation together with the instruction and the accepted letter, keeping nothing at all for himself].

++46++

FORMULA L

FORMULA OF THE PROPOSAL TO BE MADE BY THE PROMOTER OF JUSTICE; IEE COMPLETE INQUISITION

Having made a brief summary and inquiry about the reasons of law and fact, the conclusion comes about through the promoter of justice, for example, as followed, however, according to the circumstances:

Having considered everything, I think it must be decided that the priest ...be warned (simply or correctly) - or - let the case be constituted in the Curia, that is, the diocesan Curia, and let the case be undertaken according to law (meanwhile, however...and here there are added the canonical opportune provisions, if there are some that seem to need to be proposed to the promoter).

On the ... day of the month of ... in the year ....
The signature of the Promoter of Justice

++47++

FORMULA M

FORMULA OF THE DECREE TO CONSTITUTE A PENAL REMEDY

We (name, and so on, qualities, etc., of the Ordinary of the place), having weighed the actions against the priest, N. N. (our diocese, abbacy, prelature, etc.) about whom there is reported the crime of solicitatioc, we decree that the aforesaid priest, N.N. : be admonished (paternally, gravely, etc. according to the diversity of cases) under the secret of the Holy Office.

If some resolution has to be added, and there is added:

And according to the resolution, the resolution is that...

These are the acts of... (the address of the Ordinary of the place) on the...day of the month...of the year...
L. X. S.

Signature of the Ordinary of the Place
Signature of the Notary

++48++

FORMULA N

The Method For Warning About the Crime of Solicitation

Concerning those who have been denounced once or twice concerning the horrible crime of solicitation for the most part, having taken the opportune efforts, it is decreed that: They should be warned (simply or correctly) under the secret of the Holy Office. The person to whom belongs or is assigned the duty of imparting an admonition of this type, will summon the denounced priest, with the proper circumspection, and he is to impress upon him with serious words, more or less according to the circumstances and the tenor of the decision, but in a paternal and fatherly way, avoiding lest in any way, whether directly or indirectly, he reveal the ones denouncing him, in these words: "It has come to the ears of the Ecclesiastical authority that he, within the sacred tribunal of penance, not always acted as was befitting prudence and holiness, so that not without merit it must be feared lest he, with a rash effort, attempted to convert the sacrament itself of reconciliation into the ruin of souls. It is therefore greatly to his interest that he carefully avoid these things in the future, lest the ecclesiastical authority be compelled to proceed to more serious matters".

Let there be observed, moreover, the secret of the Holy Office regarding all the matter and with everyone to the greatest extent.

If the admonition is done through letter, the method of admonishing should be done in this way.

[The delegate, however, is to give this admonition, at an opportune time, informs him from whom he receives his delegation of the results, at the same time transmitting to him all documents, if he has any, and not keeping anything for himself.]

++49++

The Form of the Decree for the Arraignment

The formulas proposed here are not, as is evident, definitive: they can and must be varied according to the different circumstances. They are proposed therefore as an example.

A) TO INDICT SIMPLY

The Reverend... to be indicted in the diocesan Curia about all the matters deduced against him and there should be a case according to law.

These are the Acts [signed at] (the address of the Ordinary of the place)
On the ... day of the month of... in the year of...
Signature of the Ordinary of the place
Signature of the notary

B) TO INDICT, HAVING ADDED CANONICAL PROVISOS

The Reverend...is to be indicted in the diocesan Curia about all the matters brought up against him and let there be a trial according to law. Meanwhile, however (for example, let him remain suspended from the celebration of Mass, or of exercising the sacred ministries and spiritual offices; he should leave this place...and go to that place...where he should remain under special vigilance, etc.).

These acts are signed (as above) on the ... day of the month of... in the year...
L.X. S.

Signature of the Ordinary of the Place
Signature of the Notary

++50++

FORMULA B

Way of Indicting

N.B., according to the norm of article 52 he is not to bind the accused to make an oath to tell the truth...

The notary will begin the action:

"On the ... day of the month of ... in the year ...

Having been summoned, The Reverend N.N. personally appeared before the undersigned (let there be written the name, family name, etc. of that person who is doing the indicting) [especially delegated for this action], who was:

Interrogated about his name, family name, parents, homeland, age, condition, etc.

He answered:.. (The Notary will write in the native language, and, in so far as he can, in the same words which the accused uses, his answers.)

Interrogated: Whether he knows or perhaps imagined the reason of his having been summoned?

He answered:...(and it will be continued in this way up until the end, noting down the single questions and his answers to them)."

If the answer according to this interrogation has been affirmative, the judge will invite the accused to explain everything separately and sincerely; otherwise, he will admonish him gravely, in order that, having been stricken by his own conscience, he would say whether perhaps he felt that he was burdened by any crime. And, if he then should respond affirmatively that he, as above, will invite him to confess his own fault with appropriate humility and sincerity, expressing the names of those who were delinquent with him and the words or facts and other circumstances of the matters which constitute the matter and individuality of the impetrated crimes.

And because it is difficult for him to be able to remember everything from the beginning, the judge will be able to put aside the space of two or three days, during which the accused person can diligently examine in prayer and tears his own conscience, giving him the option of giving his confession in writing as well, which in the following indictment ~~51~~the judge will formally receive, or, if it is given in writing, he will accept from his hands the notebook in which it is contained and will give it to the notary who will make a note of the matter, for example, in this way: The accused gave [me] a notebook [containing] his confession, as he asserted, having done it in writing, which he began...(he will note the first words of the document), and finished with...(he will note the last words), and which I, accepting it, sign with the letter A (he marks the page with this or another letter of the alphabet) and I have put it into the Acts." This method must be observed always as often as any document of any type received from the accused has to be inserted into the Acts.

After these, the directing judge will compare the confession that has been made either verbally or in writing with the denunciations existing in the Acts, and, if he shall find in it nothing that is omitted or left out, having omitted the affirmations, he shall proceed to the last questions; if, however, he finds anything in these which the accused either did not confess at all or lacked integrity in his confession, he will only make mention of it, as will be stated below.

If, however, the matter still remains negative against the accused, the judge will interrogate him further whether he knows against what delicts the supreme tribunal is proceeding; if he does not know, he will enumerate the crimes of this type (heresy, solication to grave matter, the worst crime [of

pediastry], the violation of the seal, etc.) Then he will ask him whether he impetrated any of these crimes: if he responds affirmatively, he will invite him to a spontaneous confession, as before; otherwise, he will read to him the decree by which a mandate has been issued that he be indicted. Then he will order him to relate the story of his own life and career; where he was born, where he had been educated, whether he was promoted to any academic grades or other signs of honor, where he lives, what offices and duties he had been assigned and other matters of a similar nature. Finally, he will ask of him whether he has any enemies, who they are and what is the cause of their enmity.

Having premised these general questions, the judge, before he addresses the single denunciations with the summoned accused, he will ask him about the particulars of the persons, places, and circumstances of the times brought out in the denunciation and what can demonstrate its probable truth or falsity: For example, where the place of the confessional is in the church or the rooms in the home of the priest; whether he receives the penitents before or after confession at home so that ++52++ he may impart counsel; whether he put books at their disposal, etc.; whether this took place that he would speak a long time with a woman at home or in the sacristy after confession and this with closed doors, whether it took place on such and such a day and in such a town or city, etc.

Then the judge will state to the accused — always keeping secret the name of the one denouncing him — each denunciation. But he will not, indeed, do so in a global or combined manner. He will bring up each and every denunciation distinctly in parts by reading them to the accused so that he first presents the whole denunciation before the accused and then singly in sections such as has been revealed in each denunciation.

The judge will begin from the less serious words and deeds and slowly proceed to the more serious; nor will he omit proving also some saying or deed that is not criminal, if there is something borne out by the denouncers, so that, once the accused has admitted that, if perhaps then the accused is tainted, he can be shown that the criminal words or deeds have been so joined that the public authority of the church cannot consider some of these criminal words or deeds as true and others as false. These words and deeds will be brought forth to confirm each of the denunciations, and, should there be any, those the earnest efforts [diligentiae]," favorable to the one denouncing and not favorable to the one being denounced; "Information" that is not favorable to him should not be thrown up against him. 'information', which is not held to be favorable to him.

By reason of association [connexio] or content [continentia], the judge will also bring up to the accused the crimes not pertaining to the Holy Office, for which the accused has been denounced and for which he has not yet gone into judgment.

Simultaneously, the counter arguments upon which the accused perhaps has relied, whether [based] upon subterfuges, evasions and meaningless responses, must be proved.

The declarations of all the denunciations having been completed, if there are indeed more denunciations and the accused remains negative, the

judge should not omit to declare to the same accused that, not in conformity with his denials there stand more denunciations in number, distinct in time and reported by different persons, who, from reliable testmony, are of good name, in every way worthy of credence; they are incapable of calumniating or of committing perjury; they are indeed unknown to each other, and hence conspiracy is impossible. Nor has enmity or any other human pathological state been adduced as the reason to accuse [this priest]. It is only in order to satisfy the ineluctable obligation that they have taken the counsel of their own conscience.

++53++

These things having been brought up, the judge will interrogate the accused as to what he himself feels about the sixth precept of the decalogue and the sacrament of penance; whether he thinks it is licit for the confessor to act in such a way with penitents, so that, from certain documents (or, if he has confessed, from his own confession) it was proved that he had himself acted [in this way], whether he perhaps thinks that all [his actions were] in no way sinful; whether he was familiar with the Apostolic Constitution of s.m. Benedict XIV, which begins: "The sacrament of penance", and with the penalties which this Constitution and the holy canons threaten against the confessors in the sacred ministry who have abused their sacred ministry to the ruin of souls; and finally whether he can offer anything to exonerate himself.

After this, the judge will ask him whether he should continue this process here and now as being legitimate or on the other hand does the accused have an exception to make against it; whether he would be content to be assisted by a defender ex officio [from the tribunal] or whether he would wish to name his own defender for himself and, if he insists on some exception, whether he wants perhaps to have the examination of the denunciators repeated.

If he gives an affirmative answer to this last question, or, if in some way he has some [fact] to offer in his own defence because of which the witnesses must be heard (as, moreover, if a serious and sometimes unexpected difficulty comes up), the arraignment should be suspended. It should be reconvened after the denouncing persons have been examined once more or the witnesses have been heard. From these persons the judge will elicit new depositions, and, having formally made the [second] inquisition, formerly begins anew the arraignment.

The attestations of the denunciations having been taken care of, the text of the denunciations must be given to the promoter of justice, who will scrutinize it and declare whether he has any notes to make about it or whether there are new statements or new steps that ought to be taken.

The arraignment will not be concluded by the judge, unless there has first been an express consent by the promoter of justice.

At the end of each session there shall be read to the accused everything that has been presented and in written form is read to the accused by the notary, and , once the accused has approved and accepted these statements, together with any corrections, additions and erasures, if there are any, he will be invited to write his signature; and, having been gravely warned

about keeping the secret, the accused will be dismissed. The notary will describe all of this in these words: "After having received and accepted all of this, the accused, before being dismissed, was warned about keeping the secret and before he was to leave, he was to sign in confirmation of what had been stated."

++54++

After the accused respondent has signed, the notary will sign in this way: "these Acts are signed by myself, N.N., notary (and if he has been authorized solely for this act: authorized only for this act)". Then the indicting judge will sign.

Since, however, there is a need for not only one single arraignment session to bring the many matters to their successful completion, but for many sessions, each one of these sessions should be opened and closed in the same way. At each session, at the bottom of every page, there should be the signatures of the accused, the notary and the judge, and, at the end of each session the judge will cite the accused, indicating the date for the following session which the notary will note in this way: "Having been informed of and having accepted all of these matters, the accused has now been cited for the ... day of the month of... to appear again, and he was dismissed after having been admonished, etc." as above. However, in the following session, the first question will be: whether to those things which were treated in the preceding sessons the accused has anything to add, remove or correct on his own", and, after his answer has been transcribed, the sessions will then be continued, from that point at which the previous interrogation ended.

N.B. — It would be superfluous to note that the judge, before he comes to the indictment, must accurately subject the whole informative process to his examination, —obviously all the denunciations both informal and formal and also of the material not pertaining to the Holy Office; his examinations about the morals and the veracity of the ones denouncing, and the investigations and information about the life, morals and good name of the one denounced, plus love letters perhaps written by him, etc. — so that the same judge has at hand all the elements with which to weaken the denials of the accused; and with which to rebut his arbitrary affirmations. From the partial concessions of the accused he can force him to admit more matters.

++55++ FORMULA Q

The Formula for a Petition by the Promoter of Justice

A) IN THE CASE OF PROPOSING AN ADJOURNMENT

Once there is premised a brief summary and inquiry about the reasons of law and fact, there is this conclusion; for example

Having taken everything into consideration, I think it should be decided that the Reverend .... be dismissed with a grave admonition, the process remaining in force. And for the same reason and purpose. The purpose is (for example) that he be watched most diligently: that he be kept from any familiarity with women, also using ecclesiastical censures, and, if anything

obscene (or, if anything not in keeping with the sacerdotal state, etc.) is observed in his life-style, then he will be brought to the tribunal immediately.

On the...day of the month of...in the year...

Signature of the Promoter of Justice

B) IN THE CASE OF PROPOSING A CONDEMNATION

What has been premised above, etc.

...I think that it should be decreed that, having imposed congruent (or grave) and salutary penances, among which there would be spiritual exercises for ...days to be done in a religious house, during which he will remain suspended from the celebration of the Mass, the Reverend... should be dismissed with (here there should be expressed according to the prescription of Canon 2368 § 1 and also the supplementary sanctions which seem to need to be inflicted). If he has by chance absolved his accomplice, he should heal his conscience by a recourse to the Sacred Penitentiary.

On the ... day of the month of ... in the year ...

Signature of the Promoter of Justice

C) IN THE CASE OF PROPOSING ABSOLUTION

...I think it should be decreed: that the innocence of the charged person is evident from the Acts; and therefore the Reverend... should be dismissed once he has been absolved.

++56++

FORMULA R

The Manner of Rendering a Condemnatory Sentence in Cases where the Accused Remains Negative

We (There should be noted the name, family name, qualities, etc., of the Judge-Ordinary or the one delegated).

Since...(the name, family name, father's name, age, condition, etc. of the accused, and, if he is a religious, there should also be added the name he used in the world) was not afraid to abuse the sacrament of penance by words and acts concerning which there is treatment in the Pontifical Constitutions and especially in the Constitution of Benedict XIV, which first words are Sacramentum Poenitentiae, by saying and doing these things...(here, summarily, and in prudent and discrete words, there should be told how, how often, etc. the accused committed the fault);

And, since, because of all these matters he has been denounced to our tribunal, he has been duly cited on this day (let there be noted the day and month of citation), with a proper process having been constituted against him, he has not been indicted on these days (state on which days); however, he remains negative. Nevertheless he has been convicted of the matter.

Therefore, although he has affirmed that he feels that he has acted correctly concerning the faith and Catholic doctrine (having supposed, evidently that the matter was truly so), and the defender for the court action was not remiss in his duty of promoting and sustaining the proper defenses for the accused;

Nevertheless, having correctly and seriously weighed everything, we the Judge-Ordinary or his delegate, on this day (let there be noted the day on which the sentence is given), from the acts and proofs, believe and are convinced that the sentence which follows ought to be rendered.

Therefore, having invoked the name of God, and that of the most blesed and ever virgin Mary the Mother of God and of our Lord Jesus Christ, we issue this our definitive sentence which we, seated for the tribunal, issue, with these pages, in the cause which has been brought before us between D.....(name, family name, etc. of the Promoter of Justice) the promoter ++57++ of justice at this tribunal and ...(name, family name, etc. of the accused, as above), we say, decree and declare and hold that...(the name, family name, etc. of the accused is repeated), because of those matters of which he has been convicted, has been judged guilty of the crime of solicitation toward obscene matters (and of false dogma) and therefore has merited the censures and penalties which have been stated, legislated and promulgated against such delinquents.

Lest, therefore, the above mentioned errors and faults remain unpunished, and in order that the accused will hasten to live in the future more cautiously and be an example to others, we will therefore condemn him...(there should be added the dispositve part of the decision.)

Likewise we impose upon him these salutary penances...(and let it be said what penances are imposed).

And thus we say, discern, declare and order and definitively believe and we do intend and wish to order its execution, as we order concerning the fact in this way and with that form which by law we can and must [decree], at the same time mandating for this purpose with the present letter that the accused on this date.... will be cited to hear the reading and conveyance of this our decision.

Thus we pronounce (and the act should be closed with an indication of the place and day in which it is to be published).

L.X S.

Signature of the Judge the Ordinary or of his delegate
Signature of the notary

++58++

FORMULA S

Manner of Delivering a Condemnatory Sentence in Cases Where the Accused has Confessed His Crimes

We (Let there be noted the name, family name, qualities, etc., of the Judge-Ordinary or his delegate).

Since...(name, family name, father's name, age, condition, etc. of the accused, and, if he is a religious, let there be added also the name by which he is known in the world) was not afraid to abuse the sacrament of penance by words and actions concerning which treatment was given in Pontifical Constitutions and especially in the Constitution of Benedict XIV, whose opening words are SACRAMENTUM POENITENTIAE, saying and doing these things...(here in a summary fashion and with prudent and discrete words, it should be indicated how, how often, etc. the accused has been at fault).

Since, because he has been denounced for all these matters to our tribunal, and a regular process has been set up at this tribunal against him and he was duly cited on this date (here should be noted the day, and the month of the citation), he was arraigned on these days (let it be said on what days); he confessed this and this (here should be summarized his confession).

Although, therefore, he has affirmed that he felt that he was correct in matters of faith and Catholic doctrine (and with the supposition, evidently, that this is truly the case), and his defending advocate, in keeping with his duty, was not remiss in his promotion and sustaining the due defences.

Nevertheless, having weighed everything correctly and seriously, we the Judge-Ordinary or his delegate, on this day (let there be noted the day on which the sentence is given) from the acts and proofs think and retain that the sentence which follows ought to be rendered.

Therefore, having invoked the name of God, and that of the most blessed and ever virgin Mary, the Mother of God and of our Lord Jesus Christ, with this definitive sentence which we publish seated here for the tribunal on this public record in the case which was processed in our presence between D....(name, family name, etc. of the Promoter of Justice) the Promoter of Justice ++59++ in this tribunal and,... (name, family name, etc. of the accused, as above), we say, decide, declare and believe that ... (name, family name, etc. of the accused is repeated), because of those things which he has confessed, has been judged guilty of the crime of solicitation to obscene matters (and of false dogma), and, moreover, that he has merited the censures and penalties which have been put forth, stated and promulgated against such delinquents by the holy canons.

Lest the aforesaid errors and faults remain without penalty, and in order that the accused should hasten to live more cautiously in the future, and be an example to others, we condemn him in this way ...(here there should be added the dispositve part of the sentence).

Likewise for salutary penances, we impose... (here are indicated the penances which are imposed).

Because, however, the accused has spontaneously confessed the aforesaid errors and faults and he humbly asked forgiveness for them, we wish, moreover, to absolve him from any excommunication he perhaps incurred, as long as he first given evidence that, with a sincere heart and faith that

are real he first abjures those errors and detests his faults; thus we ordain by this our sentence that he act in accordance with the manner and form stated by us.

And thus we say, decree, declare, order and definitively believe and intend and wish to command to execution, as concerning the fact, we order in a better way and according to that form which we can and must use by law, at the same time ordaining with the present letter that the accused on this day...will be cited to hear the reading and being informed of this our sentence.

Thus we pronounce (and the act should be closed with an indication of the place and day on which it was made known).
L. X S.

Signature of the Judge-Ordinary or his Delegate
Signature of the Notary

++60++

FORMULA T

Manner of Declaring Solemnly about the Promulgation and Intimation of the Sentence in the Cases of Solicitation

The notary should begin the act with these words:

By force of the decree of this date (let the day be noted on which the sentence was given) given by...(name, family name, etc. of the judge), in the presence of the same person at (the location ought to be noted), with the notary present, N.N. appeared personally (name, family name, father's name, age, condition, etc. of the accused, and, be was a religious, there should also be added the name which he used in the world), to whom by the aforesaid judge seated for the tribunal there were read the following matters:

Here the document is read completely word for word by which the sentence has been given.

Then there is added:

On the...day of the month of... in the year... with these writings there has been promulgated the aforesaid sentence through the above mentioned person (name, etc. of the judge) seated for the tribunal (let there be said in what place), and by his reading in a high and intelligible voice, to the present person (the name, etc. of the accused) listening to him and not contradicting; (if he had confessed, there should be added: being willing, genuflecting before the judge, touching the holy Gospels of God placed before him, he abjured the aforesaid errors [and heresies and generally all the other errors and heresies contrary to the Holy, Catholic and Apostolic Roman Church], as in the schedule of his abjuration, by which he undertook his abjuration, still kneeling, was absolved in the customary form of the Church from the sentence of excommunication and was reconciled to the holy mother the Church, having undertaken prayers and usual and customary ceremonies) -- and there having been enjoined upon him salutary penances

contained in said sentence. Having received all these things, he was dismissed, sworn to observe the secrecy at the touch of the ~~holy~~ holy Gospels and previously, in confirmation of what was presented before, of his and my signature.

Signature of the Accused

These Acts have been signed by myself, N.N. the notary (and if he has been authorized only for this act: authorized only for this Acc).

Finally, the judgs signs.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	Civil Action No.: 2018-CP-10-3929

John Doe,

Plaintiff,

vs.

The Diocese of Charleston, a Corporation Sole, and The Bishop of the Diocese of Charleston, in his official capacity,

Defendants.

ANSWER

FILED
2019 MAR 19 PM 2:40
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Bishop of Charleston, a Corporation Sole (incorrectly identified in the Complaint as "The Diocese of Charleston, a Corporation Sole), and the Bishop of the Diocese of Charleston, in his official capacity (the "Diocese"), answer Plaintiff's Complaint as follows:

FOR A FIRST DEFENSE
PARTIES AND JURISDICTION

1. The Diocese admits only that, upon information, John Doe is a resident of Charleston County and that his identity has been disclosed. The Diocese is without sufficient knowledge or information to form a belief as to all remaining allegations contained in Paragraph 1 and, on that basis, denies same.

2. By way of answer to the allegations contained in Paragraph 2, the Diocese admits only that "Bishop of Charleston, a Corporation Sole" was created by Act of the General Assembly on December 13, 1880, and that it does business in the name of the Roman Catholic Diocese of Charleston. Its administrative offices are located at 901 Orange Grove Road in Charleston. The administrative offices have some supervisory authority over the operations of

the ministries of the Church, though Canon Law prescribes that responsibility. All remaining allegations contained in Paragraph 2 are denied.

3. The Diocese is without sufficient knowledge or information regarding Plaintiff's allegations of the Bishop's "official capacity" and on that basis denies same. The allocation of power within a hierarchical church and the ecclesiastical status of each Bishop of Charleston are entirely governed by Canon Law. As such, the allegations of Paragraph 3 are denied.

FACTUAL SUMMARY

4. The Diocese admits that Catholic parishes and schools are located throughout South Carolina and that the Diocese owns certain real property and other assets. The Diocese admits that Sacred Heart Catholic Church is located in Charleston. Sacred Heart School was closed in around 1989. In 1991, the Diocese opened a new school on the peninsula named Charleston Catholic School. Any remaining allegations contained in Paragraph 4 are denied. Any remaining allegations contained in Paragraph 4 are denied.

5. Denied as pleaded.

6. The Diocese denies that Catholic schools are for-profit commercial enterprises and avers that the Internal Revenue Service has confirmed the charitable status of each parish and school since 1946. The Diocese admits, upon information and belief, that schools often charge different rates of tuition for children of members of the parish, non-parishioners, and non-Catholics. All remaining allegations contained Paragraph 6 are denied.

7. Upon information and belief, Chris Hartnett and Hal Brooks were teachers at Sacred Heart School during the 1970-1971 school year. All remaining allegations contained in Paragraph 7 are denied.

8. The Diocese admits only that, upon information and belief, Sacred Heart School employed Hartnett and Brooks at teachers during the 1970-1971 school year. All remaining allegations contained in Paragraph 8 are denied.

9. The Diocese is without sufficient knowledge to form a belief as to the allegations contained in Paragraph 9 and, on that basis, denies same.

10. The Diocese is without sufficient knowledge to form a belief as to the allegations contained in Paragraph 10 and, on that basis, denies same.

11. The Diocese is without sufficient knowledge to form a belief as to the allegations contained in Paragraph 11 and, on that basis, denies same.

12. The Diocese is without sufficient knowledge to form a belief as to the allegations contained in Paragraph 12 and, on that basis, denies same.

13. Denied.

14. Denied.

15. Denied.

16. The Diocese is without sufficient knowledge to form a belief as to the allegations contained in Paragraph 16 and, on that basis, denies same.

17. Denied as pleaded.

18. The Diocese denies the allegations contained in Paragraph 18. *Crimen sollicitationis* was a canonical proclamation, the interpretation of which would require an expert on Canon Law, and expert testimony regarding the translation of a Latin document to English. The document attached to the Complaint lacks any evidentiary predicate and its attachment is improper. Further, a civil court is absolutely prohibited from attempting to interpret matters of Church law lest it run afoul of both the Free Exercise and Establishment clauses of the First

Amendment as incorporated to the States under the Fourteenth Amendment. Finally, Plaintiff's unsupported interpretation of the meaning of *Crimen sollicitationis*, as set forth in the following paragraphs, is entirely incorrect.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

FOR A FIRST CAUSE OF ACTION
(OUTRAGE/INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

29. By way of answer to Paragraph 29, the Diocese incorporates by reference Paragraphs 1 through 28 above as if restated fully herein.

30. Denied.

31. Denied.

FOR A SECOND CAUSE OF ACTION
(NEGLIGENCE/GROSS NEGLIGENCE/RECKLESSNESS)

32. By way of answer to Paragraph 32, the Diocese incorporates by reference Paragraphs 1 through 31 above as if restated fully herein.

33. The Diocese is without sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 33 and, on that basis, denies same.

34. The Diocese is without sufficient knowledge and information to form a belief as to the allegations contained in Paragraph 34 and subparagraphs (a) and (e), and, on that basis denies same. The Diocese denies the allegations contained in subparagraphs (b) through (d) and (f) through (p).

35. Denied.

FOR A THIRD CAUSE OF ACTION
(BREACH OF FIDUCIARY DUTY)

36. By way of answer to Paragraph 36, the Diocese incorporates by reference Paragraphs 1 through 35 above as if restated fully herein.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

FOR A FOURTH CAUSE OF ACTION
(FRAUDULENT CONCEALMENT)

41. By way of answer to Paragraph 41, the Diocese incorporates by reference Paragraphs 1 through 40 above as if restated fully herein.

42. Denied.

43. Denied.

44. Denied.

FOR A FIFTH CAUSE OF ACTION
(CIVIL CONSPIRACY)

45. By way of answer to Paragraph 45, the Diocese incorporates by reference Paragraphs 1 through 44 above as if restated fully herein.

46. Denied.

FOR A SIXTH CAUSE OF ACTION
(NEGLIGENT RETENTION OR SUPERVISION)

47. By way of answer to Paragraph 47, the Diocese incorporates by reference Paragraphs 1 through 46 above as if restated fully herein.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

52. Denied.

53. Denied.

54. Denied.

55. Denied.

FOR A SEVENTH CAUSE OF ACTION
(BREACH OF CONTRACT)

56. By way of answer to Paragraph 56, the Diocese incorporates by reference Paragraphs 1 through 55 above as if restated fully herein.

57. Denied.

58. Denied as pleaded.

59. Denied.

60. Denied.

FOR AN EIGHTH CAUSE OF ACTION
(BREACH OF CONTRACT ACCOMPANIED BY A FRAUDULENT ACT)

61. By way of answer to Paragraph 61, the Diocese incorporates by reference Paragraphs 1 through 60 above as if restated fully herein.

62. Denied.

63. Denied as pleaded.

64. Denied.

65. Denied.

66. Denied.

PRAYER FOR RELIEF

The Diocese denies Plaintiff's unnumbered paragraph beginning with WHEREFORE and denies that Plaintiff is entitled to any relief whatsoever.

FOR A SECOND DEFENSE

Plaintiff has failed to state a cause of action for which relief may be granted.

FOR A THIRD DEFENSE

Plaintiff's claims are barred by the applicable statute of limitations or statute of repose.

FOR A FOURTH DEFENSE

Plaintiff's claims are barred by the doctrines of *res judicata*, collateral estoppel, or the settlement of the class action brought on behalf of all victims of sexual abuse by the Diocese in 2007.

FOR A FIFTH DEFENSE

Plaintiff's claims, or any of them, are barred by the Free Exercise Clause and the Establishment Clause of the First Amendment to the Constitution as incorporated under the Fourteenth Amendment.

FOR A SIXTH DEFENSE

Plaintiff's claims for punitive damages violate both the Fifth and Fourteenth Amendments of the United States Constitution and Section III of the South Carolina Constitution in that the jury's discretion to award punitive damages in any amount which it chooses is wholly devoid of any meaningful standard and is inconsistent with due process guarantees.

FOR A SEVENTH DEFENSE

Plaintiff is not entitled to recover punitive damages because the Diocese did not act with malice or reckless indifference to the rights of others.

FOR AN EIGHTH DEFENSE

The Diocese submits that the injuries and damages for which Plaintiff seeks recovery were due to, and proximately caused by, the intervening negligence, recklessness, willfulness, wantonness, criminal acts, and fault of a third party or parties other than the Diocese. Such intervening negligence, recklessness, willfulness, wantonness, criminal acts, and fault are the sole cause of the injuries and damages for which Plaintiff seeks recovery, and, therefore, Plaintiff may not recover against the Diocese.

FOR A NINTH DEFENSE

The Diocese is not liable for the actions of any agent who acted outside the scope of his/her authority.

FOR A TENTH DEFENSE

Plaintiff's claims are barred under the doctrines of waiver, estoppel or laches.

FOR AN ELEVENTH DEFENSE

Plaintiff's claims are barred or limited under South Carolina Charitable Immunity Doctrine or his damages, which are denied, are limited by the statutory caps on liability for charitable entities.

FOR A TWELFTH DEFENSE

To the extent Plaintiff seeks a double recovery for any alleged single wrong, he must elect his remedy.

FOR A THIRTEENTH DEFENSE

The Diocese denies of any conduct on its part was the proximate cause of the Plaintiff's claimed injuries and damages, which injuries and damages are specifically denied.

FOR A FOURTEENTH DEFENSE

Plaintiff has failed to state a cause of action for conspiracy and has failed to comply with the mandate of Rule 9(g). As such, his Fifth Cause of Action must be dismissed.

FOR A FIFTEENTH DEFENSE

Plaintiff's contract-based claims must fail based upon the lack of any actionable contract with these Defendants.

FOR A SIXTEENTH DEFENSE

Plaintiff has failed to plead fraud with the specificity required under Rule 9(b).

FOR A SEVENTEENTH DEFENSE

All allegations not specifically admitted are denied.

FOR A EIGHTEENTH DEFENSE

Plaintiff's contract-based claims are barred for lack of privity of contract.

FOR A NINETEENTH DEFENSE

Suit against the "Bishop of Charleston, in his official capacity" is redundant and improper, and that party is due to be dismissed.

FOR A TWENTIETH DEFENSE

Discovery is just beginning in this case. The Diocese specifically reserves the right to assert additional defenses, including counter claims, cross claims, and third party claims, as may become available or apparent.

RELIEF REQUESTED

WHEREFORE, Defendant prays for the dismissal of the Complaint with prejudice in its entirety for an award of attorney's fees, expenses, and costs and for such other and further relief as may be just and appropriate under the circumstances.

TURNER, PADGET, GRAHAM & LANEY, P.A.

Richard S. Dukes, Jr. (SC Bar No.: 16563)
40 Calhoun Street, Suite 200 (29401)
Post Office Box 22129
Charleston, South Carolina 29413-2129
Telephone: 843-576-2810
Facsimile: 843-577-1646
Email: rdukes@turnerpadget.com

ATTORNEYS FOR DEFENDANTS

March 19, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	Civil Action No.: 2018-CP-10-3929

John Doe,

Plaintiff,

vs.

The Diocese of Charleston, a Corporation Sole, and The Bishop of the Diocese of Charleston, in his official capacity,

Defendants.

FILED
2019 MAR 19 PM 2:41
JULIE J. ARMSTRONG
CLERK OF COURT
BY

CERTIFICATE OF SERVICE

I hereby certify that this 19th day of March, 2019, a copy of the ***Answer*** has been served upon other counsel of record by placing same in the United States Mail, postage prepaid, to:

Lawrence E. Richter, Jr.
622 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464

Attorneys for Plaintiff

April D. Hager

April D. Hager

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2018-CP-10-3929
	)	
	)	
	)	
JOHN DOE	)	
	)	
Plaintiff	)	
	)	
vs.	)	
	)	
DIOCESE OF CHARLESTON	)	
	)	
Defendant	)	
	)	
	)	
	)	
_____	)	TRANSCRIPT OF RECORD

December 14, 2018
Charleston, South Carolina

B E F O R E:

THE HONORABLE D. CRAIG BROWN, JUDGE

A P P E A R A N C E S:

LAWRENCE E. RICHTER, ESQ.
AARON ERIC EDWARDS, ESQ.
Attorneys for the Plaintiff

RICHARD S. DUKES, ESQ.
WAYNE BYRD, ESQ.
Attorneys for the Defendant

JOYCE C. RUEGER, CVR-M
Circuit Court Reporter

[Original transcript provided to Lawrence E. Richter, Esq.]

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	3
MOTION TO DISMISS, MOTION TO STRIKE, MOTION FOR STAY	
Remarks by Mr. Richter	3
Remarks by Mr. Byrd	4
Remarks by Mr. Dukes	10
Remarks by Mr. Richter	16
Remarks by Mr. Edwards	18
Remarks by Mr. Dukes	27
CERTIFICATE OF THE COURT REPORTER	29

INDEX TO EXHIBITS

No exhibits were introduced

PROCEEDINGS

THE COURT: The next matter John Doe v the Diocese of Charleston. The plaintiff has a Motion to Strike, is that correct?

MR. DUKES: They're all defense motions.

MR. RICHTER: We're the plaintiff, Your Honor.

THE COURT: Right. The reason I asked that is my roster says first Plaintiff Motion to Strike. If they're all defense motions then sir, you can have a seat and I'll hear from defense counsel.

MR. RICHTER: Can I introduce everybody for Your Honor.

THE COURT: Yes, sir.

MR. RICHTER: There are two you're correct, there are two cases Doe and Roe. Doe was the first filed just so you can understand the lay of the land. Roe was the second filed. In both of those cases there have been a Motion to Dismiss and a Motion to Stay Discovery. In the Doe case there has been a Motion to Strike a portion of the amended complaint. And that's the work order we understand it. Mr. Edwards ---

MR. DUKES: --- we're in agreement about that, Judge.

THE COURT: All right. Who is going?

MR. RICHTER: If I can suggest it makes the most

sense to knock out if you do the first two motions first, the Motion to Dismiss and the Motion to Stay Discovery I think he can get by with one argument -- you might save a little time.

THE COURT: I'm going to turn it over to you all and let y'all figure out how you want to argue it. I'll be happy to hear from you. Mr. Byrd or?

MR. DUKES: Mr. Byrd is going to argue part of it. I'm Richard Dukes also with Turner Padgett and I'll argue the rest of it.

THE COURT: Very well. Mr. Byrd?

MR. BYRD: If Your Honor please? As intimated I have a limited role in this matter essentially related to and only to the status of the defendants with regard to the Internal Revenue Code and 501(c)(3) tax exemption. And I'd like to begin if Your Honor please with the Code Section 501(c)(3). May I approach, Your Honor?

THE COURT: Yes, sir.

[Whereupon, Mr. Byrd provides documents to the Court]

MR. BYRD: Section 501 was adopted actually in August of 1954. In 26-USC(a) Section 501 provides for exemption from taxation and it reads an organization described in Subsection (c) or (d) or Section 401(a) shall be exempt from taxation under this subtitle unless

such exemption is denied under Section 502 or 503. 501(c) is the list of exempt organizations and reads the following organizations are referred to in subsection (a). And (c)(3) Your Honor which is on numbered page 5 in the lower right hand corner 3 says corporations and any community chests, fund or foundation organized and operated exclusively for religious, charitable, scientific testing for public safety, literary, or educational purposes.

So those are the entities which are exempt from taxation under 501. So we're dealing with 501(c)(3) Your Honor. It's indisputable that the defendants in this case are 501(c)(3) exempt organizations. May I approach again, Your Honor?

THE COURT: Yes, sir.

[Whereupon, Mr. Byrd provides documents to the Court]

MR. BYRD: This next document, Your Honor, indicates the Diocese of Charleston entities or individuals which are exempt under 501(c)(3). And if you go three pages deep into that document Your Honor it lists clergy, parishes, missions, and parochial schools. And number 13 is Saint Mary of the Enunciation and it indicates at the end of that number 13 school (see Charleston Catholic School under Sacred Heart of

Charleston). And you go down to 17 and it lists there CharlestonCatholic@CharlestonCatholic.org. And the importance of that Your Honor is some of these other documents which we will be handing up for Your Honor's review start off with Sacred Heart of Charleston being the name of the school. The name of the school was thereafter changed to Charleston Catholic.

If Your Honor please the defendants submitted supplemental authority. You may have it in your file, Your Honor or it was emailed. Then again I'm sorry I'm doing it this way but I was afraid if I just handed you a stack it might not be as manageable.

[Whereupon, Mr. Byrd provides documents to the Court]

MR. BYRD: If you look at the attachments to the supplemental authority Your Honor on February 24th, 1971 there was a communication to the Catholic Diocese entities that were exempt. The first one is February 24th, '71 and the second memorandum is dated March 5th, 1971. That's the last page of the supplement, Your Honor. Here Monsignor Schwartz [phonetic] ---

MR. RICHTER: --- excuse me just a minute. I think I can help us time wise Judge. We can stipulate that the IRS has designated Catholic Diocese of Charleston, which encompasses the state of South Carolina as being a

501(c)(3).

MR. BYRD: With that stipulation, Your Honor that brings it to the much shorter presentation.

[Whereupon, Mr. Byrd provides documents to the Court]

MR. BYRD: If Your Honor please the case I just handed up is 312 S.C. 211 1994 opinion of our Supreme Court in the Lazerson [phonetic] case. And if Your Honor please on the second page of the opinion you see that the issue is whether Sections 33-55-208 and 210 violate due process. This is related to the Legislature's action after the Supreme Court previously abrogated the protection of exempt organizations, charitable organizations.

And it essentially provides that applying the Weinberger [phonetic] test we find tax exempt status under the Internal Revenue Code to be an objective criteria that bears a close nexus with the underlying Legislative policy to preserve the resources of charitable organizations.

So there the Legislature says that if it is a 501(c)(3) organization it's protected by the statute. Code Section, that is again the Internal Revenue Code Section, Your Honor, 44-21 provides in part but the term lottery does not include any game in which the wagers are

usually placed, winners determined and the distribution of prizes or other property made in the presence of all persons placing wagers in the game paren such as wages made in Bingo or Keno games comma card games comma dice games comma or games involving wheels of chance.

Nor does it include a drawing conducted by an organization exempt from tax under IR(c) Section 501 or IR(c) Section 521 if no part of the net drawing proceeds benefits a private shareholder or individual. And I apologize, Your Honor, I failed to hand this one up.

[Whereupon, Mr. Byrd provides documents to the Court]

MR. BYRD: Let me see if I can do a better job of my document management here. Your Honor, this is Code Section, again the Internal Revenue Code, Section 7611. And it provides for restrictions on church tax inquiries and examinations. And it specifically says the Secretary and the Secretary is defined as the Secretary of the Treasury, may begin a church tax inquiry only if two reasonable belief requirements.

The requirements of this paragraph are met with respect to any church tax inquiry if an appropriate high level treasury official reasonably believes parens on the basis of facts and circumstances recorded in the writing that the church a) may not be exempt by reason of its

status as a church from tax under Section 501(a) or may be carrying on an unrelated trade or business. Now, Your Honor, the import of this Internal Revenue Code Section is that authority is given to the Secretary of the Treasury. And under the Supremacy Clause of the United States Constitution I don't believe that a state Court may proceed with regard to questioning the 501(c)(3) exempt status.

Now counsel for the plaintiff has acknowledged that at this time the defendants are exempt organizations. But a reading of his complaint attacks that. And I don't believe there is a private right for a plaintiff to come into state Court and attempt to do what the plaintiff is trying to do here.

[Whereupon, Mr. Byrd provides documents to the Court]

MR. BYRD: Also, Your Honor 7428 of the Internal Revenue Code ---

MR. RICHTER: --- excuse me for rising again but maybe it will save us time again Your Honor. We don't claim that we have the right to set the tax status of Catholic Diocese of Charleston or anybody else. That's not our right; the federal government does that as I understand it.

THE COURT: And I haven't seen the complaint as far

as what plaintiffs may be alleging there that raises this issue.

MR. BYRD: If Your Honor please, those are the issues that Mr. Dukes is going to address. I was just trying to lay the table here with regard to the Internal Revenue Code and the authority of the Secretary of the Treasury to deal with this under the Supremacy Clause and other issues. And the last thing I handed up Your Honor was Code Section 7428 of the Internal Revenue Code which says that the only entity which can proceed with the ---

MR. RICHTER: --- I have a copy of the complaint. We didn't -- don't -- and it's long; I haven't read it again sitting here this morning. But we don't say that and we don't take the position that we have that right and here is the complaint. If he could just show us the paragraph I'll be delighted to correct it.

[Whereupon, Mr. Richter provides documents to the Court]

THE COURT: I'm sorry, Mr. Byrd. Go ahead.

MR. DUKES: Your Honor, I'll take over. We had filed a Motion to Dismiss based on common law charitable immunity as it existed at the time of the alleged sexual abuse asserted by plaintiff John Doe who alleges he was abused by two teachers at Sacred Heart School in 1970 or '71. And in the Richard Roe case he alleges he was

abused by a Priest of the Diocese in 1956 or '57. The point of Mr. Byrd's discussion in large part was that the IRS had recognized the Catholic Church and including the schools and parishes and churches in the Diocese of Charleston as a charitable organization.

The immunity from suit is all but absolute as is recognized in Judge Jefferson's decision in John Doe versus the Diocese of Charleston, which is attached to our motion. And Judge Jefferson does a very good job of going through the history of charitable immunity in this state.

Now John Doe case involved a student at Sacred Heart in 1959 or 1960 who alleged he was abused by a Priest of the Diocese. She acknowledged that the complaint claimed outrage, various intentional torts and negligence and various species of negligence. And Judge Jefferson dismissed that claim under charitable immunity because the Church was immune from suit over its charitable activities.

The same is true in this case, in both of these cases. They both should be dismissed under charitable immunity. The Church is immune from suit for its activities.

THE COURT: Were those activities carried out within the course and the scope of what they are there

for?

MR. DUKES: Well, they ---

THE COURT: --- or is that for immunity for any and everything as it pertains to employees, etcetera?

MR. DUKES: The only case that offers some guidance is the Eiserhardt case in which a charitable entity was operating a parking garage for profit. And a lady tripped and fell in a pothole in the parking garage and the Supreme Court said that was not an immune activity.

In the Due West College case from 1916 the Supreme Court said that charities are immune from suit for tortious acts of their employees whether they were selected with or without due care. And I believe that 1916 case holds true up until 1984 when the Supreme Court abrogated charitable immunity.

THE COURT: I didn't mean to make you lose your train of thought; I'm sorry.

MR. DUKES: That's okay, Your Honor. The import of Mr. Byrd's discussion was when the Legislature codified common law charitable immunity after the Court abrogated it and they enacted it into law the Charitable Solicitation of Funds Act specific refers to and directs the Court to look to whether the IRS has granted charitable status, 501(c)(3) status to an entity to determine whether it is a charity that falls within the

statute. There is no difference in the statutory scheme versus the common law scheme. The IRS determination is the law of the land. And for Mr. Richter's client to come forward and attack the charitable status of the Church they don't have a private right of action to do that. Mr. Richter throughout his client's complaint they referred to the Church operates schools.

Well, the schools are themselves charitable entities entitled to charitable immunity because they are listed in the official Catholic directory, which is what is submitted to the IRS. Then in a group determination letter from the IRS it specifically refers to all entities listed in the OCD as having their own 501(c)(3) status as charities.

In Mr. Richter's client's complaint they refer to gambling and Bingo and illegal gambling. And as Mr. Byrd pointed out those don't have any impact on the charitable status of an entity. Point of fact if a charity conducts a lottery the purchase of the lottery ticket would not be tax deductible to the donor and the prize wouldn't be tax exempt; they'd have to pay taxes on it.

It wouldn't affect the charitable status of the entity itself. And nobody other than Commissioner of Internal Revenue or his designee could challenge that charitable status. So Mr. Richter -- to get past

charitable immunity the only way Mr. Richter's clients can do it is to attack the charitable status of the church. And because they are not allowed to do it under federal law this Court and the state Courts can't do the same thing in a backend attack on the charitable status of the Church. As Judge Jefferson and Judge Nicholson in this circuit have recognized and they have granted charitable immunity if the offending acts occur when the Church was entitled to charitable immunity, that's it.

And I attached both Judge Nicholson's order last year in the John Doe 193 case. But that wasn't the only case that we had last summer. Judge Nicholson granted charitable immunity in 11 separate cases. I attached the John Doe 193 case because that involved a claimant who was alleging repressed memory syndrome. Mr. Richter's clients sort of allege that they suffer from repressed memory but not as clear as you would like but I thought that was comparable.

John Doe 193 involved a young man who alleged he was abused by a parish priest in 1967. And notwithstanding the repressed memory syndrome Judge Nicholson dismissed that case along with 11 others or 10 others last summer based on absolute charitable immunity. There is no reason for the Court to depart from that decision now. We raised as an alternative but an independent ground for

dismissal of these cases the doctrine of res judicata. In 2007 the Diocese of Charleston entered into a class action settlement, a settlement with which Mr. Richter is intimately familiar because he was class counsel. That class action settlement was on behalf of the class was defined as all victims of sexual abuse at the hands of employees or agents of the Diocese of Charleston who were born before 1980 point blank.

In that class action Bishop Baker who has left our Diocese and has gone to Birmingham instructed the Diocese not to raise the defenses of charitable immunity or the statute of limitations or any other defenses. He wanted to compensate everybody who had ever been abused by a priest or other employee of the Diocese. And Mr. Richter achieved a very good result for the class.

There was no exception in that class action settlement agreement for those with repressed memory syndrome. The Diocese settled on behalf of everybody. Under the Hospitality Management Associates case the Court is supposed to conduct a limited collateral review when looking back at class action settlements.

And there are only two factors you're supposed to look at. Did the class action Court, and in this case it was Judge Goodstein, did the class action court fashion a notice program that complied with due process. In doing

so that is was the notice reasonably calculated to reach the members of the class? And the second aspect of that is did class counsel comply with that order? And the Diocese submits that the answer to both of those questions is yes.

If that is the case and you don't look at whether any individual class member could have received it; you don't look to see whether a class member was in Afghanistan in the military or whether somebody was in a coma or somebody was on a six month European cruise you don't look to whether somebody could receive the notice. You look to whether the program was reasonably calculated to reach the class members and whether class counsel complied with that program.

If you look at it in that way Mr. Richter complied with both aspects of the class settlement and these particular claimants should be barred by the doctrine of res judicata. For those reasons based on either charitable immunity or on the res judicata effect of a class action settlement in 2007 these claims are barred and should be dismissed. Thank you, Your Honor.

THE COURT: Mr. Richter?

MR. RICHTER: Thank you, Your Honor. It's difficult for me to sit here and listen to abject intentional statements designed to mislead the Court or

misstate the facts or the law. We have handled, Your Honor about 100 of these kinds of claims. Not all against the Diocese of Charleston but they're all around. There is a broad base of background as to this, sadly this kind of activity. I need to clear up for the record and that's why I stand right now, Your Honor counsel indicates that 11 cases got dismissed. What he didn't say was those weren't my cases. I didn't bring those cases.

Secondly, I think I made it clear that we're not saying tax exemption for anybody. And lastly the law is anything but that. In South Carolina the law is anything but that just because you're designated as a charity you can't be sued because you enjoy 501(c)(3) status.

Mr. Edwards will address the legal aspects that we have set forth and relied upon and you relied upon. And I'm going to I think from here in keep my mouth closed. I'm glad you're in Charleston. I'm sorry it's a rainy Friday afternoon for you to get out of here. If you will, just hear our presentation. I don't know if you've had -- we submitted our briefs three days in advance pursuant to an order ---

THE COURT: --- if you had seen all the briefs I've gotten this week; most of which have been -- a lot of which have been handed up to me. And I've tried my best

to read everything that has been submitted to me. But in all honestly I have not been able to because they've trickled in since the end of last week. And my law clerk has sent them to me and I've been here every morning at least by 7:30 trying to read this stuff that you all have submitted.

MR. RICHTER: I understand what you're saying. If you'd allow Mr. Aaron Edwards to make our legal argument. Thank you, Your Honor.

THE COURT: Yes, sir?

MR. EDWARDS: Thank you, Judge. The issue with the 501(c)(3) I think can be put to bed pretty quickly and this is uniform and I'll walk you through this so that you can understand. The Supreme Court has consistently said, and I'm quoting, even if an institution be charted as a charitable corporation this fact is not conclusive of its character, time or purpose.

In a tort action against such corporation its true nature may be shown from the manner in which it conducts its business as well as from its Article of Incorporation. And on the trial of the case any competent evidence may be offered with respect to the actualities of its operations.

THE COURT: Is that a State Supreme Court or a U.S. Supreme Court?

MR. EDWARDS: This is a state Supreme Court case.

THE COURT: Give me the case name and cite please.

MR. EDWARDS: It's the Eiserhardt v State Agricultural Mechanical Society of South Carolina, 235 S.C. 305.

THE COURT: 305?

MR. EDWARDS: Yes, sir.

THE COURT: All right, go ahead; I'm sorry.

MR. EDWARDS: And that is uniform. And in order to help you understand that case is from 1959. And to help you understand where we are in this case we need to look back at that time. The law that is in effect at the time the cause of action accrued is what is operative; the allegations of the John Doe's complaint of alleged abuse 1969, 1971, of Richard Roe '54 to '56.

So we're looking at the 50's and 60's as far as what the law is as to charitable immunity. The Doctrine of Charitable Immunity is essentially an affirmative defense. It requires that defendants put forth evidence of it and that the facts show that the claim arises within that charitable function and purpose and during its operation of the charity. We're not at that stage. We're at the pleading stage. We've got an amended complaint that alleges a lot of things; none of which you've heard about from the defense. Among the causes of

action that were pled was intentional affliction of emotional distress, fraudulent concealment, civil conspiracy, breach of contract accompanied by a fraudulent act. Both plaintiffs made those allegations and the same causes of action.

Plaintiffs allege both they were sexually abused by priests or employees of the Diocese and that the Diocese itself intentionally concealed the allegations of this abuse perpetrated against the plaintiffs as well as those of others from parishioners, parents, law enforcement, civil authorities and the general public.

In addition to that the school that both plaintiffs attended and met their abuser it is alleged, and it must be seen and perceived as true for the purposes of this motion, and it is true, the Diocese school owned and operated by the Diocese operates as a commercial enterprise to make it profitable.

For example they charge tuition. Every student has to pay. You get one rate if you're a parishioner on the Charleston peninsula, another rate higher if you're a parishioner from another Diocese or parish outside the peninsula, and yet another higher rate for non-Catholic students. So you don't have to even be a part of the Catholic Church to attend these schools so long as you pay the requisite fees. In addition to that they made

them buy books, supplies and other items. The school got them, they sold them on to the students and marked up the price and made money on them. That is a commercial venture; it is operated for a profit.

You'll see why that is relevant in a minute because the law in South Carolina as to charitable immunity has never applied to commercial ventures or intentional torts such as fraud and conspiracy both of which are alleged. In addition to that Mr. Byrd talks about and he handed you a statute from the IRS Code I guess having to do with gambling. Well the Supremacy Clause doesn't have anything to do with this.

The IRS and the federal statutes can say whatever they want to say about gambling. They can allow all gambling at all times by anybody anywhere. But the state of South Carolina can have different rules, they can have higher rules. They can't undercut the federal government but they can set higher standards.

In South Carolina all of the gambling operations which is alleged in both complaints which included Bingo, raffles, drawings, door prizes, lotteries and other games of chance were all illegal until 1975 after these allegations. The Constitution was amended to allow the game of Bingo to be played by certain charitable organizations. Of course that got litigated too. This

is not discussed in the memorandum because I didn't think it was going to be an issue but that was litigated too in a case called Bingo Bango where they play this game similar to Bingo and the Supreme Court said in that case the Constitutional amendment in 1975 referring to Bingo refers to the game, and this is a quote, played illegally by charitable organizations prior to the Constitutional amendment. Up until that point and that Bingo Bango didn't quality because it was a different game of chance than just Bingo.

So South Carolina's law is much, much different than what you've heard here about the IRS Codes and everything else like that. It's charitable status as a 501(c)(3) is not the issue. The issue is whether or not the Common Law Doctrine of charitable immunity would apply to preclude claims of intentional torts and torts arising out of commercial ventures against an organization such as the Diocese.

In order to understand that we have to walk through the history of charitable immunity in the state. It was first recognized, and I'll do this very briefly, in 1914 in a case called Lindler v Columbia Hospital 98 S.C. 25. They applied immunity to a nurse who negligently caused damage to a patient. The hospital itself was a charitable institution. The Court said in Lindler that

the true ground upon which to rest the exemption from liability is that it would be against public policy to hold charitable institutions responsible for the negligence of its servants selected with due care. They went out of their way to then say whether or not they would be liable for simple negligence without the selection of due care of the servants is not a question to decide.

The first time it ever appeared in South Carolina. They took it up again in 1916 in the Vermillion case, 104 S.C. 197. There the trial court dismissed the claim because the defendants came in and made the exact same argument that the Diocese is making here today. They said we are chartered as a charitable entity and we're entitled to immunity you've got to dismiss it.

The trial court dismissed it but the Supreme Court reversed that. The Supreme Court said the Doctrine of Charitable Immunity does not put such charities above the law; it is merely an exception to the rule of respondeat superior. The defendants' immunity rests upon proof of facts sufficient to bring it within the exception to the rule.

They then in 1930 took it up again Peden v Furman University 155 S.C. 1. And they said it doesn't apply to intentional torts. It never has and it doesn't now.

There they held a charitable institution, in this case Furman University, said they could be liable for trespass. They said quote, there is nothing in the Doctrine of Public Policy that will permit a university to commit acts of trespass. That's an intentional tort. They said we're not going to apply it to intentional torts. Since 1930; 25 years before Richard Roe was abused even longer before John Doe was abused.

In 1959 was the Eiserhardt case that I quoted to you earlier that says even if it is chartered as a charitable organization it doesn't matter. As to tort liability the facts will bear that out and that's a fact question to be determined.

In addition to that the Court found that the operation of a parking lot by a charitable organization which raised funds for the organization was a commercial venture and was not covered and never has been by precedent in South Carolina by the Doctrine of Charitable Immunity. They allowed the plaintiff to proceed.

Finally what is really important for you is this was all put to bed in Jeffcoat v Caine from 1973. It specifically deals with these cases that I just walked you through. I'm also including a case called Decker v Bishop of Charleston in which they did apply immunity to an old lady who tripped during church service as she

walked back to her pew. The claim was only for negligence, not for anything else. The Court said yes we applied it to simple negligence. Jeffcoat v Caine the Supreme Court took it up again in 1973. This is right in the sweet spot of where we're at. They go through those cases that I just cited to you and they said quote there can be no doubt that the decisions in Lindler, Vermillion, and Decker contain broad general expressions to the effect that charitable institutions are exempt from all tort liability.

However, the broad statement of a rule of complete exemption from tort liability was unnecessary to a decision in those cases and the rule of charitable immunity has never been extended by our decisions beyond the facts in those cases.

They go on to say these decisions show while adhering to the rule but as to simple negligence charitable immunity applies to charitable organizations operating within their charitable function. The Court has in every instance refused to further extend the rule. Therefore the application of immunity doctrine in the case of an intentional tort, which we have plenty of in this case, is not required by precedent all the previous decisions nor we conclude by reason or justice. The long story short is these complaints allege intentional torts

against the Diocese. They allege commercial ventures by the operation of their school and their gambling operation. They allege specifically that through the operation of those commercial ventures they used the funds that they acquired to fund the cover up that forms part of the pieces for some of the claims and allowed and facilitated the abuse to the plaintiffs. These claims cannot be barred by charitable immunity. They are not barred now, they certainly weren't barred at the time that these claims arose.

The final issue as to the class action that was analyzed and it's attached to our memorandum. And it was specifically stated by the Court that reviewed the underlying class action and the Court said it would be inconsistent with due process to find a plaintiff with repressed memory, which both plaintiffs here have alleged, it would be inconsistent with due process to bind him to the class action settlement if he in fact had a repressed memory of sexual abuse at the time the notice was published.

So the Court has already decided that class action doesn't bar claims by plaintiffs with repressed memory. And that's another red herring. Judge Jefferson's opinion that was argued to you and attached to the defendant's motion to dismiss says plaintiff does not

assert the Diocese's actions fall outside the protection of the Doctrine of Charitable Immunity as a result of intentional acts on the part of the Diocese. And for that reason Judge Jefferson found it applied to negligence claims. If you're not alleging intentional acts charitable immunity applies. That's not the case that we have here. Judge Jefferson's opinion is irrelevant to this analysis.

And so since the law in effect at the time of the causes of action accrued applies the law at the time was the Doctrine of Charitable Immunity did not apply and gave no protection to any charitable organization for commercial ventures or intentional torts; both of which are alleged here. And the class action settlement who that applied to has been litigated and ruled on and it doesn't apply to repressed memory allegations. Thank you, Your Honor.

THE COURT: Thank you. Two minutes.

MR. DUKES: I'll talk fast. First, Judge Jefferson on page 2 of her order in the John Doe case specifically acknowledged that the plaintiff alleged intentional acts. She says in her order on page 9 it is undisputed the events in question occurred before the abolition of the Doctrine of Charitable Immunity in 1981 and even before the Supreme Court's prospective limitations on its

application such as the intentional torts exception in 1973. Both of these acts even taking the plaintiff's arguments as true occurred before the Supreme Court carved out the exception for intentional acts in 1973.

THE COURT: Okay.

MR. DUKES: Judge Nicholson's order on limited collateral review is not dispositive because it is not a final judgment. Those cases in which Mr. Richter was a defendant and is a defendant are up on appeal. And we have reserved that res judicata as independent sustaining grounds for the dismissal of those cases so that has been determined.

We still maintain the analysis commanded by Hospitality Management does not require a Court to look at the ability of any class member to receive the class notice for them to be barred by a class action settlement. Thank you, Your Honor.

THE COURT: Thank you. I'll let you all know.

********END OF TRANSCRIPT OF RECORD********

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Charleston County, South Carolina on the 14th day of December, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 21, 2019

_____

Joyce C. Rueger, CVR-M

Court Reporter

State of South Carolina	)	
	)	In the Court of Common Pleas
County of Charleston	)	
	)	
	)	
John Doe and Richard Roe,	)	2018-CP-10-03929
	)	2018-CP-10-04206
Plaintiff(s),	)	
	)	July 17, 2019
versus	)	
	)	Berkeley, South Carolina
The Diocese of Charleston,	)	
a Corporation, and the	)	
Bishop of the Diocese of	)	
Charleston, in his	)	
official capacity,	)	
Defendants.	)	
	)	

TRANSCRIPT OF RECORD

B E F O R E:

The Honorable Bentley Price

A P P E A R A N C E S:

Lawrence E. Richter, Jr., Esquire
Jennifer S. Ivey, Esquire
Attorneys for the Plaintiff(s)

Larkin W. Hegler, Administrative Assistant to Mr. Richter

Richard S. Dukes, Jr., Esquire
Attorney for the Defendant(s)

Trey Limehouse, Law Clerk to Mr. Dukes

PROVIDED FOR: Lawrence E. Richter, Jr., Esquire

FOR COPIES CONTACT: Patricia A. Szoke, CVR
Official Court Reporter
Fifth Judicial Circuit, At-Large
pszoke@sccourts.org

THIS TRANSCRIPT WAS PREPARED FOR LAWRENCE E. RICHTER, JR., ESQUIRE

I N D E X

Hearing.. 4

Witness No. 1: Gregory Adams

Direct Examination by Dukes. 111

Cross-Examination by Richter.. 129

Certificate.. 179

THIS TRANSCRIPT WAS PREPARED FOR LAWRENCE E. RICHTER, JR., ESQUIRE

E X H I B I T S

FOR THE PLAINTIFF:

P1, Code of Laws 32

P2, Settlement and Arbitration Agreement 140

P3, Opinion of Court of Appeals (Doe v. Howe) 164

P4, Email Correspondence 178

FOR THE DEFENDANT:

(WHEREUPON, no exhibits were introduced during this proceeding.)

P R O C E E D I N G S

(START TIME: 12:35 P.M.)

THE COURT: Well, gentlemen, I know we got a lot to do today. I'd like to get to -- hopefully, get a lot of dispositive issues either working towards a good resolution or, hopefully, decided here today. Have y'all come up with any type of logical order in which you want to have these heard, or? Because there's a lot of it.

MR. DUKES: Or a filing work --

MR. RICHTER: We -- we have a suggestion about it.

THE COURT: All right.

MR. DUKES: -- or --

MR. RICHTER: Well --

MR. DUKES: What's your suggestion, Larry?

MS. IVEY: No, we suggest in chronological order.

MR. RICHTER: Okay.

MS. IVEY: We think a couple of these issues play into each other, so the way we outlined it was the motion for partial summary judgement because that may, in a sense, resolve the -- some of the discovery issues, so that would be the main issue. And then second, the discovery issue. And third would be *res judicata*, or collateral review issue. And lastly, disqualification.

And then we've just got a couple of housekeeping notes that once we get through those things we thought we could

discuss -- such as the confidentiality motion that Mr. Dukes brought, as well as getting this -- the third associated case assigned to you. And I think -- I think that was it.

MR. RICHTER: That's it.

MS. IVEY: Maybe some amendment of the pleadings, depending on your rulings.

MR. DUKES: And -- and I'm fine with that order.

THE COURT: Okay.

MR. DUKES: That works for me.

THE COURT: All righty. We'll start with the motion for partial summary judgement.

MR. DUKES: Your Honor, we filed a motion for partial summary -- summary judgement on the party named in the complaint as the Bishop of -- of the Diocese of Charleston, in his official capacity. And we have taken the position that that is not a party who is amenable to suit in civil courts. Before the hearing we -- we filed in support -- well, I apologize, Your -- Your Honor. One thing I did want to -- that can wait for later. Never mind.

We filed with the Court the bylaws of the Bishop of Charleston, a Corporation Sole. And I've got a hardcopy here to hand up to y'all if you'd like. Well, let me --

MR. RICHTER: Thank you.

MR. DUKES: And I've got two (2) copies for y'all.

MR. RICHTER: All right.

THE COURT: Thank you.

MR. DUKES: The bylaws of the -- of the Corporation Sole -- and the Corporation Sole was a creature of statute passed by the Legislature in 1880 -- resulting from some questions about how the Catholic Church would hold property in the state. And so the Legislature passed the Corporation -- the -- the statute establishing the Corporation Sole. The reason it is called the Corporation Sole is it's a corporate entity that is embodied in the person of the Bishop of Charleston.

The Bishop has testified and I'll -- I'll hand up the Bishop's testimony in a moment regarding the corporate structure that -- the Bishop said, (as stated), "I am the Corporation Sole." And in looking at the bylaws they explained the -- the relationship between the Corporation Sole and civil law. The Bishop of Charleston is an ecclesiastical office, it has no presence in civil law. It is strictly a creation of canon law, or of church law, and has no civil law presence. The bylaws say the Bishop -- and I point you to Section 1.4(A) on page three (3), (as read), "The Bishop of Charleston is not a civil law title. And not withstanding the fact that the Corporation Sole is also the Bishop of Charleston when used as these -- in these bylaws, such term," being the Corporation Sole,

"refers only to the person serving as the diocesan bishop." Then the -- in paragraph C, (as read), "The Corporation Sole is the civil law entity with the legal name of Bishop of Charleston. The Corporation Sole is distinct from the ecclesiastical Bishop of Charleston." And it goes on to provide that the Diocese of Charleston is an ecclesiastical entity defined by canon law.

Under our bylaws, and under the canon law, the Bishop of the Diocese of Charleston simply doesn't have a civil law existence. The Corporation Sole is the Bishop's civil law presence. And that's what the Bishop testified to in his deposition when Mr. Richter took it last week. And I've got excerpts of his deposition here for y'all.

MS. IVEY: I think that's --

MR. DUKES: I think the tope one is mine.

MS. IVEY: -- all of them.

MR. RICHTER: I've actually got the whole deposition, if you need anything from it, Your Honor.

MS. IVEY: So this July 8th --

MR. DUKES: Yeah. Is there any highlighting on that one? I think I highlighted one copy.

MS. IVEY: No, it's not.

MR. DUKES: No? Okay.

THE COURT: Thank you.

MR. DUKES: And the Bishop testified about the -- the

Corporation Sole. And he says in response to -- to Mr. Richter's questioning about banking and -- and when the church takes out loans to build a building or something. And he says -- Mr. Richter asked, (as read), "Do they make you actually sign the notes? Are you -- are you the guy who has to go in?" And the Bishop said, (as read), "Oh, yes. I am the Corporation Sole."

And he goes on to say that -- that the Diocese -- the Bishop of Charleston, a Corporation Sole, is how the church transacts business in the civil law world. And he says -- the Bishop says when asked, (as read), "And when you do that -- when you transact business, when they walk -- when they make you walk in and put your name on the front of a note, do you do that in your official capacity?" And the Bishop's answer was, (as read), "I do that as the Bishop of Charleston, a Corporation Sole. The word official capacity can somehow be misconstrued. My official capacity as the Bishop of Charleston is that I'm appointed by Rome to be the spiritual and pastoral leader of the Diocese of Charleston. In terms of doing business, my official role as the Bishop of Charleston has nothing to do with doing business, it's the Bishop of Charleston, a Corporation Sole."

Now, it's important to note that in the bylaws on page number one (1), Section 1.1, the Diocesan Bishop represents

his Diocese in all of its juridic affairs. And that means he is the ultimate authority for deciding things about the Diocese within his Diocese. And the reason that's important is because of some Supreme Court cases. The first I'll point Your Honor to is Hosanna-Tabor of the Evangelical Lutheran Church versus the EEOC. And I've got a couple of copies here to hand up.

THE COURT: While he's doing that --

MS. IVEY: Thank you.

THE COURT: -- let me ask you a question, Mr. Richter. Do you have an opposition to removing him as a party to this action? I mean, I guess -- my question, just from a practical standpoint, is that you have two (2) other people, which essentially are where the money is at. And he's -- he's saying he's just a figurehead and if we remove him we don't remove any entity that I think would have any ability to -- to distribute or disperse any money. So what is -- what does it -- what does it do to remove him?

MR. RICHTER: Well --

THE COURT: Does it -- does it prejudice you in any way because you still --

MR. RICHTER: Yes.

THE COURT: -- have the Corporation Sole and the Diocese, which is what you want.

MR. RICHTER: That's your only -- you indicated we

had two (2) other people. I'm not following.

THE COURT: Two (2) other entities, the Diocese of Charleston and then -- a Corporation Sole, and then you said -- oh, that's one (1). Excuse me.

MR. RICHTER: Yeah.

THE COURT: I see it.

MR. RICHTER: Yeah.

THE COURT: And then you said the Bishop of the Diocese of Charleston, in his official capacity.

MR. RICHTER: We're on the same wavelength. I understand exactly. The answer is yes, it does prejudice us.

THE COURT: Okay.

MR. RICHTER: And -- and you'll see that as we go forward with our --

THE COURT: Okay. I was just thinking if --

MR. RICHTER: -- our presentation on this issue.

THE COURT: -- we're going to talk about money and we already got the money on the hook, what's the point in keeping this man around? But if you got a legal issue about it, let's -- we'll -- we'll deal with it. Go right ahead, I'm sorry.

MR. DUKES: And I -- I will remind Your Honor what I -- I had stated in the -- at our status conference. Judge Norton in Federal Court has granted very much the same

motion as I'm -- as I'm before the Court today on. And it was attached as -- it's admitted entry and I believe it was an -- attached as an exhibit to our -- to the motion.

THE COURT: It was.

MR. DUKES: In Hosanna-Tabor -- and if you look over on page eight (8), there's a long -- a long recitation of the facts of the -- of the Hosanna-Tabor case, but Chief Justice Roberts -- and this was a unanimous opinion of the United States Supreme Court -- looks to the Supreme Court's jurisprudence on the Free Exercise Clause and the Establishment Clause of the First Amendment to the Constitution. And he -- he looks to the 1872 case of Watson versus Jones, which is at (13 Wall) 679. And Chief Justice Roberts quotes from it and he said, (as read), "We explained that whenever questions of discipline, or faith, or ecclesiastical rule, customer law had been decided by the highest of the church judicatories to which the matter has been carried, legal tribunals must accept such decisions as final and binding upon them," quoting from -- from Watson versus Jones.

And he goes on to discuss the Kedroff versus St. Nicholas Cathedral of the Russian Orthodox Church that it says that, (as read), "The First Amendment guarantees to religious organizations an independence from secular control or manipulation. In short, the power to decide for

themselves, free from state interference, matters of church government as well as those of faith and doctrine." And he says that, (as read), "The Supreme Court explained that the First Amendment permits a hierarchical religious organization to establish it's own rules and regulations for internal discipline, and government, and to create tribunals for adjudicating those matters. When ecclesiastical tribunals decide such disputes the Constitution requires that civil courts accept their decisions as binding upon them."

So Your Honor, with respect to the -- the Corporation Sole, the Bishop who issued the bylaws and has testified that the Corporation Sole is how the Diocese interacts with the civil law world. It's how it does business, it's -- it is the civil law existence of the Catholic Diocese of Charleston. The Bishop of Charleston, in his official capacity, has no civil law presence. It's an ecclesiastical office that is governed by church law, but it can't -- it has no capacity to be sued or hailed into Court -- into a civil court. And because the Bishop has now testified and -- and has said that the Corporation Sole is it, this Court is bound to respect that and to accept it as -- I hesitate to say gospel, but that's what the Supreme Court tells us.

THE COURT: All righty. Yes, sir. Mr. Richter?

MR. RICHTER: Thank you.

THE COURT: Yes, sir.

MR. RICHTER: Judge, let me quickly address a couple of things just so that you can understand where -- where we stand. We took, a few days ago, the Bishop's deposition in part. We did that with no documents. We have not been provided one piece of paper pursuant to our extensive, since September of last year, document request. Interrogatories, all that, we got zero discovery as we stand here today. Now, that's number one.

THE COURT: Well, that -- is that where the housekeeping matter is that you discussed, Ms. Ivey, about the discovery, or?

MS. IVEY: I think it'll be addressed in the motion to compel discovery.

MR. RICHTER: Yes.

THE COURT: Got it.

MS. IVEY: Yeah.

MR. RICHTER: Some of these things we're trying -- we're going to try to avoid repeating here, this time we stand, something that we've got to repeat next time we stand and so forth for the sake of, hopefully, giving -- A) giving you an overview, but B) it'll shorten the proceedings, I think.

THE COURT: Okay.

MR. RICHTER: The second thing I would say to Your Honor is we're going to -- we're going to display all of this to you. The -- I -- I hate to stand up and say, (as stated), "The statements are disingenuous that are being made to you," but the -- but they are. And we're going to show you. Obviously, you'll make your own conclusion about that. But you don't have the right to be Mr. John Brown, but everybody calls me Zeke and not be sued as Zeke. Now, you can defend however you wish to defend, but you can also be known as Zeke, Mr. John Brown. That's fairly widely seen. Worse than that, you can't function as Zeke, sign your name on official papers as Zeke and say, (as stated), "I -- you can't sue me as Zeke. I don't exist." We're going to show you all -- all of that.

Now, that's very preliminary to the points we want to make concerning this summary judgement argument. I think what makes the most sense is for me to try to take a few minutes of background time, so that you can understand this is a mass of litigation. And -- and I know you know that there existed a class, for example, but I do think a five (5) minute refresher would be extremely helpful to you in getting through all that we've got to cover --

THE COURT: All right.

MR. RICHTER: -- today. In -- in 2005, I guess, cases were filed by us against the Diocese of Charleston for a

few plaintiffs. Ultimately, those ended up moved to Dorchester County where -- where, subsequently, a class was sought and certified. Rationale being that you can -- I don't mean this the way it sounds, we can get to the Court now that -- that you're here, but if you just get in line it's -- it's taken us from September until very recently to get -- from August until very recently to get to the Court. That's not the case in Dorchester County, there was manpower available there. And we chose to go to that nearest county that we thought we could accomplish that in. So that's how we got to Dorchester County.

The matter was declared a complex matter and a class was certified. The case was settled after a very difficult mediation. And the settlement was -- was significant, it was a twelve (12) million dollar settlement, it was no -- no secret about that -- or it's a twelve (12) million dollar settlement. The Diocese has never previously been hit in that sort of a way and I -- it was manifest to us that it stuck in their craw. And it took us a very long time to get the money paid by -- by the Diocese. It was an intensely contentious proceeding. Ultimately, that happened.

So we appear today to argue to you, without the benefit of any discovery except partially the Bishop, partially the Vicar General, with the benefit of no

documents whatsoever. The class action, as I say, had maybe a hundred eighty (180) participants in it. This is -- if -- if you'd allow me just walk through the slides with you it'll save us a lot of time.

MR. DUKES: And Your Honor, I haven't seen this before, so I may object to it at -- at one time or another --

MR. RICHTER: Yeah, that --

MR. DUKES: -- if there's --

MR. RICHTER: This is -- this is simply a visual aid for me to get through the argument in the most efficient way that I know how. It's going to unmask the Bishop, the Diocese, and Mr. Dukes. And you're going to learn at the end of this you can't believe anything --

MR. DUKES: I object to that, Your Honor.

MR. RICHTER: -- that comes out of their mouths while their lips are moving.

MR. DUKES: Your Honor, I object to his characterization of my client as dishonest, that is prejudicial to my client.

THE COURT: Let's just move along.

MR. RICHTER: Thank you. The Diocese has withheld from us names of known abusing priests. The Diocese told us in the class matter that there were twenty three (23) abusing priests. On the last day of March, the Diocese

made a public disclosure of forty one (41) known abuser priests and didn't disclose the names of eight (8) others who are known abusers. Now, all that's acknowledged by the Diocese. We covered that in the -- in the Bishop's deposition as well.

We -- we also -- why is that important? Because if we have the files, for example, the personnel files of those people we may learn all kinds of stuff. We believe the Diocese has engaged in a pattern of conduct. That's going to be extraordinarily important as we prove this case out for a number of civil recovery reasons. But if we can find a witness to the rape of the little boy by a priest who is dead, that's a really good reason to look at those documents that we've asked for the names of the priests, their personnel files, that sort of thing. We got nothing, not one piece of paper.

They're still withholding the names of victims and abusing priests. And we have learned of many others that they think we don't know about. We have learned -- and the Bishop has now testified, admitting that at least three (3) children in South Carolina have been fathered by priests. We don't know their names. We don't know the mother's name. We did learn that the Diocese knew about it. People came to the Diocese. The Diocese got rid of the priest, sent him away, and didn't even provide a Guardian *Ad Litem*

for the two (2) baby children who, maybe, still today -- I guess still today, don't have any idea who they're father is.

MR. DUKES: I -- I just have to object to this speech, Your Honor. This has nothing to do with -- with either the motion for partial summary judgement or to the facts of either one of these cases.

THE COURT: I'm going to sustain the objection. Mr. Richter, I -- trust me, I've read and I know the back story. I know what's going on. I certainly understand your frustration. And let me assure you, we're -- when we get to the -- the number two (2) that Ms. Ivey indicated was what we're going to get to next, which is going to be discovery I'm -- I'm going to handle it. But for right now let's just stick to the motion for --

MR. RICHTER: Okay.

THE COURT: -- partial summary judgement as to why I should not remove the -- the Bishop of Charleston, as a single individual person, in his official capacity, from the actual complaint. That's all I really want to know for right now.

MR. RICHTER: I -- I understand, Your Honor. Here's an excerpt from an August 9, 2000 hearing. I -- this is not today's business, but I want you to know how long I have utilized my time in developing the sentiment I have

expressed. I said this in open Court with the Bishop present, all his counsel present, to --

MR. DUKES: And -- and I object to it, Your Honor. It doesn't have anything to do with the motion or to this case. And it's not sworn testimony, it's inadmissable in -- in this case.

MR. RICHTER: Judge, I'm not seeking to admit this. This is my argument on a motion.

THE COURT: All right. Well, it's the exact same thing you've told me on several different occasions. Just the shame and guilt, of course, that it's caused, and -- obviously, how horrendous these crimes and offenders are, and how the church itself has -- has been not forthcoming in its handling of these cases.

MR. RICHTER: And that is besmirches the judicial process --

THE COURT: I understand.

MR. RICHTER: -- and that it's not tolerable. And that's the point that I'm -- that I' coming to.

THE COURT: All right. Well, then I am going to take that into consideration in, again, our second prong, which is the discovery phase.

MR. RICHTER: Okay.

THE COURT: All right. But for now, let's move on to the motion for summary partial judgement as to why I

shouldn't remove the -- the Bishop of Charleston.

MR. RICHTER: These are statements we -- we've noted two (2) cases. Two (2) are really traveling in *pandum*. I -- you don't -- I don't think it may --

MR. DUKES: I can't see.

MR. RICHTER: I don't really care which one comes first or second. Anyway, we don't need to repeat it twice, obviously. So these are the two (2) cases. Let's go.

This is the motion for partial summary judgement. That's what's just been argued to you. As to the Bishop --

MR. DUKES: Your Honor --

MR. RICHTER: -- of --

MR. DUKES: Your Honor, I can't see the TV screen. If Mr. Richter -- or I'll -- I'll either -- I'll come up.

THE COURT: Come on up.

MR. RICHTER: That's fine with me.

THE COURT: Whatever is convenient for you.

MR. RICHTER: This is a motion for partial summary judgement as to, quote, (as read), "The Bishop of the Diocese of Charleston, in his official capacity." That language is important. This is Mr. Dukes' statements. Go forward. Now, I want to do number one. Go back one. He says the defendant styled, (as read), "Bishop of the Diocese of Charleston, in his official capacity, is not a real party in interest and is not a proper defendant."

That's what he just argued to you. Go.

(As read), "The amorphous," he says, quote, "Bishop of the Diocese of Charleston, in his official capacity, does not have the capacity to be sued." Go on. (As read), "The Corporation Sole is the only proper party and the only proper party with the capacity to be sued." And I take it, also, to sue. Go ahead.

Here are some other suits that, I think, will catch your attention. This a 1904 -- I'm sorry, 2004 case, Charleston County. Bishop of -- suing the Bishop -- the Diocese of Charleston and the Bishop of the Diocese of Charleston, in his official capacity. This is the complaint -- piece of the complaint that was filed August 30th of 2004 by a lawyer named Gregg Meyers in town. This is the answer in that case (indicating). The same caption, it's an answer. Go -- go forward one. And it says, the answer, (as read), "The defendant, the Diocese of Charleston, and the Bishop of the Diocese of Charleston, in his official capacity, hereinafter referred to as, quote, "Defendant," answering the complaint of the plaintiff alleges as follows." Now, the Bishop, in his official capacity, is alleging -- he's defending. He's alleging things. That's signed by Peter Shahid, the then general counsel for the Diocese. And that's dated November 25th of 2004 -- 29th, I think it is, 2004. Go ahead.

Here's another case from '09. We're not showing you every case. I'm just -- these are illustrative purposes. Same thing, (as read), "John Doe" -- another John Doe, there are a bunch of John Doe's -- "sues the Bishop of Charleston, Corporation Sole, and the Bishop of the Diocese of Charleston, in his official capacity." This is a second amended complaint from March 22nd of 2010. The case was filed in '09, as you can see. Again, the same lawyer filed this one, Gregg Meyers. And here is the answer to the second amended complaint filed May 13 of 2014. So we know what they were doing in 2004 and '5. Now, we're all the way up to '14, a nine (9) year jump. (As read), "The Defendants, Bishop of Charleston, Corporation Sole, and the Bishop of Charleston, in his official capacity, hereinafter referred to as the Diocese, or the defendants, answer the amended complaint and state as follows." Signed by the Diocese, in-house counsel -- not in-house counsel, chief legal counsel at that time, A. Peter Shahid. And that was May 13th of 2014.

Here are a bunch of cases. Peter Shahid -- I don't want to say got canned. He got -- he's no longer the general counsel for the Diocese. Mr. Dukes informed me on the first day, just as a matter of interest, that the Peter Shahid ATM machine was now --

MR. DUKES: I object, Your Honor.

MR. RICHTER: -- closed.

MR. RICHTER: They don't deny it, but he objects to it. Okay. That's fine.

Here's what Mr. Dukes, who stood up before you and represented that that it doesn't exist -- the Bishop, in his official capacity, doesn't exist. Here is a case -- well, here's several cases. Let's just run through them all. Again, (as read), "Bishop of Charleston, Diocese of Charleston, in his official capacity." Go -- go forward. And then on -- on June 17; is that the date of the first case?

MS. IVEY: This -- this --

MS. HEGLER: It's a motion.

MS. IVEY: This is a motion filed on June 26th of '17.

MR. RICHTER: Okay. And we -- here we've skipped -- we've gone from '9, in the first case there (indicating), to 2017, June 26th of '17 in another case, not in -- not in this case. Go ahead.

(As read), "Diocese defendants omnibus motion for summary judgement." The defendants, who? (As read), "Robert Guglielmone, the Bishop of Charleston, in his official capacity." That's the same fellow that you were told had no standing to sue, to be sued, and I assume to sue. Let's -- let's go forward. That's signed by Richard Dukes who represented to one Court that the Bishop, in his

official capacity, says this -- and to this Court, represented that the Bishop, in his official, capacity doesn't exist. Let's go forward. Peter Shahid also signed that complaint. How do they sign it, in what capacity? Attorneys for, whom? The Bishop of Charleston, in his official capacity, among others and there are a number of defendants. Go forward. And that's June 26th of '17. Now, that's the Bishop defending and fending off claims made against him in his official capacity.

Now, here we'd like to call your attention to the issue of the Bishop of the Diocese of Charleston, in his official capacity, as a plaintiff, not a defendant. Out of this case they got, I think, eight hundred and ninety thousand dollars ($890,000.00).

MR. DUKES: Again, I object, Your Honor to the testimony about the results of that -- the insurance case.

THE COURT: Okay. And it has no bearing, so I'll sustain the objection.

MR. RICHTER: Go ahead. This is filed February 27 of '14. Coverage issues, obviously, from the class action. The coverage was denied, almost uniformly, in the class action. The Diocese borrowed seven (7) million plus five (5) million --

MR. DUKES: I object, Your Honor.

MR. RICHTER: Judge, this is just background material

so you can understand what we're talking about.

THE COURT: Okay.

MR. RICHTER: I don't -- I don't offer it -- that -- whether they've borrowed from AmerBank or Wells Fargo to prove a thing except that it happened. They didn't have the money, so they needed to sue the carriers, which they did. And the Bishop, in his official capacity, as you can see, is a plaintiff. Let's go forward.

It's a complaint, (as read), "Plaintiff, the Bishop of the Diocese of Charleston," in what? (As read), "In his official capacity, is an individual and resident of Charleston County, South Carolina. And as the Bishop of the Roman Catholic Diocese -- Catholic Church in Charleston, South Carolina." Go. That was signed by Peter Shahid, again, who at that time was their general counsel, and Mr. Kefalos, and Oana D. Johnson, attorneys for the plaintiff. And that's dated February the 24th of '14. The whole point of that, of course, is you're seeing him defend. You're seeing him make assertions. Now, you see him act as a plaintiff to seek to recover, again, in the name that we sued him in. Go forward.

That's not all he's done. Limited -- this limited warranty deed, I won't dwell on it. Just for the purpose of showing that -- (as read), "Whereas the property was acquired by Bishop Unterkoefler in his capacity as the

Bishop of Charleston and" -- whereas Bishop Guglielmone currently serving as the Bishop of Charleston, being successor to the most Reverend Unterkoefler -- (as read), "has authority to execute his deed for the purpose of conveying the property to the grantee herein." He does, of course, do that. He signs it as a grantor, the motion. (As read), "Reverend Robert E. Guglielmone as successor" -- back up one -- "as successor Bishop of Charleston." Let's -- let's go forward.

There are -- we have more of these things. We don't need to go through a bunch of them. This one is old -- even before that. This probably was acquired by Bishop Russell, who would have been a long time ago, maybe 1950 or so. Now -- well here's a date on it. Well, the -- this act remains as 18 --

THE COURT: Well, let me ask Mr. Dukes this. Mr. Dukes, he's obviously laying out a fair amount of a pattern, a course of (as stated), "This is the way that the church itself is normally sued in its official capacity, defends in its official capacity. And of course, obviously, has also brought actions in its official capacity." So what prejudice is it to your client to stay in it?

MR. DUKES: Your Honor --

THE COURT: Or why are you attempting now to take him

out when it seems as though previous attorneys who represented the church, and obviously the church itself, has had no issue with it?

MR. DUKES: All I can say is I've been hired -- lawyers in the past may not have thought about it or looked to canon law. I can't explain it. I've explained to the Court, and shown under our bylaws, under canon law, and under the Bishop's determination, the Corporation Sole is the proper party.

THE COURT: Okay. It's named?

MR. DUKES: Yes, sir.

THE COURT: I understand. So, I guess, the question then begs --

MR. DUKES: Well, let me ask you this, Judge.

THE COURT: Okay.

MR. DUKES: Say we go to a jury trial and -- and we get to hand out the verdict form. Is that going to have two (2) lines: Do you find the Corporation Sole liable? Do you find the Bishop of Charleston liable?

THE COURT: Are you -- are they going to allege that the Bishop of Charleston did something, in his official capacity, solely and individually? Meaning that he -- he touched some of these children or he did something?

MR. RICHTER: He covered up --

MR. DUKES: They certainly --

MR. RICHTER: -- is what we're going to allege.

THE COURT: Sir?

MR. RICHTER: He covered up the abuse.

THE COURT: Then, yes.

MR. DUKES: Not this bishop.

THE COURT: Well, I'm just saying, then that's the argument that you make at trial.

MR. DUKES: Your Honor, the First Amendment prohibits you from second-guessing what the ecclesiastical authority of the Diocese has said -- has determined. What their prior -- what the prior dealings were, the general counsel now is trying to clean that up. Some of the property conveyances were done in odd ways and as she finds them she cleans them up. On the lawsuit side, I'm cleaning up that mess. I have finally convinced Gregg Meyers to -- to stop suing the Diocese like that. This is a part of that process.

THE COURT: Okay.

MR. DUKES: In Federal Court, Judge Norton granted this motion almost exactly the same. He -- Mr. Meyers sued Bishop Guglielmone, in his official capacity, and Bishop Unterkoefler, in his official capacity. Judge Norton had no problem granting that motion.

THE COURT: Okay.

MR. RICHTER: There'S a little more to it than that,

Judge. This is Richard Dukes' signature, an officer of this Court today. He was an officer of the Court on June 26th of '17 when he signed this document suing -- defending, I guess.

MS. IVEY: Defending.

MR. RICHTER: Defending?

MR. DUKES: I was defending. And notice, Your Honor, it names Bishop Guglielmone, in his official capacity, as if Bishop Guglielmone had done something wrong and Monsignor Laughlin, in his official capacity, as if Monsignor Laughlin had done something wrong. That isn't the case here. And even if it were, the allegations in John Doe's -- Richard Roe's case here took place in 1956. Bishop Guglielmone was seven (7) years old. There is no way they could stay a cause of action against Bishop Guglielmone and suing the -- the Office of the Bishop of Charleston, in his official capacity, is inappropriate.

THE COURT: Okay.

MR. RICHTER: Lots of things wrong with what he just said. I'll be glad to go through each one and I'd be glad to prove to whatever extent in this argument you want to see something hard. I'm telling you that, as I understand the law of South Carolina -- and certainly as I understand the ethical considerations -- a lawyer can't stand before you today and say the Bishop doesn't exist, he's not

capable of being sued, not capable of suing. Come back tomorrow and say, (as stated), "Well, the Bishop who I told you yesterday is not capable of being sued or suing has filed this suit today and is going forward." That's -- that's what you've seen, if it's -- I don't want to belabor the point. You understand my point, I'm certain, and I don't need to belabor it. Let's go forward, quickly.

Now, I will tell you one more thing. I hate the way that it sounds, Judge. I apologize for the way it sounds. I don't know how to call it anything else. I have been through this. We've had suits as -- well, going back a good number of years with this Diocese -- with other Diocese around as well, but with this Diocese here in South Carolina. What I want to say, and I hate to say it, is that these people use every opportunity to mislead you, mislead whoever the Court is, and --

MR. DUKES: And Your Honor, I object to this. This is borderline sanctionable conduct by Mr. Richter.

THE COURT: All right. Guys, I didn't want to have to get into it, but I -- I am not -- I am here to hear about the legal merits of these motions here today. If y'all want to complain about all the churches and all the things they've done, obviously, you've already indicated that to me before. I've read everything that you wanted me to read. Let's just stick with the legal findings that we

need to determine here today and the legal issues that I need to make a finding on here today.

Mr. Richter, your position as to the church is noted. I am --

MR. RICHTER: Okay. Thank you.

THE COURT: -- certainly fully --

MR. RICHTER: Thank you.

THE COURT: -- aware of how -- what you feel about them, but I want to try to get through these motions so we can get this case moving.

MR. RICHTER: The point I was coming to, Judge, is that what you haven't heard why they want this individual, the Bishop, in his official capacity, out is because of the limitation of liability for injury or death caused by employees of charitable organizations. This statute requires that an individual be named. In one case, Father Hopgood is a notorious abuser, he's dead and gone. The other case, two (2) schoolteachers employed by the Diocese were -- were perpetrators, and they are dead and gone, both of them. But the -- so in terms of who do we have to name as a live person? The answer is somebody. That person we chose as the Bishop. And I'll be glad to hand the statute up.

THE COURT: Yeah. Please, do. Put it on the record. She's keeping notes and so --

MR. RICHTER: Oh, okay.

THE COURT: -- we have to just know what statute number you're referencing.

MR. RICHTER: You want me to mark it?

THE COURT: You can mark it as a Court's Exhibit if you want, please.

MR. RICHTER: That's fine. Thank you.

(WHEREUPON, the Code of Laws was introduced and received into evidence as Plaintiff's Exhibit Number 1.)

THE COURT: And, Madam Court Reporter, if you'll hand it up here so I can take a look at it, please.

THE COURT REPORTER: (Complies.)

MR. RICHTER: All right. Let's go forward. What is this?

THE COURT: Thank you, ma'am.

THE COURT REPORTER: Yes, sir.

MR. RICHTER: This is the actual settlement and arbitration agreement from the class action.

MR. DUKES: I object, Your Honor. That -- that settlement agreement is confidential, it's not supposed --

THE COURT: Well, if it's confidential I don't want to see it.

MS. IVEY: It's his Exhibit A, Your Honor. It's attached --

MR. RICHTER: It's -- he attached it to his pleading -

-

THE COURT: Oh. Oh, I --

MR. RICHTER: -- and filed it with this Court.

THE COURT: Well, then I've already seen it.

MR. RICHTER: Yeah. And that's the duplicity --

MR. DUKES: I apologize --

MR. RICHTER: -- that I was cautioning you about.

MR. DUKES: -- Your Honor. And I jumped too soon.

THE COURT: Okay. That's fine. I was about -- because I read everything y'all had sent me, but y'all are extracting it from what I looked at. So yeah, if -- I've seen it.

MR. RICHTER: He -- he put it in the record.

THE COURT: I -- I saw it.

MR. RICHTER: We'll go -- go to the -- this is the caption page, which shows the same thing about who the parties are, (as read), "Bishop of the Diocese of Charleston, in his official capacity." Then go on to the signature part. And it's signed by the most reverend Robert J. Baker, the Bishop of Charleston, in his official capacity. There it is (indicating). Let's go on.

The Diocesan Defendants think they can just have it however they want it, both ways, anyway. Here's what has happened in this case. On August the 24th we initiated the case, filed the summons and complaint in -- August 24th of

last year.

THE COURT: Let me stop you right there. Are we moving onto discovery issues? No, we're still on --

MS. IVEY: This was all the times that the Diocese answered for both --

MR. RICHTER: And --

MS. IVEY: -- defendants without raising an issue.

THE COURT: Okay. That's what I just wanted --

MR. RICHTER: And as to the name -- and this will just take a minute. On -- so they -- we filed then. The next month, September the 10th, the Diocese filed by the defendants including, (as read), "And the Bishop of the Diocese of Charleston, in his official capacity." Go on.

In November, the following month, we propounded interrogatories, request for production, and request for admission on the Bishop. Go on. The next day we received a motion to stay discovery filed by the Diocese of Charleston, a Corporation Sole, and the Bishop of the Diocese of Charleston, in his official capacity. Go forward. In March of the following year -- in '19, this year -- a motion for protective order was filed by the Bishop of Charleston here (indicating) and -- as you can see at the end, (as read), "And the Bishop of the Diocese of Charleston, in his official capacity." Go ahead. That's March of '19.

March of '19 they also -- March -- the same day they filed an answer. And if you look at the last of the entry, (as read), "And the Bishop of the Diocese of Charleston, in his official capacity." Go. On March the 29th they filed a motion for partial summary judgement as to the Bishop of the Diocese of Charleston filed by -- claimed -- and that this is the motion, actually, that we're dealing with now. Go ahead. It took seven (7) months and four (4) filings by the defendants before raising any issue about the Bishop of the Diocese of Charleston, in his official capacity. We think they're barred having done all that. That's just an additional point that we wanted to make, Your Honor.

Now, here is an example, Your Honor, of just how crazy all of this is. This is the defendant's motion to disqualify. We're not arguing this now. They seek to disqualify Lawrence E. Richter and Richter Law Firm. I'm not Lawrence E. Richter. I'm Lawrence E. Richter, Jr. My father's been dead and gone for a few years now. (As read), "We move to" -- go back. (As read), "We move to disqualify plaintiff's counsel, Lawrence E. Richter, and the Richter Law Firm, LLC." That's not my law firm. Go forward. Here is the Richter Law Firm, PA. There is no Richter Law Firm, LLC with the Secretary of State in South Carolina, there is no such entity. The Richter Law Firm, PA does exist and it is the firm of my cousin, Ronald L.

Richter, Jr. Go forward. This is the Secretary of State for our law firm, the Richter Firm, LLC, agent me.

Now, I -- I know how silly this seems, but the fact is they're making this big hullabaloo, we know, for delay purposes and to avoid accountability, ultimately. And they have sought relief that they don't even -- that they have no claim to. I don't know. My cousin's law firm is not involved in any way here and I'm not my father. That's how silly this all is. So we can say, and do say to you, this ought to be summarily disposed of because they have done the thing they accuse us of doing, using the wrong name. But we use the same name that they used in all the litigation that you saw. And now, I'm telling you, they have used the wrong names. They don't have any right to be here. Is that the end of it?

MS. IVEY: Yes.

MR. RICHTER: Yeah. Thank you, Judge.

THE COURT: All righty. All righty. I want to go through these and I'll make my rulings, if I'm going to make them today, on what I can dispose of. So let's go to the next issue, which is -- who has the motion for the discovery?

MR. DUKES: Your Honor, could we take a real quick break?

THE COURT: Absolutely.

MR. DUKES: Thank you.

THE COURT: Sure. We'll just take a five (5) minute break, give everybody a chance to get their stuff together.

(OFF THE RECORD BREAK FROM 1:21 P.M. TO 1:26 P.M.)

THE COURT: Okay. All right. So the next thing we have is the plaintiff's motion to compel; is that correct?

MS. IVEY: That's correct, Your Honor.

THE COURT: All righty. Do y'all have a copy of the -- or can you pull it back up?

THE ADMINISTRATIVE ASSISTANT: Uh-huh.

THE COURT: No, the -- what you -- where you just were before. Plus, I want to see the scheduling order on this side.

THE ADMINISTRATIVE ASSISTANT: Oh.

THE COURT: Okay.

MS. IVEY: We've got a printed copy if it would help --

THE COURT: Yeah, if I could --

MS. IVEY: -- her.

THE COURT: Let me see that, please. She has to keep pulling everything up, by --

MS. IVEY: It's okay.

THE COURT: -- electronically, so it gets --

MS. IVEY: So Doe is first and then Roe is second.

THE COURT: All right.

MS. IVEY: And they're just thirty (30) days off --

THE COURT: All right.

MS. IVEY: -- from each other.

THE COURT: Okay. All right.

MR. RICHTER: We've got these nice notebooks for each of our motions, Judge, if you need to --

THE COURT: No. I'm okay. I just wanted to --

MR. RICHTER: -- me to hand it up.

THE COURT: As we were going to get through this discovery I wanted to make sure I had the orders in front of me.

MR. RICHTER: Somehow I thought you were okay.

THE COURT: Okay. All right. So this is the plaintiff's motion to compel. Who's doing that one?

MS. IVEY: Go ahead --

MR. RICHTER: All right.

MS. IVEY: -- Mr. Richter.

MR. RICHTER: I'd like to similarly walk through this PowerPoint, this one again. One (1) case, two (2) case, both cases.

THE COURT: Okay.

MR. RICHTER: We seek to compel. Here is our first set of interrogatories to the defendant, the Bishop of

Charleston, in his official capacity, served September the 5th of 2018. Now, go -- go ahead. The next popup.

MS. HEGLER: That's it on this --

MR. RICHTER: Let's go to the next one. This is the response of Mr. Dukes in this matter improperly named defendant in the Diocese -- the Bishop of the Diocese of Charleston, in his official capacity. He objects to the plaintiff's first set of interrogatories across the board. He says that the Bishop of the Diocese of Charleston, in his official capacity, is not a real party and interest under Rule 17 of the South Carolina Rules of Civil Procedure and lacks the capacity to be sued. We've been -- again, I'm not going to go through all of that, but we've been through this. (As read), "As such the interrogatories directed to an improperly named and nonexistent party are not proper and cannot be responded to under oath or otherwise." Go forward. That's April the 2nd of 2019, two hundred and nine (209) days after the date of service of our discovery upon them. Signed by Richard Dukes. This is -- among the interrogatories that we asked were the standard interrogatories. One of which is number seven (7).

Now, where interrogatories -- I don't know if you've touched this, Judge, but where -- where rules of court come from is that they're propounded by the Supreme Court.

They'll often start with a committee or some interest group, go through the bar, be recommended it to the Supreme Court. The Supreme Court will then deal with that and it will have hearings, if necessary, whatever. And then promulgate a rule that they think -- a rule is appropriate -- or changed a rule, if they changed a rule as appropriate. And then -- so the Judicial Branch has now signed off on the propriety of it. Then it is sent to the Legislature where it must stay for legislative approval, or wait for ninety (90) days and it becomes a rule by the ninety (90) -- what we call the Ninety (90) Day Rule, but it becomes a rule of Court. My point is the bar promulgates them. I don't promulgate them. The Supreme Court writes it, approves it, and sends it to the Legislature. Two (2) branches of government have signed off on the propriety of an interrogatory, such as number seven (7), just one (1)of the standard interrogatories. (As read), "If the defendant's name herein was improperly identified, give proper identification and state whether counsel will accept service of an amended summons and pleading reflecting the correct identification."

MR. DUKES: Your Honor, my recollection is that is a standard interrogatory in Federal Court, but not in a State Court.

MS. IVEY: What are the rules?

MR. RICHTER: I don't know. I have the rule book here and we can look it up. I think it's standard, if it's not standard it's inoffensive and efficient. That's what it's designed to be here.

Let's go -- if you don't mind, let me go on, cover some more ground. (As read), "Please, list each person incardinated and/or ordained by the Diocese from 1950 to the date, and the dates and locations of their assignments." This will identify witnesses, not only priests themselves, but persons, perhaps involved with the offending priests, that we need -- or as we have learned, not in this Diocese -- we haven't uncovered this documentation yet, but in other lawsuits not involving this Diocese, we have learned that the Bishop himself in other litigation has literally --

MR. DUKES: Again, I'm going to object to Mr. Richter's testimony.

MR. RICHTER: I'm not testifying, Judge. I'm arguing to try to illustrate to you why this kind of thing needs to be propounded in this realm of priest abuse cases.

THE COURT: All right. I'm going to overrule it.

MR. RICHTER: The Bishop -- again, not in this litigation, in other litigation, another state -- literally sat down with a horribly offending priest who just died in prison and coordinated the statement to be read in the

parishes saying that this priest was because of health reasons going to have to take a leave of absence and be gone. That's not why. They sent him out of state avoiding -- in that instance, avoiding the police who literally came to the Diocese door and called the Bishop. And the Bishop hid the priest, coordinated a false statement to the parishioners and sent the priest to Maryland where we first found him before this -- this event happened. In prison in Maryland for ten (10) years for abusing two (2) children up there, but they made him a priest in the Diocese of Savannah, in any event.

So I don't know whether this Bishop sat down and dummied up a statement to parishoners. I know this, our Diocese has taken into our Diocese known child abusers and didn't disclose it to those who may -- you may not want to send your child to a school in the parish where there is a known child abuser. I think you've got a right to know that, personally, but that's not the point. I'm just saying this is a legitimate kind of inquiry that we made. This is no wild, crazy expedition to find a safari or something. Let's go forward, if we have to do some more.

The names of all persons incardinated, excardinated, or laicized by the defendant, the Diocese, who have been accused of sexually abusing minors. No answer. They now have named forty one (41), as I said, reserving eight (8)

names unnamed and we know of others, but that's another story for another day.

MR. DUKES: And -- and in open Court I will say that if Mr. Richter has information about other priests who are not on the list of credibly accused priests the Diocese believes it is his responsibility to victims to provide that information to the Victim's Assistant Coordinator so that they can provide counseling to these victims.

MR. RICHTER: I'll be glad to respond to that, although I'm not -- I don't think -- required to. I prefer to catch the Bishop in a lie live before the jury -- and they're going to be several of them -- and that's going to be one.

(As read), "Please, list the names of all persons who have been employed or presently are employed by the Diocese who have been accused of sexually abusing minors." Priests on the one hand, persons employed by the Diocese, on the other hand, all accused of sexual abuse of minors. Go ahead. (As read), "Please, list the names of all priests, officials, or employees of the Diocese against whom an accusation of sexual abuse against a minor was determined by the defendant and/or the Diocese to be credible."

THE COURT: Let me stop you there. I don't find any of this information -- and these motions to compel, obviously, the -- the response is it's too voluminous or

it's -- you know, take too long, or too expensive, or whatever the case may be. These questions seem fine. They don't seem like they're overly broad or -- and again, they just seem fairly standard for moving the case along. My question is what are the responses to these questions apart from forty one (41) was one that was indicated. You said that you -- you know of eight (8) more, but what are the responses to these questions that you are asking?

MR. RICHTER: Yeah. No, the Diocese knows of eight (8) more.

THE COURT: Eight (8) more?

MR. RICTHER: They haven't give us any -- given us any responses whatsoever to these. In the class action they told us back then -- 2005, 2007, that time frame -- that there were twenty three (23) abusing priests --

THE COURT: Well, no. My question is so when you submitted your first set of interrogatories September 5th of 2018, they responded in April, two hundred and nine (209) days and what -- did they respond to each, and separate, and individual --

MR. RICHTER: No.

THE COURT: -- one of these?

MR. RICHTER: No.

THE COURT: What was their response?

MR. RICHTER: Their response was, (as stated), "We

object to all the interrogatories."

THE COURT: Okay. That's what I wanted to know. You're just outlining, (as stated), "These are just simple interrogatories, give us the answers." And all they said was, (as stated), "We object." Okay.

MR. RICHTER: I'll back up --

MR. DUKES: Because the Bishop of Charleston --

MR. RICHTER: -- my argument that --

MR. DUKES: -- is not a proper --

MR. RICHTER: -- the Diocese wants it whatever way it wants it. It can't --

THE COURT: Okay.

MR. RICHTER: -- just say --

THE COURT: Okay.

MR. RICHTER: -- that we object and --

MR. DUKES: And --

MR. RICHTER: -- that's the end of that.

MR. DUKES: And Your Honor, Mr. Richter is making a big deal about the number of days. We filed a motion to dismiss on charitable immunity grounds. Filed a motion to stay discovery until the ruling on the motion to dismiss on -- on charitable immunity was ruled on. Judge Brown granted that relief and said, (as stated), "The discovery is stayed until thirty (30) days after the ruling on the motion to dispense." He granted the -- he denied the

motion to dismiss at the end of February and we responded thirty (30) days later by objecting to the discovery.

THE COURT: Okay. So he ruled in February, waited thirty (30) days to March, and you objected in April?

MR. DUKES: Yes, Your Honor. It was -- I can't remember the exact math of it, but it was --

THE COURT: It doesn't matter. I was just --

MR. DUKES: -- it was --

THE COURT: I understand what you're saying. I mean -- and I appreciate you -- you informing me of that.

All right. Mr. Richter, go ahead. I don't need to see all the interrogatories --

MR. RICHTER: That -- that's fine.

THE COURT: -- I -- I've read them.

MR. RICHTER: Then if you -- if you'll just let Ms. Ivey make a couple of comments --

THE COURT: Absolutely.

MR. RICHTER: -- about a legal matter.

MS. IVEY: Sure. And Your Honor, I think I can -- I know the Court certainly doesn't want to be bogged down in the minutia here. I think the motion to compel, pretty painstakingly, walks through every motion and the responses. And Mr. Dukes, please, correct me if I'm wrong, but as a very broad summary we've issued written discovery. The first round of written discovery was issued solely to

the Bishop, in his official capacity --

MR. DUKES: That's correct.

MS. IVEY: -- correct? That was back, at least in one of the cases -- I believe it was Doe -- September 4th of 2018. We issued written discovery. The Diocese had made -- has made, what I -- what I amount to, three (3) different arguments with respect to discovery.

So the first argument was that they had a pre-answer motion to dismiss pending. And while it's not provided in the rules, we all know as a practical matter, a lot of times those motions to stay are granted. And it was in this case. So when Judge Brown denied their pre-anser motion to dismiss they now had twenty (20) or thirty (30) --

MR. RICHTER: Thirty (30) days.

MS. IVEY: -- days to provide responses. And the secondary position that the Diocese took with respect to the Bishop, the discovery propounded on the Bishop, was that he was not a proper party and they sought a protective order based on the pendency of the motion for partial summary judgement that we just addressed. So we have received no kind of response but for the motion for a protective order, which has not been denied or granted to date. So we have not received any responses as to the written discovery. It was interrogatories, requests for

production and request for admissions that were served on the Bishop the -- at the outset of both of these cases.

MR. DUKES: And -- and Your Honor, again, Bishop Guglielmone, the Bishop, is not named in this lawsuit. It is at -- an office is named as the party, defendant, an ecclesiastical office. And I go back into my argument on summary judgement, that doesn't exist in civil law. That was our point. They've never served these interrogatories on the Corporation Sole.

MS. IVEY: Okay. Just to give you kind of a -- where this goes, though, then we try to take the deposition of the Bishop. So they're -- they're very staunch in this argument that the Bishop and the way we've characterized his capacity is not proper. So then we issue a *subpoena duces tecum* for the Bishop, who -- you know, evidently can't be a party and isn't a party, to produce an advance of his deposition documents.

MR. DUKES: I -- I don't believe you --

MS. IVEY: We noticed him the first time and then we changed it to a *subpoena.*

MR. DUKES: Okay. No, I -- but I don't believe you had a document *subpoenaed* to the Bishop, to Bishop Guiglielmone. I don't believe --

MS. IVEY: Okay.

MR. DUKES: That was to Monsignor Drowes.

MS. IVEY: Okay. In any event, we got a response back in relation to these depos that we can't do what we want to do because he's a party. I think it was because we *subpoenaed* him and you said we needed to notice him --

MR. RICHTER: Yeah. Yeah, that's right.

MS. IVEY: -- because he's a party.

MR. DUKES: No, what --

MS. IVEY: So here we go again and it's just a game. And so it's whatever suits them in that moment. It suits them to be able to sue in that name, in that exact name without naming Guiglielmone or whatever the particular Bishop is, but now it doesn't suit them to be sued in that name. But -- but we can move on.

So the Bishop --

THE COURT: Well, I don't want to. I want to keep going down this road because this is the -- the gravamen of what I'm trying to figure out is are we just moving cups around, or is there some issue that I need to rule on that is dispositive of something that can then give him the opportunity -- Mr. Dukes the opportunity to go to his client and say, (as stated), "This has been ruled upon. We need to answer these things. What are the answers?"

MS. IVEY: Right. Well, still --

THE COURT: That's all I'm trying to figure out. So what would you like to tell me, Mr. Dukes, as to the last -

-

MR. DUKES: Your Honor --

THE COURT: -- issue?

MR. DUKES: -- they did -- they did not issue a document request with a *subpoena* to Bishop Guiglielmone. They issued a document request to Monsignor Anthony Drowes, who is one of the two (2) vicars general of the Diocese. And our position there was it's inappropriate to use a Rule 45 *subpoena* to request documents from a party. I wrote back that I would treat their request -- their document request as a Rule 34 request for production.

Now, we are this far (indicating) from being finished with the -- the review of the documents that we're going to be producing to them. And if Your Honor signs the confidentiality order we'll have it to them, I -- I would hope, by Friday.

THE COURT: Okay.

MS. IVEY: He's correct, Your Honor. And I -- I stand corrected. We did issue *subpoenas duces tecum* to Monsignor Drowes and --

MR. RICHTER: Harris.

MS. IVEY: -- CFO --

MR. RICHTER: John Barker.

MS. IVEY: Baker -- Barker.

MR. RICHTER: Barker.

MS. IVEY: But we got that response and so now -- now, we can all just say, (as stated), "Hey, we're here. We know you meant to get these documents from us and we'll produce them under Rule 34." This is what we've been asking for since September. So now he sets the rules that -- okay. He's one day going to acknowledge, (as stated), "Hey, let's just -- we all know what we're talking about." Just like we're here today because we know they want to disqualify Mr. Lawrence E. Richter, Jr. and this firm. We're not going to waste the Court's time on this, but what is so important in how they responded there is that thirty (30) days meant that we took the deposition, the deposition that we sought -- fought so hard for without these documents. He knew -- he knew we wanted these documents. He knew, ultimately, his motion for a protective order and motion for summary judgement were going to be heard and that would settle this issue, but he took advantage of the Court's docket and put us in a position where we took depositions that weren't very meaningful. We didn't have any documents. What are we supposed to ask these guys about? We don't even have the personnel file of the accused perpetrators to question as to what notice the Diocese may have received, when they may have had notice of this abuse or other abuse.

So -- you know, we're just very, very frustrated in

that sense, that -- that we're -- we're deep into both of these cases, almost a year now on Doe, and we've -- the -- I do want to clarify. We received twelve (12) pieces of paper. And it --

MR. RICHTER: That's right. I stand corrected. That is correct.

MS. IVEY: It was one of our plaintiffs has received reimbursement for counseling and --

MR. RICHTER: Prescriptions.

MS. IVEY: -- prescriptions from the Diocese. And it was records of the receipts that he had submitted to the Diocese. But those were things within the plaintiff's possession and control, it doesn't help -- help us in any way. So that's -- that's the strategy with the Bishop.

MR. RICHTER: Pull up the motion.

MS. IVEY: So then what we did is in March or April we said, (as stated), "Okay. Let's -- let's take this under our -- into our own hands and let's avoid this issue." So we reissued written discovery, but this time we issued it to both defendants. So now they can't use this Bishop argument, they've got to answer them. So then you'll see what's on the docket, I believe as the third motion to stay or motion for a protective order, the Diocese files a motion for a protective order and on the same day a motion to disqualify plaintiff's counsel.

So the motion for a protective order objects to the discovery sought after by the plaintiffs on the basis that there's a pending motion to disqualify. And Your Honor, as compared to motions for summary judgement, a motion to dismiss, which -- which even under the rules doesn't automatically stay discovery. These -- these bases that they seek protection on, ultimately a stay of discovery, are not going to dispose of this case. Whether we're in or somebody else is in, and whether you -- you remove the Bishop or not, these cases are going forward against the Diocese, at -- at least at this point. And so we think those claims are frivolous. We think they've been made for tactical purposes and they've achieved them. We're -- you know, we're a year in and we've got twelve (12) sheets of paper. We got the depositions we wanted, but they were ineffective. So as to the Bishop --

MR. DUKES: Your Honor --

MS. IVEY: -- there's been an utter lack of response. As to the Corporation Sole, those are what you'll see in the -- the notice and motion to compel, the responses are not meaningful at all, they're largely just full of objections. And the significant amount of time and the prejudice to both the plaintiffs and to -- to us in trying to advocate their claims is just gross in this case.

MR. DUKES: Your Honor, let's be clear. The second

set of interrogatories to request for production that they served on both defendants were different than the first set served only on the Bishop, in his official capacity. We objected to the -- the first set saying, (as stated), "You're asking the wrong person." Why they didn't serve the same thing on the Corporation Sole? I don't know.

The second set of interrogatories and requests for production asks for entirely different things such as, (as read), "Name any priest in the Diocese who has ever translated something from Latin." That has nothing to do with anything in this case and --

MR. RICHTER: That's not the interrogatories.

MR. DUKES: -- and how -- how could I even find that out?

THE COURT: When was the second set served on both defendants?

MR. DUKES: In June, I think.

MS. IVEY: That's correct. No, it was April 8th.

MR. DUKES: And we responded on May the, I want to say, 7th. And some of them we responded on June the 12th, which was the -- the day of the deadline, I believe. And we registered objections to -- to interrogatories and requests for production that were inappropriate, had nothing to do with this case, either they were overly broad, unduly burdensome. They asked for internal

communications within the Diocese about important issues affecting the Diocese, advice given to the Bishop. There's some pretty clear case law that that is privileged as -- and -- as outlined in our brief on the First Amendment issues. Also, there are RFRA and the South Carolina Freedom of Religion Act issues that are triggered by some of their interrogatories. We responded and said, (as stated), "These are -- these are -- there is something wrong with this question." We're entitled to do that under the rules.

THE COURT: In their memorandum they indicated that the Diocese objected to each and every one of the plaintiff's fifteen (15) interrogatories, in whole or in part, and their -- and -- as the answers are evasive and incomplete. And as -- with respect to their responses to the plaintiff's request for production, the Diocese defendants objected to all but three (3) of the plaintiff's requests for production and did not produce a single document.

MR. DUKES: Well, we produced the documents of the receipts, but -- for example, as to all the priests on the list of credibly accused priests, (as read), "Please, state for each of them when the Diocese learned of the abuse." What does that have to do with the -- with this case, with any relevant evidence in this case? What does that have to

do with anything?

MS. IVEY: It has to, entirely, do with our civil conspiracy claims and our claims of coverup. If they are --

MR. DUKES: With whom is the Diocese accused of conspiring? Of the -- with themselves? You can't do that.

MS. IVEY: Okay. Our --

MR. RICHTER: We don't know yet because we can't see the documents.

MS. IVEY: What Mr. Richter has answered, Your Honor, is that we don't know that answer yet because we can't see any of these documents. Maybe they conspired with their advisors, such as Peter Shahid or Mr. Dukes. Maybe they've conspired to some degree with law enforcement.

THE COURT: What do you mean you can't conspire within --

MR. DUKES: It's called the Copperweld doctrine, Your Honor. An entity, like the Corporation Sole, can't conspire with its own agents.

THE COURT: And I'm going to need to see that one.

MR. RICHTER: Yeah.

THE COURT: All right.

MS. IVEY: But our point, Your Honor, is --

THE COURT: So the question begs this, we can keep doing this. I understand your frustration. I understand

that you've got an objection or an issue as to every single thing, that's fine. It is what it is. Y'all aren't going to, I don't think, have an epiphany in the morning and say, (as stated), "I'm going to give you everything." And you're going to say, (as stated), "Thank you." It just ain't going to happen.

So the question begs two (2) things. One, how are y'all -- both sides going to be able to comply with the discovery date of October 15, 2019? Because as I told you, we're not going outside of it. I'm -- I am -- I am as serious as I can be about that. I was told by my chief that I'm moving this case, it's moving on that order. There will be no amended scheduling order. There will be nothing on here that says amended. Okay. So that then puts work on me. And that's fine because if I'm going to be that strict then I need to make -- avail myself to y'all and make sure we get this done. So in doing so, are we going to have to go line by line on each separate one and have it a court order on every single one of them?

MS. IVEY: I think a good start, Your Honor, would be if the Diocese could put aside this frivolous argument about the Bishop and answer the standard interrogatories.

THE COURT: Okay.

MS. IVEY; Answer our more full set. These second set of interrogatories and requests for production were much

more detailed. We didn't intend these to be our first round, these were our second round. And -- and so there are -- they are broader in some sense and -- and go with -- you know, if this is the core they're on that edge of the --

THE COURT: Okay.

MS. IVEY: -- core because we'd already asked the first --

THE COURT: All right.

MS. IVEY: I will --

THE COURT: Mr. Dukes, they're indicating that their second set may be a little -- a little bit vast and have to -- you know, entail a little bit more work, but what about the first set?

MR. DUKES: Your Honor --

THE COURT: Just the standard ones.

MR. DUKES: They're not standard. There were like forty seven (47) of them or something in the first set and they were directed to the wrong party. Serve them on the right party. We'll either --

THE COURT: Well, let me ask you --

MR. DUKES: -- respond to them or object to --

THE COURT: -- this then, so you have -- you are aware of what they are asking for, you are just alleging it's against the wrong party?

MR. DUKES: That's correct.

THE COURT: Okay. So if I say, (as stated), "No, it's the right party," you can disclose it ASAP?

MR. DUKES: No, I can't disclose it ASAP with the volume of -- of materials they've requested and the irrelevant materials they've requested.

THE COURT: All right. Well, when was the first -- the -- when were your standard ones issues?

MS. IVEY: It was standard in -- in other interrogatories --

THE COURT: All right.

MS. IVEY: -- but it was our first round. And that was September the 5th --

MR. RICHTER: September the 5th --

MS. IVEY: -- 2015.

MR. RICHTER: -- of -- September the 5th.

THE COURT: Okay. So Mr. Dukes, as to those, even though I know there's a lot of them, you've known about those for about eleven (11) months, ten (10) months. Have you discussed with your clients, (as stated), "There is going to be a time where a judge may make a decision that y'all are the proper party and we need to have these answers available and ready," or has that conversation not occurred?

MR. DUKES: That conversation has not occurred. We

filed a motion to dismiss. Judge Brown stayed discovery.

THE COURT: Well, Judge Brown I understand. He -- he just -- he drug his feet on that, but he wasn't assigned to this case, so it just --

MR. RICHTER: That's right.

THE COURT: -- probably got lost in the -- in the things. I don't fault him for that, but we're not supposed to let these motions sit out there like that. But --

MR. RICHTER: And he set a deadline of thirty (30) days after he ruled.

THE COURT: Oh, that's true. All right. So --

MR. RICHTER: And -- and for clarification, Judge, since I'm on my feet. There are not forty seven (47) interrogatories, there are twenty six (26) interrogatories.

THE COURT: All right. So there's twenty six (26) interrogatories that y'all -- that your clients have been aware of since September of 2018. We -- if I make the ruling that they are the proper party and that they were served on the proper parties, how soon are you going to be able to -- so it's a two pronged question. How soon will you be able to get the information that you feel as though is relevant, and then -- or do we need to go line by line and have a court order -- a court rule on every single one of them? Or are we going to try to have you do it, and then come back to this, and whatever y'all -- whatever he

objects to I'll make the call?

MS. IVEY: That's what I --

THE COURT: Those are options A, B, and C.

MS. IVEY: That's what I would suggest, Your Honor. And I -- I do think we probably need to incorporate into this discussion -- so you've heard, you know, the first, second, third argument. We've recently become aware of the next argument we're going to hear from the Diocese is that they want a confidentiality order in place before they'll produce anything or answer anything. So --

THE COURT: Okay.

MS. IVEY: -- I think that discussion, just in the interest of actually moving this discovery somewhere, needs to be had so that that's not the next roadblock we face.

THE COURT: All right. Let's talk about that, Mr. Dukes, so I can make a decision as to that so we don't have to come back and do this again. Even though I think we're probably going to have to come back and have me rule on a lot of them, but -- but make -- what is your argument as to a confidentiality agreement?

MR. DUKES: We proposed a confidentiality order to Mr. Richter and he rejected it.

THE COURT: Okay.

MR. DUKES: With respect to any allegations of sexual abuse by anybody, many of the people came to the Diocese

and requested confidentiality. Many of the settlement agreements with those who -- who either made a claim or sued the Diocese contained a confidentiality provision. The courts recognized the need for confidentiality of victims of child sex abuse, that's why these plaintiff's are -- are permitted to bring their suits as John Doe and Richard Roe.

THE COURT: Okay.

MR. DUKES: The Diocese has a policy on the protection of victims of child abuse, which requires the Diocese to maintain the identities of victims as confidential, absent a court order. We have to respect that.

MS. IVEY: We -- we don't object to --

MR. RICHTER: Judge, we'll --

MS. IVEY: -- that, Your Honor, at all.

MR. RICHTER: We can expedite this. If they want to redact the name and just give us a list of the persons, we'll agree that that can't be disseminated anywhere so that John Brown -- if he's the first guy on the list -- they can call him whatever they want to call him.

THE COURT: They're numbered, I assume?

MR. RICHTER: Number, just -- just number them. That's exactly right. We don't want to disseminate that anywhere.

THE COURT: Okay.

MR. RICHTER: But it's -- I've been through a lot of these cases and nobody's gotten an order of confidentiality in any of them.

MR. DUKES: Well, the class action was confidential. And the class action requires the Diocese to maintain the identity of the victims as confidential. And that's binding on you as well.

THE COURT: All right. Well, they agree to it.

MR. RICHTER: That's right.

THE COURT: All right.

MR. DUKES: Except, they want us to provide them with a list of the names of all the victims.

MR. RICHTER: Here's -- here's why. If you were a victim, for example, you may -- and your abuser's personnel file may show that you had a psychiatrist, he might be two (2) doors down the street from me, I just don't know about him. He may be the whiz bang expert about what this does to an eight (8), ten (10) year old child. There may have been eye witnesses. There may have been people who reported the abuse to the Diocese and the Diocese sat on it.

They have admitted that they didn't notify, although they were mandatorily required by statute to notify, law enforcement authorities. They've admitted that. They withheld from us the names of forty five (45) victims in

the class case. Judge Goodstein dealt with that. The solicitor in that circuit got involved and took part. Ultimately, we got -- they got that number down -- unidentified. Actual notice is required in a class of a known class party member, someone who's entitled. So the known victim has to get actual notice. So the Diocese had to give actual notice to Johnny Brown because they knew he'd come to the door knocking, saying, (as stated), "I got raped by a priest." They withheld forty five (45) of those names. Much to do about that, but it got, ultimately, all resolved.

My -- my point is you -- you may have -- that person may want to be a witness to -- in our litigation. The mere fact that you and your next door neighbor agree to keep something confidential, that doesn't bind me in any way if I know you're a witness about something. I'd call you as a witness and see what you've got to say about that. So I'm not bound by that. And I'm going to need to plead that a lot of years have gone by, and if you -- if counsel would simply cite me to the place in the class order that says this is confidential then I'll accept his representation that it was confidential. I don't remember that. Maybe it was, if so it'll be in the order, which surprised me a little bit in the sense that there is clear case law in South Carolina about confidentiality and the Court

requiring confidentiality versus two (2) litigants contracting for confidentiality. The Court is out of that business, it's a -- it's a public court. We have clear authority in this state, and have for years, that says that -- that we can agree to it, combatants can agree.

THE COURT: Well, do you want to, I guess -- I mean, figure out a way to agree that -- that the names aren't given in the interest of moving the discovery forward and -- and then make me make the ruling later of some sort?

MR. RICHTER: No.

MR. DUKES: No.

MR. RICHTER: No. We -- no, we must have discovery. They are hiding from us the identity of witnesses, a pattern of conduct that exists in this Diocese. They hid it from law enforcement. They have admitted --

MR. DUKES: Objection, Your Honor. We did not hide it from law enforcement.

THE COURT: Okay.

MR. RICHTER: All right. I'll show you, again --

THE COURT: It's okay. That's not for us today.

MR. RICHTER: I've got the Diocese counsel in Court on the record saying to the presiding judge, (as read), "We didn't disclose this to the law enforcement authorities." In the record. I've got a slide -- well --

THE COURT: All right. So I'm going to go back to my

original question. Are we going to have to go line by line?

MR. DUKES: Your Honor, the breadth of Mr. Richter's discovery raises serious First Amendment issues for the -- for the Diocese. The burden that Mr. Richter -- Mr. Richter is going far beyond -- I'll correct myself. The plaintiff is going far beyond anything that will lead to admissible evidence in this case. And --

THE COURT: So we're going to have to go line by line?

MR. DUKES: I'm afraid so, Your Honor.

THE COURT: All right. That answered the question. Okay. All right. So -- well, that -- that's the answer. I mean, you're going to have a court order on every single interrogatory.

Okay. All right. Well, in lieu of doing that today, do we want to move forward with the issue of *res judicata* or disqualification and protective order to try to see if we can get some --

MS. IVEY: Yeah.

MR. RICHTER: I -- I say get as much progress as we can, Judge.

THE COURT: I say keep going.

MS. IVEY: Okay. So moving on. I guess we're going to hear this under the guise of plaintiff's motion for limited collateral review. Really what we're talking about

here is claim preclusion, Your Honor.

This took a little bit of catching up, for me at least. I know these parties -- well, at least these counselors have a lot of history. Richter versus the Diocese goes back to the class action and -- and maybe even before that. But I think this -- so -- so at first blush sitting in -- in your chambers in that status conference, I didn't know what a limited collateral review meant at all.

THE COURT: I don't either. Tell me.

MS. IVEY: But I -- but I think it's -- I think this is much easier than we thought that day.

MR. RICHTER: The good news is it's quite limited.

THE COURT: Good.

MS. IVEY: So we've got four (4) arguments -- and feel free to stop me at any point if you want to take those piecemeal, or you think one ultimately resolves this issue. So essentially what we are asking this Court to consider is whether the plaintiff's -- this is in Doe, and Roe, and then there's a third case, which I always --

MS. HEGLER: Doe 432.

MR. DUKES: 432.

MS. IVEY: Doe 432, that also may come before Your -- Your Honor. But they're all similar in the sense that the plaintiffs have alleged that they have suffered from repressed memory. And within the past few years each

plaintiff has recalled his abuse at the hands of the defendant's agents -- some priests, some teachers -- at a time when they were a minor. And the allegations differ, but these are generally prepubescent victims who -- for however our minds work -- dealt with their abuse by repressing those memories.

And so what we've asked this Court to do is to look back at a prior class action settlement. This was the 2007 settlement that has been attached to the defendant's motion to disqualify. I think you'll have everything you need in relation to the prior class by way of their exhibits. And the question is can repressed memory victims, like the plaintiffs, who at the time of the class notice -- so this would have been, roughly, 2007, 2008, had not recalled their abuse. And just generally speaking, we'll say that the recall was sometime between 2016 to 2018 for all of these plaintiffs. Can they be bound and are they bound to that prior class action settlement? And are --

THE COURT: And let me ask you, what do mean by that? Bound by the --

MS. IVEY: Well, I think the Diocese best day is their claims precluded. They have no claim.

THE COURT: Right. And so you're saying, (as stated), "Are they bound by it?" Meaning that the -- the class is over, they're not a recognized class, we've distributed

throughout the classes and they're -- they're gone, they're out.

MS. IVEY: Well, they're making the argument that they are within the class. Their claims were adjudicated by the class and -- and now barred.

MR. DUKES: That's correct. I mean, the -- the order approving class settlement and the -- the class notice provisions say, (as read), "If you don't make a claim within one hundred and twenty (120) days your claims are barred."

THE COURT: Right. And then we're back to this repressed memory issue.

MS. IVEY: Yeah. I think the Diocese second best day, we haven't heard this yet, but I think where this could go is that they aren't -- their claims are not precluded, but they're somehow bound to that, how they adjudicated or formulated the recovery in that case. But that's -- that's not -- that question is not before the Court and it's not what we're asking this Court to -- to answer.

But why I -- why I characterize this as a pretty easy decision, Your Honor, is this question has actually already been decided in this case.

THE COURT: Judge Nicholson decided this.

MS. IVEY: No. No. No. This case.

THE COURT: This one?

MS. IVEY: Judge Nicholson decided this same question, or a very similar question, in a case styled John Doe 193 versus the Diocese of Charleston. But in this case -- and I'm like you, Your Honor. I wasn't working along Mr. Richter when this -- this was raised, but Mr. Dukes was and Mr. Richter was. And with a little review of the file, if you will review, just in this -- the record of its own case, this Court's file, the defendant's pre-answer motions to dismiss the defendants raised two (2) arguments: charitable immunity and *res judicata*. If you see the plaintiff's memo in opposition it's very detailed. It raises to the Court the issue of Judge Nicholson's opinion in John Doe 193, it talks generally about that case that Mr. Dukes cited to us in your chambers, hospitality management and what -- what the Supreme Court of South Carolina standards are.

And then we get to a December hearing, it was December 14, 2018. And if you review the transcript of that hearing, which I've attached to the plaintiff's memorandum in support of motions for limited collateral review, there was a lengthy discussion about this issue. And then ultimately, as you've heard, in March 2019 Judge Brown denied the defendants pre-answer motion to dismiss, their arguments on charitable immunity, and their arguments on *res judicata*.

MR. DUKES: Your Honor, if I may? I can maybe cut this down a little bit. Under McLendon versus South Carolina Department of Highways -- and I'll be more than happy to hand up a copy. Ruling on a 12(b)(6) motion is not the law of the case. And if you look at footnote number two (2), the Supreme Court tells us that, (as read), "The denial of a motion to dismiss does not allow -- establish the law of the case and the issue raised by the motion can be raised again at later -- at a later stage of the proceedings."

THE COURT: Okay.

MS. IVEY: Your Honor, I didn't say this is the law of the case and that's not my argument.

MR. DUKES: It's in -- it's in their brief.

MS. IVEY: Okay.

MR. DUKES: And -- and I'll show you the exchange of emails in which Judge Brown and counsel were discussing the order that would be issued. And Judge Brown says, (as read), "I do not believe at this juncture of the litigation it'd be appropriate to make any legal conclusions, that" -- and his prior email back on the 2nd, (as read), "The defendant should not be precluded from raising these defenses if facts are developed through discovery that would allow such."

THE COURT: Okay.

MS. IVEY: There's no facts that have differed, Your Honor. And --

MR. DUKES: And I'd like to make that -- Judge Brown's --

THE COURT: Let her -- let her finish.

MS. IVEY: So what you see here (indicating) is no different than what was raised in the pre-answer motion to dismiss in the December hearing. And I apologize if I did use law of the case very loosely, in a -- in a very general sense, but if you -- if you examine our memorandum there's no lengthy discussion of law of the case. But I do think that when we're talking about this issue and considering both the prior rulings in this case and the prior rulings of other trial court judges we have to, at least in a very general sense, consider doctrines of finality like law of the case. And -- and you've seen how this case is painstakingly not moving along, Your Honor. And if rulings within this own case have no accord and the Diocese can take a second, a third bite at the same legal arguments based upon the same facts we're not going to get anywhere, Your Honor.

In response to -- I have not seen this case that -- that Mr. Dukes presents, but I have a few cases of my own to -- to offer to the Court. The first, this is a South Carolina Supreme Court case dating back to 1949, it's very

simple facts, not too hard for anybody to digest. And in this case -- this is the case of Tisdale versus American Life Insurance, 216 South Carolina 10, 1949 case.

THE COURT: Thank you.

MS. IVEY: A defendant made a motion for a change of venue in April before one judge. That judge was Judge Greene in Calhoun County. The basis for the motion of change of venue was a lack of personal jurisdiction over the defendant. Judge Greene denies the motion, there's no appeal of the -- of Judge Greene's order. Then about a month later the appellant -- this was the movant (as stated) or the -- the defendant in the underlying matter moved to vacate the order of the first judge. And he also then challenged change of venue again, but on a different argument, this time summary judgement. So at least in that case they're making the same motion and the same claims, but on a different basis. Here we're talking about the same facts, the same basis.

And so when that -- when the second motion came before the next presiding judge, Judge Grimball, they called to the attention of Judge Grimball the prior order of Judge Greene and Judge Grimball held that the defendant was precluded from further consideration of the matter. And in affirming that ruling the Supreme Court said, (as read), "It's axiomatic that a circuit judge does not have the

power to reverse the ruling of another circuit judge." This statement, not -- not in a full sense of the law of the case when you're looking at an appellate decision in the same case, but this statement has been recited by the Supreme Court up until 2013. So Your Honor, the -- the case of Charleston County Department of Social Services versus, father, stepmother and mother -- I'll hand it up to you -- 317 South Carolina 283, a 1995 case --

THE COURT: Thank you.

MS. IVEY: -- recognizes that there's a longstanding rule in this state that one judge of the same court cannot overrule another. It cites back to Tidsdale and then a case styled Dinkins versus Robins 203 South Carolina 199, an even older case, that's a 1943 case. And then most recently, Your Honor, in a case styled Shirley's Iron Works Incorporated versus City of Union, South Carolina, et. al. 403 South Carolina 560, 2013 case. The Court -- the Supreme Court of this state, again, recognizes this state has a longstanding rule that one judge of the same court cannot overrule another.

And Your Honor, our argument today here is not necessarily that you don't have the authority to do this. We're not saying that. We're just saying it's been decided in this case. These cases have to move along. It's been decided in other cases, the same exact question. And --

and that should help this Court in reaching an easy decision on this matter.

So moving on to the Judge Nicholson argument.

MR. DUKES: Would it be better for me to address those points first?

THE COURT: Sure.

MS. IVEY: Sure. That's fine.

MR. DUKES: Your Honor, the one judge rule is one thing. Having a ruling on a -- on a Rule 12(b)(6) motion, that is -- the Supreme Court and, more importantly, Justice Toll in her book on appellate practice said that a ruling on a 12(b)(6) -- a denial of a Rule 12(b)(6) motion is not appealable. The -- the -- I'm sorry, the Department of Highways, the McLendon case says, (as read), "The legal defenses, the -- the parties get to bring that up again." It anticipates they're going to bring it again. The standard on 12(b)(6) is just the four (4) corners of the complaint. The standard of summary judgment is considerably different. It's not a matter of Your Honor overruling Judge Brown, it would be a matter of the Diocese raising an issue on summary judgement. That shifts a burden of proof to the plaintiffs come forward a -- with a genuine issue of material fact and Your Honor has to rule on that, it's not just on the four (4) corners of the complaint. So the one judge rule has nothing to do with --

with this issue. What -- what Ms. Ivey is arguing, really, is that a ruling on a 12(b)(6) motion is the law of the case and we're bound to that. The Department of Highways case says that's not the case. And that -- that is the law. So that argument just doesn't -- doesn't apply whatsoever.

MS. IVEY: Your Honor, just in brief rebuttal there. I'm just suggesting that you go back and read the pre-answer motion to dismiss, the memo and opposition, the transcript. There was lengthy discussions in all of those matters. This wasn't just a one and done, one sentence consideration. This was -- this was put before the Court, it was litigated and it was decided, at least to act -- the posture of a 12(b)(6) motion. And -- you know, I think just as a practical matter, if -- if there's no respect or consideration made for -- for issues that are actually raised, they're briefed, they're litigated, the system is just going to fail.

So moving on from that point. The second thing I'd like to raise to the Court and -- and these are things that aren't -- aren't made clear in the defendant's motion to disqualify -- is that this same question, the question of whether a repressed memory victim who had not recalled at the time of the class notice, claim can be precluded by the prior class settlement, has already been considered by

Judge Nicholson in the case of John Doe 193. And it's been ruled on that as a matter of due process a repressed memory victim, like John Doe 193 and like the plaintiff's here, cannot be bound to the class.

I've presented to the Court by way of exhibits to the memorandum on limited collateral review. The first exhibit is the motion for limited collateral review that was brought in John Doe 193, just so that this -- that Your Honor can see exactly how that question was presented. It was presented to Judge Nicholson -- the question was posed as follows. They asked Judge Nicholson to find that the settlement reached therein does not preclude John Doe 193 who alleges that he repressed memory -- memory of his sexual abuse until June 2010 -- from bringing claims against the Diocesan defendant for sexual abuse at the hands of priests. Judge Nicholson then conducted a limited collateral review with respect to John Doe 193 under Hospitality Management Associates versus Shell Oil, 356 South Carolina 644, 2004. And Judge Nicholson answered. And I quote, (as read), "As to plaintiff John Doe 193 who alleges that he lived in South Carolina, but had a repressed memory at the time of class notice, that it would be inconsistent with due process to bind him to the class action settlement if he, in fact, had a repressed memory of sexual abuse at the time the notice was published.

Therefore, if he can prove a repressed memory by a preponderance of the evidence he will not be bound to the class action settlement. This order does not address the merits of whether John Doe 193, in fact, had a repressed memory as he has alleged." And that quote is taken from Judge Nicholson's amended order on limited collateral review, it was issued on May 4, 2017. It's Exhibit B to plaintiff's memorandum.

So Your Honor -- and -- and I do want to note that John Doe 193 was one of eight (8) cases. Those eight (8) cases were all brought by Gregg Meyers, a name you've seen and, I guess, will become familiar with in -- in some sense. And so each of those eight (8) cases -- and I think they were across a span of six (6) or seven (7) years to -- roughly, 2010 to 2016. Each of those cases allege that the plaintiffs were abused by priests. Seven (7) of the plaintiffs were victims and three (3) were spouses, or parents, or otherwise the consortium class. Nine (9) of the plaintiffs were nonresidents and one (1) was a South Carolina resident. You'll see these cases, they're in defendant's motion to disqualify and they're in Dr. Adams' affidavit related to that motion to disqualify. And these cases are characterized as malpractice cases against Mr. Richter, and his former law partner, and their former firm.

But more than just that, what these cases were were

challenges, like this limited collateral review as to the notice of the underlying class. And so the nine (9) nonresidents -- and this is -- Mr. Richter characterized this litigation as spoiler litigation -- those folks, those plaintiffs challenged the notice because it -- the publication or constructive notice was not made outside of South Carolina. And I'm speaking very vague, roughly.

MR. DUKES: And correct. You're right.

MS. IVEY: Okay. And so then the --

MR. DUKES: It was -- that's what --

MS. IVEY: -- one, which was John Doe 193, his claim was distinct from those nine (9) other plaintiffs because he claimed that he would have otherwise fit within the class definition, but he didn't know. He wasn't aware of his potential claim at the time the notice was issued. So he didn't claim that the notice was deficient like the others claimed that, (as stated), "Hey, how are we supposed to know about this? We live in Oregon" -- or wherever they lived at that time. And so what Meyers did in those cases is he brought claims against the Diocese for these plaintiffs, including John Doe 193, but then as the fallback is if those plaintiffs are precluded because of the -- the prior class then they allege malpractice against the class counsel, which included Mr. Richter, Mr. Howler, and their firm.

And so in finding for summary judgement on the basis of the lawyer defendants, Richter and Howler -- and all of those cases were decided -- decidedly dismissed against the lawyer defendants on -- on a summary judgement motion -- Judge Nicholson addressed the specific claims of John Doe 193. And he says, (as read), "The claims alleged by John Doe 193 are slightly different. John Doe 193 alleges that he repressed the memory of his sexual abuse until 2010. As a result, even though he lived in South Carolina, he claims he did not receive notice of the class action settlement in 2010, which is when he -- when he recovered his memory -- and alleges the lawyer defendants failed to make a provision for repressed memory victims like him." And so in Judge Nicholson's ruling what he wound up finding was that because they weren't precluded then they have no malpractice claims.

And then the notice -- the notice claimants were a little bit different in that they -- they did find that the notice provision issued by the class court, and then actually in the class carried out by the defendants -- and that's a whole other issue -- was deficient. Their -- their claims could proceed too. So those cases never reached the lawyer defendants, but here I think are thrown into these motions to disqualify to make Mr. Richter, Mr. Howler, and the class counsel have -- have the appearance,

at least, of -- of being dirty or inefficient in some sense with respect to the class.

So that order on summary judgement is attached as well to the memorandum as Exhibit C. As Mr. Dukes has made you aware, all of those cases, the eight (8) cases brought by Meyers are currently on appeal, but I think it's important that the Court understands what posture they are in on appeal. There's also another case -- and Mr. Dukes may be able to speak better as to this, but in our canvasing of, (as stated), "Has any other Court decided this? How are they coming out," we did locate another case, which is the Templeton case, which is a Federal Court case that also involved allegations of repressed memory. But I don't believe that that -- a limited collateral review has been conducted or anything has been decided.

MR. DUKES: He -- Mr. Templeton would not have been a class member. He was a -- he was out of state.

MS. IVEY: Okay. So it looks like what we have right now is we've got John Doe 193 who came before us. We've got these three (3) plaintiffs. And -- and that's kind of the -- at least the world we've been able to identify of repressed memory victims that may have been covered by that prior class.

So we put before this Court, first, that the law of this case should guide the Court's reasoning. And it's not

binding upon the Court's reasoning, but that it's instructive here. And we ask the Court to consider the filings that have already been made and the -- the arguments that have been made. We also ask the Court to look to John Doe 193 and your fellow trial court, Judge Nicholson, for guidance on this issue. And then also, kind of digging into the actual analysis, Your Honor, we -- we contend that Hospitality Management is the standard in terms of conducting a limited collateral review. And we also point the Court to the case of Doe versus Bishop of Charleston, that's 407 South Carolina 128, 2014 case. And we think that that case is particularly instructive because it was the Hospitality Management Standard as applied to claims involving the Diocese and as applied to the class action that -- that we're talking about here today.

And so in working through that standard, I'd like to make a couple of comments, just in brief, regarding the defendant's memorandum regarding limited collateral review because the defendant's seem to suggest a standard that we feel is -- is different than that prescribed by Hospitality Management in John Doe versus Bishop of Charleston. The defendant contends to this Court that your task at this point is to conduct a limited collateral review and it should only determine, one, whether sufficient notice was given to punitive class members as a whole and, two,

whether the class members had adequate counsel. No other inquiry is permitted. And in making that pretty bold statement defendants reference the Doe versus Bishop of Charleston. And if -- if the Court looks at that inquiry that's not what that case stands for. In that -- in the Doe case, Doe versus Bishop of Charleston, the Supreme Court was presented the question of whether a late claimant had a hundred and twenty (120) days from the date in which he or she became aware of the prior adjudication, which was here the class settlement, or a hundred and twenty (120) days from the entry of the judgement approving this settlement.

And so in breaking that down, the Court just didn't look at adequate counsel. They didn't look at just whether sufficient notice was given as a whole. They looked at different sets of punitive class members. They looked at the actual notice class claimants. They looked at the constructive notice class claimants. They looked at absent members. And so if the Court can look that particularly I think it's necessary and consistent with Hospitality Management for the Court to look at this particular subset of potential claimants, which would have been repressed memory claimants.

MR. RICHTER: And it's happened all over the country.

MS. IVEY: Yeah. And this is -- you know, this is not

-- this issue, while it's a constitutional due process issue, is not something that hasn't been discussed or considered in the context of mass tort litigation, in the context of due process and future claimants. What do you do about asbestos victims who come forward forty (40) years later? The class action settlement that Mr. Dukes has attached to his motion to disqualify and, kind of, put at issue here between the *res judicata* and disqualification arguments, it didn't -- it didn't have a trust, it didn't have reserves, it didn't break out, (as stated), "Hey, here's how we're going to treat future claimants that come forward," or, (as stated), "Here's how we're going to treat repressed memory victims." It had a hundred and twenty (120) day claim period, so to the contrary it's pretty evident that it didn't contemplate future claimants.

And so to the extent that the Court is asked to look at, one, whether the Court afforded reasonable opportunity for notice, it fails. And then the second prong of that analysis is whether -- is whether the repressed memory victims, if they were to be class claimants, if they would have had adequate representation. And what you see in the appellate brief of Richter and Howler that's also used as a weapon by the defendants is a really detailed analysis of why at the time of negotiating the class settlement Richter couldn't have -- Richter or any of the other co-counsel

couldn't have advocated, one, for the actual notice and constructive notice claimants and then, two, some set of future claimants because at the time of the class their interest would have diverged a little bit. If -- if we're providing on one hand this mountain of money in the future for reserves for -- for future claimants, that's going to effect this other group of known plaintiffs because it's going to diminish what their recovery is if there's only so much to go around.

And so they have never purported to represent future claimants. The Diocese just keeps trying to shove it down our throat, and everybody's throat, that all meant all and they wanted to buy their global peace, but as a matter of law they cannot have bought their global peace. Even if the settlement had included a provision and said, (as stated), "Listen. We're the Diocese. We're here. We want to make amends with everybody out there. We want this to be as far reaching as we can. And so here's what we're going to do about the victims we know about. Here's how we're going to try to identify the rest who are conscious and aware of their claims. And here's what we want to do about the victims, the future claimants who's injuries haven't surfaced." They didn't do that, but even if they had do that -- had done that, under the case law involving limited collateral review and under due process

considerations, this Court would still have to test the sufficiency of such a mechanism. But it's not alleged and it, in fact, didn't occur that there was any reserve or any trust for these future claimants. So to the extent that the Diocese just wants to conclusory -- conclusory find that the plaintiff's allegations put him squarely within the ambit and the intent of the settlement, that's not the case. That's where this has to start.

And so if you start on that, you've got to go back to our -- the complaints and the answers in this case. And kind of like what you've seen with this discovery, if you look at Doe's complaint, paragraph number twelve (12), and the corresponding denial on number twelve (12), and Roe, same thing at fourteen (14) of the complaint and fourteen (14) of the answer, the Diocese has denied that sexual abuse occurred. And they've denied that the alleged perpetrators were agents of the Diocese. So we can't even get to the argument, I think -- you know, we should get to that because I would imagine they're going to reform their pleadings so that they can -- they can press this *res judicata*, but where we stand today we can't even conclude that these plaintiffs are bound because they, otherwise, fit the class definition, much less getting to the due process considerations. So I note that, Your Honor, but assuming that there's -- there will be some admission, at

least to some extent, that sexual abuse occurred and the perpetrator -- or at least that the agent -- the perpetrators were agents of the Diocese, the priests and teachers we've alleged.

Moving on to the law of contingent unaware future claimants.

MR. DUKES: Could I --

MS. IVEY: Yeah.

MR. DUKES: -- interrupt you --

MS. IVEY: Sure. Go ahead.

MR. DUKES: -- and address the Judge Nicholson order issue?

MS. IVEY: Yeah.

MR. RICHTER: Don't let him interrupt you.

THE COURT: Well, let's -- let's take about a five (5) minute break. The court reporter has been going about an hour and twenty (20) minutes, so let's just take about a five (5) minute break.

MR. RICHTER: Thank you. And Judge, we'd like to finish our argument before we were interrupted --

MS. IVEY: It's very brief.

MR. RICHTER: -- the peace meal.

THE COURT: Okay. We'll still take a five (5) minute break and come back with y'all.

MR. RICHTER: Thank you.

(OFF THE RECORD BREAK FROM 2:34 P.M. TO 2:47 P.M.)

THE COURT: All righty. Ms. Ivey, you wanted to continue?

MS. IVEY: Yes, sir.

THE COURT: Okay.

MS. IVEY: Just going to wrap it, the -- our fourth point, which is really getting to the issue, ultimately, should this Court find it necessary to conduct its own limited collateral review. Hospitality Management Associates, the South Carolina case that we contend controls here, provides that in order to provide minimal due process absent class plaintiffs must receive notice plus an opportunity to be heard and participate in this litigation, whether in person or through counsel.

And Your Honor, under a wide range of Supreme Court jurisprudence, in comparable situations where there's unknowing contingent future claimants, the Courts have, pretty uniformly, held that it's impossible, one, to provide reasonable notice to unaware claimants and, two, to provide adequate representation to future claimants. Plaintiff's memorandum cites just a few of these Supreme Court cases, which include AMCHEM Products versus Windsor, it's 521 US 591, that's a 1997 Supreme Court case. And in that case the Court contemplates asbestos workers in an

asbestos settlement that tried to cover future claimants. And -- or even the children of those workers, or unborn children of those workers, who later grabbed their daddy's leg, and it's got asbestos product, and then they're exposed, and they have some future claim.

Another one of those cases is Mullane versus Central Hannover Bank and Trust Company, it's 399 US 306, 1950. And as to these cases what the Supreme Court is -- is holding is that the right to be heard has, really, no worth unless you're informed of the matter as pending and that you can choose for yourself whether to opt in, whether to proceed with -- with the class or assert a claim. And you can make a meaningful decision of that. In -- you know, these instances, even if somebody had come and knocked on the plaintiff's doors -- assuming all of the plaintiff's allegations are true as to the repressed memory -- they wouldn't have even known they had a claim to assert. The notice would have been meaningful -- or meaningless to them because they weren't aware of their claim at -- at the time that the notice was issued.

The second prong of the analysis under Hospitality Management is that if notified, or if they had a reasonable way of being notified, that they had adequate representation. And that also fails too here, Your Honor. We have cited to a couple of scholarly articles on this

issue and it -- it's an issue that crosses many Supreme Court cases. And one of those articles I would suggest for the Court's consideration, it's an article by Professor Rhonda Wasserman titled "Future Claimants in the Quest for Global Peace," it's 64 Emory Law Journal 531, 2014. And Professor Wasserman does a really good job in that article, particularly at page 558 of that article, of walking through the different impediments to representation, even if it's contemplated in a class. So the problems with class counsel representing the current claimants and the problems with class counsel in some way trying to provide a mechanism or adjudicate the rights of unknown future claimants, it's -- just as a matter of logic -- very difficult. They don't know their exposure. They don't know the extent of their injuries. They don't -- you don't even know who they are.

So what you would be doing, if class counsel was also representing those future claimants, is you would somehow be binding or adjudicating the rights of unknown parties. You don't know who your potential clients are going to be. And for that reason the Supreme Court cases that deal in this world of unborn children and unidentified, unaware future claimants have resoundingly said, even where these mass tort settlements try to cover future claimants, there's a -- there's a fundamental due process problem in

doing so. And so when the claimants come later, the unborn child comes later, courts have found that they're not bound to those prior settlements because they -- they couldn't have received notice, and it -- and it wouldn't have met minimal due process rights, and that they didn't receive adequacy of representation. And on similar analyses that -- that we have here, it allowed those claims to proceed. And that's what we -- we think the right result is here to the extent the Court even needs to get to that issue.

THE COURT: All righty. Thank you, ma'am.

MR. DUKES: Let's talk about Judge Nicholson's order, first. It -- Judge Nicholson -- well, the motion for limited collateral review by Judge Nicholson was filed by Mr. Richter -- or Mr. Richter's lawyers, it wasn't filed by the Diocese. The Diocese moved for Judge Nicholson to reconsider his ruling because, quite frankly, we believe he was wrong. Judge Nicholson then amended his ruling on limited collateral review and he was still wrong. And we filed a motion to reconsider that order. Before he could rule on that motion to reconsider, he granted summary judgement in favor of the Diocese and brought the case to a conclusion.

On appeal we have raised as independent sustaining grounds -- Judge Nicholson granted us summary judgement on common law charitable immunity. We raised as independent

sustaining grounds the doctrine of *res judicata* in the class action bar. That matter is still on the Court of Appeals and -- and no one can predict what Columbia is going to do with that -- with this case.

THE COURT: When was that?

MR. DUKES: Sir?

THE COURT: When was the appeal?

MR. DUKES: We've -- the appeal got filed in September 2017. The briefing was completed in January -- December, probably, of 2018 and -- and it's still -- it hasn't been set for hearing yet.

THE COURT: Okay.

MR. DUKES: We're still waiting. But it's fully briefed and ripe -- ripe for argument.

Hospitality Management calls for the Court to look at what calls for you, on plaintiff's motion to conduct the limited collateral review, to look at what Judge Goodstein did, and to determine whether what she did, and what Mr. Richer did were correct. The Diocese contends that they were. Judge Goodstein developed a notice program that was designed to -- to provide reasonable notice to members of the class. That's what -- when you have people in a class action that you don't know who they are they put ads in the newspapers, nowadays they put a Facebook page, or a Twitter account, or something like that. There are many ways to

notify a class of the pendency of a class action to allow them to make a claim. This was an opt out class action, which means you were in the class action unless you filled out a form and sent it to Mr. Richter and said, (as stated), "I don't want any part of this. I opt out."

The class judgement is binding on everyone who is defined in the class order and Judge Goodstein defined that as all victims of sexual abuse at the hands -- and I'm paraphrasing, I'm not reading it -- of employees or agents of the Diocese who are born before August 31, 1980. And the second category of class members were spouses, parents, and those called the consortium class. The class action is then binding on all of those people. And if they don't file a claim in the class action they are barred from ever bringing that claim. That's why you enter into a class action settlement, to buy your peace. And that's the fundamental law on class actions.

Hospitality Management calls on you to say, (as stated), "Well, was Judge Goodstein's notice program reasonably calculated to give notice to the class?" And then, (as stated), "Was Mr. Richter's actions -- did Mr. Richter comply with the class action order?" He did. He did exactly what Judge Goodstein ordered to the letter. Because of that people who did not file claims in the class action are barred if they didn't file. You don't look to

whether anyone actually received the -- read the newspaper and saw the notice, it's just -- your focus is, (as stated), "What did class counsel do? What did class -- the class action court order and what did class counsel do? Did they fulfill the order?" And they did. If they did that then the settling defendant has bought its peace.

You don't look -- and I've used this example many times. There's no exception for somebody who was on a six (6) month European cruise who wouldn't actually receive notice if it were advertised. You don't look to see if somebody was in the military in Afghanistan. You -- that doesn't follow the law of class actions. You look at what the Court ordered and what class counsel did. And if that was reasonably calculated to reach the class, not any particular individual, then their claims are barred. So --

THE COURT: But that's -- but that's different than what we have here, wouldn't you agree? Because whatever Roe 193 was could have known all about the class, could have had a friend in the class, could have known every single thing there was to know about the class, how much money they were getting, it could have followed the -- the whole litigation, but not known that he was supposed to be in the class because he had repressed memory. That's the issue.

MR. DUKES: Well, you know, the repressed memory case,

Moriarty versus Garden Sanctuary, was not a class action case, it was a case involving the discovery rule and tolling the statute of limitations. There's -- there are no case law -- there's no case law that I've ever found creating a repressed memory syndrome exception to the doctrine of *res judicata* in class action settlements.

THE COURT: Well, I agree, but that's -- that's the novel issue in the -- in these cases is the notice requirement. When did they, obviously, become unrepressed? And, of course, that begins the tolling. All those things, it's all new. It's not something that we've been adjudicating for years, and years, and years.

MR. DUKES: Well, it -- the theory -- and by the way it is highly debated among psychologists and psychiatrists whether there is anything known as repressed memory syndrome. I read one author who was a critic of -- of the diagnosis who said, (as stated), "It -- describe to me scientifically how there is a" -- and she called it a hobgoblin -- "that reaches up in your brain, and grabs a memory, and then hides him in a lockbox somewhere until it works its way free."

THE COURT: And we're going to have to have a factual hearing on that at some point in time in the future --

MR. DUKES: Correct. Well --

THE COURT: -- well in the future, but --

MR. DUKES: And -- and Moriarty requires that the plaintiff's present expert testimony to prove both the abuse and the repressed memories. And then the plaintiff also has to provide corroborating evidence.

THE COURT: That is correct.

MR. DUKES: At this stage they have not done that.

THE COURT: But they're not required at this point.

MR. DUKES: They have -- the plaintiffs filed the motion for limited collateral review. The limited collateral review, as I say -- my argument is you don't look to these plaintiffs, whether they could appreciate the notice. What if somebody was illiterate? Are they not bound by a class action if they're a member because they couldn't read -- or blind for that matter? They are bound. You don't look to whether an individual could have appreciated the class notice, you just look at whether the class notice was reasonably calculated to reach everybody.

THE COURT: Okay. Go ahead.

MR. DUKES: The plaintiffs are now saying they should not be bound because they claim to have repressed memory, that's what they say in their -- their motion for limited collateral review. The affidavits they submitted say, (as stated), "I forgot that I remembered," essentially. That -- that testimony was expressly rejected by the Supreme Court in Moriarty. So those affidavits don't establish

that they have repressed memory syndrome. So even if you were inclined to say, (as stated), "Well, a class action settlement can't apply to somebody who has repressed memory," the -- the movants have not established that they have repressed memory under the law. So their motion -- the motion for limited collateral review, I guess, what you should do is say their claims are barred because they can't -- hadn't proved repressed memory.

THE COURT: All right. Well, let's talk about -- just real quickly with Judge Nicholson's previous order, do you feel as though that's going to be dispositive on what I do?

MR. DUKES: No, sir. Not at all. Not at all.

THE COURT: All right. I was just asking your opinion on that.

MR. DUKES: It -- it is -- it's not the law of this case, it's not the law of his case either because it's on appeal.

THE COURT: That's right.

MR. DUKES: So it is out there. It's a conclusion that he's made on a non dispositive matter because, remember, his order was not, (as stated), "This plaintiff had repressed memory syndrome, therefore the class action settlement agreement doesn't apply to him." It was, (as stated), "I find that if he proves it then due process would not hold him bound to the class action."

THE COURT: And he was --

MR. DUKES: So it was conditional.

THE COURT: That's correct. And my understanding was that he, at some point in time, had indicated that he -- he was later going to have to have the plaintiffs have a factual hearing and provide him with things that you've indicated, which is the --

MR. DUKES: That's correct.

THE COURT: -- we'll bring in the psychiatrists, we'll bring in the -- everybody and --

MR. DUKES: And -- and then he granted summary judgement in --

THE COURT: So --

MR. DUKES: -- in the Diocese's favor on charitable immunity and the whole case was over.

THE COURT: Okay.

MR. DUKES: And now it's up on appeal.

THE COURT: All right.

MS. IVEY: May I briefly reply --

THE COURT: Absolutely.

MS. IVEY: -- Your Honor? So I think what -- what I just heard is that Judge Nicholson's wrong, that the Supreme Court was wrong in Moriarty by even recognizing repressed memory. And I heard some comparisons of these plaintiffs who suffer from a recognized disability, a

disability so severe that it -- it tolls the statute of limitations, compared to people who were on a six (6) month European cruise, compared to people that were blind, or deaf, or something like that. If we're going to compare it to anything, I think the best comparison is to people that were incompetent and didn't have a representative or were in a coma. And I'm -- I'm just, kind of, baffled by the comparison whatsoever. What we're urging this Court to do is find as a matter of law -- not getting into our proof of repressed memory, which is something we're going to have to face in this case in its own issue, but to find as a matter of law this -- this issue of limited collateral review, a repressed memory victim like ours and -- and the critical points are the date of recall and the date of the prior settlement -- cannot be bound based on due process considerations.

Mr. Dukes says a couple things. He says that Judge Goodstein was charged with providing reasonably calculated notice and that's accurate. It wasn't the Richter Firm, it wasn't Mr. Richter, it's the Court. And you'll see this in Doe versus Bishop of Charleston. And then he says Mr. Richter was charged with providing notice and that's not the facts, Your Honor. This class action was a little bit different in that the Diocese spoke up and said, (as stated), "Hey, we know about forty (40) or forty five (45)

potential victims that we've kept to ourselves up until this point" -- this was far along in the litigation --"and we're going to call those actual notice recipients. We need to go find those people." And they said, (as stated), "But -- but we don't want to turn those names over because some of them want -- might want to be anonymous, but we'll take care of it." And so then they go -- they go do that. And they can find all but, like, four (4) of them. And so at that point the Court said, (as stated), "Listen, I'm not going to affect these four (4) people's rights that have come to you, that have made claims -- or somebody has on their behalf -- I'm not going to do away with their rights without them having notice and without them having an opportunity to be represented in a -- in a suitable fashion." And so at that point the Diocese turned over just those four (4) names and assist --

MR. RICHTER: It got down to two (2) extra.

MS. IVEY: -- had -- had plaintiff's counsel -- class counsel's investigator assist in the -- the efforts to find those people. And we got down to two (2) folks that couldn't be identified. And so when you see that Doe opinion that's what that deals with, the Doe versus Bishop of Charleston, that those two (2) people had -- have a specific remedy different than the other class claimants because the judge in the -- the class action didn't want to

do away with their rights when it was clear that -- that they had come forward.

And so here, Your Honor, we can't confuse the facts. And so the first -- the first fact is Mr. Dukes jumps to the conclusion, again, that these plaintiffs are in the class. You may find, just like you may find that the plaintiffs don't have repressed memory, the facts may prove that the plaintiffs were physically assaulted, but not in a sexual way. They weren't sexually abused as minors. Or maybe it was when they were eight (8) -- nineteen (19), eighteen (18), some age of majority at the time. Or maybe we'll find that the teachers that perpetrated Roe -- I believe it was in Roe -- there's teachers --

MR. RICHTER: Doe.

MS. IVEY: Doe is teachers?

MR. RICHTER: Uh-huh.

MS. IVEY: The teachers were not, in fact, employed by the Diocese. And all of those facts will determine whether or not they fit into that class definition. And so we -- we can't put -- put the cart before the horse there.

And I think, at a fundamental level, we hear the -- we hear the defense saying, (as stated), "Richter was required to give notice." Well, that's not the facts. If you go back and look at the -- the class action, you look at Doe versus Bishop of Charleston, it was different in this case.

The Diocese assumed that responsibility and the Diocese was charged with that responsibility.

MR. RICHTER: As to the Court's file.

MS. IVEY: And then we hear the Diocese saying --

MR. DUKES: Mr. Richter is correct. The Diocese was responsible for providing actual notice to the people we knew about.

MS. IVEY: But that's not what your motion to disqualify says. It says, (as read), "Richter was charged with providing notice. And he failed to notify people, including these plaintiffs." And that's one of the bases for the motion to disqualify him. And it's, again, one of the misstatements that's material in this case.

We also hear the Diocese saying, (as stated), "All means all." Judge Goodstein approved that settlement, it's Judge Goodstein's judgement that is trying to be forced upon these plaintiffs or cover the plaintiff's claims. And it's our argument -- I just reiterate this again, Your Honor -- that all can't mean unknowing, unaware, future contingent claimants, just as a matter of due process. And so we get it, it's plain that the Diocese wants this to be as broad and as all encompassing as it can be, but it can't be, at least as to this very limited group of victims.

And -- and my last point, Your Honor -- unless Mr. Richter has anything about the Diocese that -- that I don't

know about that needs to be raised -- is Mr. Dukes talks about the John -- John Doe 193 limited collateral review. And he says, I think, two (2) different times -- he -- he move -- they move to reconsider the original order. Then the amended order comes out. And then they move to reconsider that order. And that begs the question to me, Your Honor, why didn't they move to reconsider Judge Brown's March 4th order? That would have been, in a way, one of the proper mechanisms to reconsider that order and get that done with some finality. Now, if they want to appeal your ruling on *res judicata*, or Judge Brown's ruling on *res judicata* in the same way they're appealing the John Doe 193 decision of Judge Nicholson? They can do that. And this can be the next case taken up with the Court of Appeals, you know, if a decision doesn't issue before then.

And Mr. Richter, do you have anything else to add?

MR. RICHTER: Well, I just need to correct one thing so that we can be perfectly accurate with the Court. The Diocese secreted forty five (45) names from class counsel from the class. Ultimately, came clean on that. That got whittled down to twenty (20). They took on -- and the judge has put this in her order that they're responsible for notifying those people by what's called actual notice, direct notice. They'll -- they'll actually get a registered letter in their hands and they did that down to

two (2), I think. We --

MR. DUKES: It was -- I thought it was four (4), but --

MR. RICHTER: Well, it was four (4) at one point, but it got down, ultimately --

MR. DUKES: To two (2).

MR. RICHTER: -- to two (2). And that is the accurate fact account of the Diocese taking part in the notice. The other thing that Mr. -- I would like to clarify for the record because it's incorrect. Mr. Dukes said these guys, our plaintiffs, say in their affidavits, (as stated), "We forgot we were sexually abused." That's not true. I have in my hand the affidavits. Your Honor, has those affidavits. They never say that. It's not true. That's not -- that's not the way repressed memory called dissociation works, as experts will, ultimately -- I guess, say before -- before you. So those -- those are the things I wanted to add, not to argue further, but just to get the record clear as -- as to those points. Thank you, Judge.

THE COURT: All right.

MR. DUKES: Judge, I -- can I make one request?

THE COURT: Sure.

MR. DUKES: Ms. Ivey started to say, (as stated), "What we want the Court to determine as a matter of law is," and then she distracted herself and started talking

about something else. If you would -- would you ask her to say what they want the Court to rule as a matter of law?

THE COURT: As to limited collateral review?

MR. DUKES: Yes, Your Honor.

MS. IVEY: Okay. And that is that the plaintiffs in all of these cases who have alleged recall only within the past couple of years, it's different dates for each, and did not receive -- had not recalled at the time of class notice are not bound to the prior 2007 class action settlement.

THE COURT: Okay.

MR. RICHTER: And that's what -- there's now -- this -- this is developing the body of case law, it's still developing. It's pretty well developed now. There's a majority rule now in the country so that you -- you'll see that. And of course, that rule is that repressed memory people can't be charged with knowledge of anything because they were repressed. Mr. Dukes argued in his memorandum -- I believe I recall this correctly -- that, (as stated), "Oh, this is -- you know, the -- there's no limit to this. This could apply to somebody might be in the -- in the trenches fighting a war on another continent and then not see the -- the adds in the paper kind -- kind of thing." Their answers to all of those things -- and that particular example -- there's a Sailors and Soldiers Civil Relief Act

of 1940, which tolls -- stays -- tolls the statute of limitations for those persons on active duty. But any -- but that's a sidelight and we've argued it. Thank you for being so patient with our time -- with your time.

THE COURT: All righty. So we are now to the defense's motion for disqualification and protective order.

MR. DUKES: Your Honor, we -- do you want to talk about the motion for confidentiality order first, or do you want to talk about the motion to disqualify first?

THE COURT: I think the motion for confidentiality is going to come in our next session of line by line, every single discoverable issue that we're going to have to go through.

MR. DUKES: Okay. All right. One thing I want to point out to the Court is in the plaintiff's argument regarding -- or in Mr. Richter's argument regarding our motion to disqualify, he asserts that -- that the -- a party -- an opposing party has no standing to move to disqualify another attorney in the case. Well, it so happens that -- that Mr. Richter's lawyers moved -- in the malpractice litigation, moved to disqualify both the Diocese's lawyer and plaintiff's counsel before Judge Nicholson. And Judge Nicholson actually disqualified both of them, and then reconsidered it, and let him back in the case. That argument that there's no standing also doesn't

follow with the Haygood versus Summerwill case, which is cited in the plaintiff's brief, where it was an opposing party moving to disqualify opposing counsel. And in the Haygood case they determined that that was immediately appealable if you disqualify somebody.

Mr. Richter represented a class of all victims of sexual abuse. His motion says he represented them all. The complaint defines the class as all victims. The settlement agreement, a contract, says it's all victims. And now he's saying that he represented less than all. He is attacking his own settlement agreement. And this new interpretation of the settlement agreement undermines the prior litigation. From the Diocese perspective, all means all.

Now, I have in the courtroom Professor Adams who is the expert who provided the affidavit for us. And I'd like to call him to the witness stand and have him testify and explain his opinions of why Mr. Richter cannot continue as counsel of record in this case.

THE COURT: Do you have any objection?

MR. RICHTER: Yeah, we object. We didn't receive any notice that this was going to be an evidentiary proceeding.

MR. DUKES: There is nothing in the rules requiring -- requiring that, that I could find.

THE COURT: Pull it up. Look through the motion of

protective order.

THE ADMINISTRATIVE ASSISTANT: (Complies.)

THE COURT: (Views documents.)

MR. RICHTER: I think that's a matter for the -- to be candid with the Court as we're required to be, I do think Your Honor enjoys the discretion of how the proceeding is conducted.

THE COURT: Oh, I meant the motion for disqualification. Sorry.

THE ADMINISTRATIVE ASSISTANT: (Complies.)

THE COURT: (Views documents.) Do you have a copy of -- of his affidavit?

MR. DUKES: Mr. Adams?

THE COURT: Yes, sir.

MR. DUKES: Professor Adams? Yes, I do.

THE ADMINISTRATIVE ASSISTANT: Thank you.

MR. DUKES: Oh, this is --

THE ADMINISTRATIVE ASSISTANT: Oh.

MR. DUKES: -- the only copy I have. I just want to show it to you.

THE ADMINISTRATIVE ASSISTANT: Okay.

THE COURT: All righty. (Views documents.)

MR. DUKES: And that's in the record. We filed it.

THE COURT: Yeah. We -- it's a hundred and seventy five (175) page memorandum and it's too hard for us to

scroll fast enough, so --

MR. DUKES: Okay.

THE COURT: (Views documents.)

MR. RICHTER: Judge, is that the original or the supplemental?

MR. DUKES: I handed him the supplemental.

THE COURT: It says, (as read), "Revised affidavit of expert opinion of Dr. Gregory Adams." (Views documents.) I -- I think it would be beneficial and helpful to me to give me the opportunity to ask him some questions as well that I may have that I can't really ask based on the affidavit. So -- also I think, Mr. Richter, certainly give you an opportunity to cross-examine him and ask him any questions that you may have as to it as well. So I'll allow it. Come on up, sir.

WITNESS GREGORY ADAMS: (Complies.)

MR. DUKES: Thank you, Your Honor.

THE COURT: Do you swear him?

THE LAW CLERK: Do you solemnly swear or affirm that the testimony you will give will be the truth, the whole truth, and nothing but the truth so help you God?

WITNESS GREGORY ADAMS: I do.

THE LAW CLERK: Thank you. You may be seated.

WITNESS GREGORY ADAMS: (Complies.) Thank you so much.

THE LAW CLERK: State your --

MR. DUKES: Your Honor, I --

THE LAW CLERK: -- full name for the record.

MR. DUKES: -- I am prepared to qualify Mr. -- Professor Adams as an expert in legal ethics and professionalism. In -- at the end of his affidavit, he mentions two (2) Supreme -- I think it's two (2) Supreme Court cases holding that it is error for a Court to refuse to admit his testimony as an expert witness.

THE COURT: Mr. Richter, do you object to him being qualified as an expert?

MR. RICHTER: I -- I will agree that his submission, his affidavit is sufficient of -- his CV is sufficient for Your Honor to make a call as to whether he's going to be allowed as an expert or not.

THE COURT: All right.

MR. DUKES: Then I'll offer -- I'll offer Professor Gregory Adams as an expert witness in legal ethics and professionalism.

THE COURT: All right. Mr. Adams, I will qualify you as an expert and allow you to give your expert opinion. Okay?

WITNESS GREGORY ADAMS: Thank you, Your Honor.

THE COURT: All right.

GREGORY ADAMS, after being duly sworn, testified as follows:

(WITNESS GREGORY ADAMS-DIRECT BY MR. DUKES)

DIRECT EXAMINATION

Q Good afternoon, Professor Adams. Were you asked to -- what did you analyze in developing your opinions?

A I analyzed a number of documents, pleadings, court orders relating to the class action. I reviewed a number of pleadings and -- and filings in this case. I set forth in my affidavit, I believe, of categories of things that I reviewed that I had thousands of pages of documents that you had electronically provided to me.

Q Was there anything that you needed to review that you weren't provided?

A No, sir. You, with amazing quickness, provided me the information I requested. And when I had questions about whether certain things existed you were very forthcoming in telling me whether such information was available and supplying it if it was.

Q Did you reach any opinions regarding the impact of the South Carolina Rules of Professional Conduct on Mr. Richter's continuing representation of the plaintiffs

in this case?

A Yes, sir. I did.

Q And what, in general, were those conclusions?

A In -- in general, I think the best summary is that Mr. Richter is enveloped. He's surrounded by a number of conflicts of interest, any one of which would make it inappropriate for him to continue to represent the plaintiffs in these cases. And -- and those are exacerbated by the information that I developed in looking at Rule 3.7, the lawyer-witness rule, and how it tied directly into the heart of those conflicts of interest that affect Mr. Richter's ability to properly represent the plaintiffs in these cases.

Q And were -- did you develop opinions about the impact -- import of Rule 1.7 of the Rules of Professional Conduct?

A Yes, sir. I did. Rule 1.7 is our basic conflict of interest rule and it sets forth the -- the fundamental prohibition on lawyers engaging in representation, or continuing representation, when they are afflicted by concurrent conflict of interests, which could be a conflict that arises from duties to another client, duties to a former client, duties to third parties, or the lawyer's self interests. And -- and I found in this case Mr. Richter is affected by his ability to

represent these plaintiffs and exercise his independent professional judgement on their behalf. His ability to take all of the advocacy steps that would be considered and might be employed by an independent lawyer, it's -- it's hamstring in this case. There are a number of things from his responsibilities to other clients, present and former, and his own self interests that limit the way he can approach his representation of them in a way that an independent lawyer would not be limited. An independent lawyer would be free to consider a number of options that Mr. Richter is either precluded or discouraged from using, probably from even seriously considering, simply because of these conflicting duties and his personal interests.

Q And could you explain? Let's start with the conflicting duties to current clients. What -- what conflicting duties prevents Mr. Richter from continuing to represent the plaintiffs in this case?

A Mr. Richter is precluded from attacking the work product that he produced in the class action. He negotiated and played a key role in drafting the settlement agreement, the contract that the parties reached, and then submitted to Judge Goodstein who approved it as a fair settlement of the matter and

made it into a court order.

Q And how -- how is he prohibited from attacking those pleadings and documents?

A Rule 1.9 clearly prohibits a lawyer from attacking or seeking to modify work product for a former client. All of the members of the class were his clients, most of them are former clients now, his representation's come to an end. There was discussion a little while ago about the -- the four (4) and then, ultimately, it got paired down to two (2) named, identified victims who had never been able to be found and notified. They're still entitled to actual notice of the class action and of their right to make a claim. They're still entitled to make a claim. If one of them showed up tomorrow, they would be entitled to make their claim. Even though it's well beyond the hundred and twenty (120) days, this is the -- the small group of people Judge Goodstein carved out from the hundred and twenty (120) day limit.

So those two (2) people identified, but never notified, remain Mr. Richter's current clients. All the rest of the class members are his former clients. He's -- he's limited in attacking his work, but he's precluded. I mean, it's -- Dean Wilcox, Professor Krystal in the quotation I put in my affidavit,

they're -- in their pre-eminent work on the ethical responsibilities of South Carolina lawyers, our ethics law, they say specifically -- and I quote it in my affidavit. They say specifically that it's a well recognized exception that a lawyer cannot attack his previous work product for former clients in representing a new client. And -- and they rely upon language adopted by the South Carolina Supreme Court in the official comments to Rule 1.9, as highlighting that as one of the forbidden areas for lawyers.

What Mr. Richter is called on to do in this case for his clients who claim repressed memory syndrome is to say they're -- there are several -- there are three (3) things that have been kind of jumbled together here, but let me see if I can clarify them. There is -- there's law about tolling the statute of limitations for repressed memory victims. That's really not involved here. There's the question -- which is the heart of my concern, is the question about whether these repressed memory victims -- and repressed memory victims, generally, were class members as that class was defined as negotiated by Mr. Richter, as drafted into the contract, as approved by Judge --

Q Goodstein?

A Goodstein. And because one -- one solid, powerful argument here would be to say, (as stated), "These repressed memory victims were never class members. When we drafted the definition of the class, they weren't in it." You've heard that argument made here today. They weren't. We know -- and I -- I quote in my affidavit Mr. Richter's lawyers in the malpractice suits against him that have been consolidated on appeal and are still pending on appeal. His lawyers have -- have made the argument that these repressed memory victims were not intended to be and were not, in fact, class members. That flies in the face of the language that he used in the class definition, all persons. There's no footnote there. There's no parenthetical. There's no exception. All persons, except repressed memory victims.

And it's not that they overlooked that, that it didn't occur to them that it was a good idea they should have thought about, it was something that was actually discussed. It's been filed an affidavit of Peter Shahid who's been discussed here today, in which he talks at length and focuses on his discussions with, his correspondence with, his interactions with Mr. Richter. Now, Mr. Shahid says, (as stated), "We -- we talked about these repressed memory victims. Mr.

Richter didn't think that we needed to do anything special for them." Everybody understood all means all. And they were included in this and he didn't want to carve them out.

Q It --

A Now, that's a very important point and yet what Mr. Richter seems to be deciding now is -- and Jerry Theos's affidavit, I think, goes to this. He seems to be saying, (as stated), "I'm -- I'm not going to deal with that. I'm not going to confront Peter Shahid. I'm not going to refute his statements in his affidavit." Well, what independent lawyer faced with an affidavit like this, a claim from the lawyer on the other side like this, or a crucial issue about whether these repressed memory victims were in the definition of the class, or outside of it, whether in -- as a matter of law, they were within or without, whether as an intention of the parties drafting the contract they were within or without. I can't imagine an independent lawyer who had no self interest one way or another saying, (as stated), "I'm not going to -- I'm just not -- I'm going to let them go unchallenged." But that's what Mr. Richter has to do because if Mr. Richter is going to challenge Mr. Shahid, then 3.7 clearly applies and he can't continue as the lawyer

here. So his choice is, (as stated), "Okay. I'll concede that point. I'll let Shahid's affidavit stand unchallenged."

Q And --

A That's the kind of conflict that our rules are designed to protect against. We have affidavits from two (2) of his clients, the two (2) in the cases that are pending before Your Honor now. And -- and they just grabbed what they have been told and what they are basing their consent on. That they don't indicate any awareness at all. That Mr. Richter is precluded by Rule 3.7 from inserting himself as a necessary witness in this case on a crucial issue and being able to refute the affidavit of Peter Shahid, if there's refutation. And -- and Ms. Ivey argues that they weren't intended to be part of it. His lawyers in Columbia argue, (as stated), "You weren't intended to be a part of it." Mr. Richter certainly could be expected to address that question, but then he can't because 3.7 creates a conflict of interest.

Perhaps even more significantly Mr. Richter, and Mr. Howler, and their law firm are being sued in a number of -- apparently a large enough number that I lost count. I -- I've been chastised for saying there were eight (8) cases consolidated. I apologize. I

didn't mean to mislead the Court. There are eight (8) listed on the -- the caption of the brief I was looking at. In fact, there were some others apparently added, so it's grown from eight (8) to eleven (11) or something. There are a number of very serious malpractice breach of fiduciary duty cases currently pending against Mr. Richter. Those cases create a concurrent conflict of interest because Mr. Richter -- and none of us know what's going to happen to those cases. We know what happened, initially, at the Circuit Court level. They're up on appeal. They have been briefed and ready for argument for months and months now. The Court of Appeals hasn't ruled, hasn't set oral argument, but those cases are alive and well. And as far as anybody knows -- at least anybody not at the Court of Appeals knows, those cases could be decided reversing the dismissal of those malpractice claims. There's another malpractice claim that's pending in this circuit that has not been dismissed, it's still active and ongoing.

My experience over the last twenty five (25) years working in cases involving ethical grievances and malpractice actions against lawyers is we -- we take those very seriously. They often cause us to have sleepless nights. They make us upset and angry.

And that's a natural reaction to them when somebody calls you out to say, (as stated), "You didn't do your job right and as a result I got harmed." That's something that has -- it's got emotional barbs to it. How you take those barbs out, and put it in a drawer, and say, (as stated), "I'm not going to be affected by that at all as I make all these decisions about how best to represent my clients in the current litigation," is just unreasonable. It's not human nature to expect that that could happen.

So Mr. Richter, in making decisions for these two (2) current clients and a third one in the case that may be joined before Your Honor, he's got a conflict of interest because he can't -- he won't -- we shouldn't expect him to throw himself under the bus for these clients. That's not human nature. So he's going to somehow consider his interest, what happens to him in the malpractice actions. It's going to color his judgement on behalf of these clients. Now, we can't tell whether Ms. Ivey decided that the best course was to make the argument that these repressed memory victims were not in the class because it was the best argument for the clients or because we had raised the claims made by Mr. Richter's lawyers in the malpractice suits. And so maybe that was a good way

to head it off and -- and to diminish it as to take that argument, but there are -- there are different approaches that an independent lawyer might take in how to deal with the difficulties created for these clients by having a preclusive class action judgement that, on its face, is -- it defines the class to include these people.

And we're a state, a -- probably among the strongest states in our country, for the plain meaning rule. The plain meaning rule in interpreting contracts. The plain meaning rule in interpreting court orders and judgements. The plain meaning of the contract Mr. Richter drafted and signed is that his current clients are out of luck. That they were a part of that class, they didn't file their notice and claim within the hundred and twenty (120) days, and as a preclusive effect they've lost their rights.

Now, there's a third argument -- I mentioned that there are three (3) different arguments that seem to get intertwined here. There's a third argument and it's the argument that Judge Nicholson adopted in saying that John Doe 130 -- 139 --

Q 193.

A -- 193, excuse me. I get older and I'm more dyslexic, I'm afraid. 193, you know, it's -- it's

interesting what Judge Nicholson held in that case. He didn't hold that John Doe 193 was not within the class. And he -- he seems to have based his actual finding, his actual holing, on the assumption or the unspoken determination that John Doe 193 was within the class definition. Because what he holds, as Your Honor knows, is that due process prevents him from being precluded from bringing his claim. If he can prove that he, indeed, has repressed memory syndrome, and the dates work out, and he proves that he was molested by someone who was an agent or employee of the Diocese. Well, inherent to that is the assumption, (as stated), "Yeah, he was defined to be within the class." But nonetheless he's protected by due process. And his due process rights won't let the Court take away his right to assert his claim at this point, if he, indeed, is a repressed memory victim.

So we've got these three (3) possibilities here. And Mr. Richter's decisions about how best to deal with those three (3) is -- it's related to his defense in the Court of Appeals in his malpractice action. His lawyers in that case -- and they're very fine lawyers -- have said one of the reasons he has no liability is because he couldn't have. He could not have defined these people as being in the class. And

he didn't intend to define them as being in the class. He didn't mean to put them in the class. They aren't in the class. And the reason, his lawyers say, that he did that was -- and it comes back to Ms. Ivey's argument, if -- if he had included them in the class he'd have had a concurrent conflict of interest. But he still -- he has that concurrent conflict of interest now. It's a little bit different with the passage of time. Where it shows up most acutely is in limiting his choices of advocacy for his clients in these cases, limiting his ability to confront and try to rebut Peter Shahid's affidavit.

Mr. Richter's a -- he's a formidable advocate, but he, unfortunately, is representing these clients with constraints on him that an independent lawyer wouldn't have. And with clouds over his independent judgement that an independent lawyer wouldn't have. And a need not to become a witness in this case, even though Peter Shahid says that he and Mr. Richter are the only two (2) people who can testify as to these essential facts about whether his clients are within or without, intended to be in, intended to be out, and do that against the background of the extremely high burden that our Court says must be met in order to overcome the powerful presumption

of the plain meaning rule. It's going to take a lot to -- to show that his clients were not written into that class and therefore precluded, unless there's some constitutional limitation on the preclusion.

THE COURT: All right.

MR. DUKES (resuming):

Q Now, is a Rule 1.7 conflict waivable?

A It can be. Many of them -- most of them can be consented to by the client, but it has to be informed consent. And as a result of the year 2000 amendments to the ABA model rules, which were then enacted by our Court after great study, that the -- the Court added that word, informed, to make it clear. It didn't think it was changing the law, but it wanted it to be clear to all lawyers and judges that the consent had to be truly informed. And that means the lawyer has got to make sure that the client has been told everything the client needs to know to understand the difference between what the conflicted lawyer would be able to do and what an unconflicted lawyer would be able to -- to do to be able to look at these things. And as I mentioned, there's no evidence whatsoever in these two (2) affidavits that there was anything even

beginning to approach the kind of information and explanation that would require to have informed consent.

So yes, it's possible, but it hasn't happened here. And it can't happen in terms of the rights, the protection for the former clients. There's no way to get all of their info for an informed consent.

Q Now, have you identified any conflicts that are prohibited under Rule 1.9?

A Well, the ones I've been talking about. The -- the duty not to attack, not to modify, not to undermine the scope of the work he did for his former clients during the class action.

Q Were there any other conflicts that you identified under 1.9?

A I didn't -- I don't remember having focused on any others --

Q Okay.

A -- because that one seemed so insurmountable to me. It's so clearly articulated by our Court, by the leading experts, by Dean Wilcox and Professor Krystal, it's so well-known in the profession, it's -- it's one of those fundamental things that all of us who teach lawyers ethics and professional responsibility emphasize in our courses. I've been doing it for

going on thirty (30) years. So I really focused on that one because that's such a -- that's such a big root and lock right there.

Q And the third area of conflicts that you mentioned was the attorney-witness rule, Rule 1 -- or 3.7?

A Yes.

Q Is there anything else you've identified in Rule 3.7 that would preclude Mr. Richter's continued representation of these plaintiffs?

A Well, it's -- it's important to understand that there are two (2) parts to 3.7. One is the -- the part that says a lawyer who is likely to be a necessary witness can't be an advocate in the case. But then to -- to go with that -- because -- you know, we're -- when we're advocating, and we've got to get a point across to the Court, we want to say it. We want to find an opportunity to -- to voice that important information. And so the rule goes on and says, (as stated), "And furthermore, a lawyer cannot testify as to facts in the course of advocacy if a lawyer is going to -- going to try to prove facts, try to inform the Court of factual information. The lawyer's got to do it, and then we swore him in, and sitting on the witness stand. A lawyer can't do it standing out there arguing.

And we all have a hard time with that. Mr. Richter is so passionate. I mean, we've heard him time and time again testifying on his feet about facts that he wanted the Court to understand about things that had happened before, things that he had seen, things he'd experienced, things he knew about that he thought were important for Your Honor to know. Well, he can't do that when it comes down to the Shahid affidavit. He can't solve the 3.7 problem by saying, (as stated), "I'm not going to testify, but, Your Honor, let me tell you what actually happened." The -- the rule is wisely enough written to prevent that kind of end run. And to say -- you know, if you -- if you want to tell His Honor what actually happened you've got to be sworn and sit up here. And if you're sworn and sit up here to tell His Honor what happened, if you're going to testify about something that's in contention -- and this is a key issue in this case as Your Honor knows -- you -- you can't be the advocate. You can't be here (indicating) and there (indicating). And you can't resolve it by testifying from behind counsel table.

Q Professor Adams is that -- are those all the opinions you've developed in this case?

A Probably not all of them, but that's certainly the

core of them. And the hour is getting late. And I'll be glad to answer any questions that His Honor has or any questions --

Q Well, I just --

A -- Mr. Richter has --

Q -- have one more.

A -- but I wouldn't volunteer any more opinions.

Q In your opinion, can Mr. Richter continue to represent the plaintiffs in these cases and comply with the rules of ethics?

A It's -- it's my expert opinion that he cannot.

Q Thank you.

MR. DUKES: I'll tender the witness.

THE COURT: All righty.

MR. RICHTER: Judge, I've been taking notes, and Ms. Ivey has been taking notes, and I understand the rule that one person does the task, and I -- I respect that, certainly. I would ask -- I intend to be very brief in my examination of Mr. Adams. I would ask to either let Ms. Ivey follow me for anything that I don't recall to ask, or --

MR. DUKES: I have no objection to that.

MR. RICHTER: Thank you. Thank you.

(WITNESS GREGORY ADAMS-CROSS BY MR. RICHTER)

CROSS-EXAMINATION

Q All right. Let me ask you, Mr. Adams, have you been retained in this matter?

A Yes, sir.

Q And could you tell me, please, who retained you?

A Mr. Dukes.

Q For the Diocese on behalf of the Diocese, the defendants?

A On behalf of -- yes, sir.

Q And when did that occur?

A It's been months ago, but I do not remember the exact date.

Q And can you tell me, please, the terms of your retention?

A Yes, sir. I'm charging six hundred and seventy five dollars ($675.00) an hour. And in addition they would pay an out-of-pocket expenses I had.

Q And can you tell me to date, through this proceeding, what is your total bill?

A No, sir. I have not -- I haven't calculated that. My intent is to -- after this hearing, to check my time records and send Mr. Dukes a bill.

Q You have not billed yet for any --

A I have not.
Q -- services?
A No, sir.
Q All right.

MR. RICHTER: Your Honor, I'd ask that the record be -- of his examination be supplemented by his submission of his bill of several months retention in this matter. When he gets that out, I'd just ask him to -- ask it be made part of this record of his examination.

THE COURT: Any objection?

MR. DUKES: No. None.

MR. RICHTER: Thank you.

MR. RICHTER (resuming):

Q Now, I would like to ask you, what's your relationship with Professor John Freeman?
A Professor Freeman was my mentor when I -- in the early years I was on the faculty. I -- and I taught for forty (40) years, but I came in having very little experience as a law professor and my areas in which I taught overlapped with his. He was chairman of the faculty hiring committee that recommended my hiring, and so he and I had -- had become close. And for a number of years early on he was my mentor, and was

very gracious with his time and his advice.

Q And can you tell me whether you enjoy a friendly and cordial relationship with him?

A I would not characterize it as that these days. Unfortunately, as we grew older, and oftentimes found ourselves on opposite sides of cases, there developed some harsh feelings and we are -- we're not good friends, although we are polite to each other when we do see each other.

Q What is the issue over which your friendship was damaged?

A I wish I knew. I'd like to try to fix it if I could, but I -- I really don't know. And I don't know whether it was just an appreciation, what Professor Freeman thought were slights over time, disagreements -- professional disagreements that he took offense at the way I phrased them.

Q Does it have anything to do with integrity?

A It -- it might. I have, on a couple of occasions, referred to Court decisions that put his integrity in -- in a bad light.

Q You called John Freeman's integrity in -- into a bad light?

A Yes, sir.

Q Do you know anybody else that would have done that?

A I don't know of anybody who's done it out loud, under oath, in a public setting. There are lots of people who practice in the lawyer ethics professional responsibility area, lots of people who testify as experts who have expressed concerns about that.

Q About John Freeman's integrity?

A Yes, sir.

Q Who are those people?

MR. DUKES: Your Honor, I'm not sure where this is going, but it is going far afield I think.

THE COURT: Mr. Richter, where are you headed with it?

MR. RICHTER: Well, I'm going to show that his views are not always so good, Judge.

THE COURT: In what light or in what context?

MR. RICHTER: Well, let me jump ahead for a minute and I think it'll -- it'll --

THE COURT: All right. I'll overrule your objection and allow him --

MR. RICHTER: Thank you. And I -- I won't go back there without, of course, alerting you.

MR. RICHTER (resuming):

Q Here's -- here's what, I guess, I'd like to know. When did you come to practice? When were you admitted

to the bar?

A I was admitted to the bar in 1973.

Q Where?

A Louisiana.

Q And when were you admitted to the South Carolina bar?

A 2018.

Q And did you practice privately at all?

A I did. I practiced with a large law firm in Baton Rouge for two (2) years after becoming a lawyer, then I became a law professor and I practiced part-time. Some of it was as a part-time solo practitioner, some of it was at the request of my former firm to handle some appeals and other matters that I had been working on when I was at the firm.

Q And what kind of practice were you engaged in?

A Mostly I was doing estate planning, wills, trusts, advising people. I had -- I'd had significant experience with the law firm on that. I have academic -- a scholarly interest on that, had written a chapter that went into the book that became the Louisiana guide on trust and estate law. I had written a law review article about that, so it was an area that I had some interest and expertise in, it was a natural thing to do. I had friends who would refer people to me because they didn't do estate tax work, so I did a

-- and it as the kind of thing I could do in the evenings and the weekends that didn't interfere with my obligations in teaching and -- and being available to students in law school.

Q Were you a certified specialist in tax and estate planning?

A No, sir. I -- back then there weren't certified specialists, it didn't even exist.

Q And after a couple of years you then went to teach in law school?

A Went to graduate school. I was admitted to a graduate program at Columbia University in New York, it was a two (2) year program where I spent a year at -- at the campus, Morningside Heights, New York. And then the second year of my fellowship I was in Brussel's working with the Common Market Headquarters.

Q And what was that -- and did you obtain a master's degree from that?

A A master's and a doctorate.

Q And what is it that is your master's and/or doctorate earned in?

A It was -- it's comparative to any trust law particularly focused on the control of -- of market power.

Q Okay. And then you said you continued, at least part-

time or to dabble in practice, even after you went to teach at law school; correct?

A For the first two (2) years when I was in Baton Rouge. So '73 to '75 I was with the law firm. '75 to '77 I was teaching at Southern University Law School in Baton Rouge and I had a small part-time practice during those two (2) years. Then in the summer of '77 we packed up, and went to New York, and I was in graduate school and I did not practice anymore.

Q And what were -- and that's true to -- still today? You don't practice?

A I do not practice.

Q And haven't since Louisiana days?

A No, sir.

Q Okay. Now, what did you teach in Louisiana at law school?

A I taught --

MR. DUKES: Again, Your Honor, you've qualified him as an expert and admit his testimony as an expert. I'm not quite sure where this is going.

MR. RICHTER: Well, it certainly affects the weight of his testimony, if nothing else. So far we've only heard he's an estate and tax planning guy, and that he's only practiced in his life for two (2) years, and I think he

said part of that was part-time, but I'm not sure. But let's say two (2) years. That tells you something about what he knows about life on the street, but I'm --

THE COURT: Well, I don't think we -- trying to get down to that. I think what Mr. Dukes is trying to get to was the conflict, and whether he is an expert, and able to testify as to whether there is a real and true conflict. And so I say we just tailor our questions to asx to whether there's a conflict or not. And I'll take the weight of his testimony and his credibility into account.

MR. RICHTER: Thank you. Excuse me. Thank you, Your Honor.

MR. RICHTER (resuming):

Q Have you ever had any class involvement -- class action case involvement?

A Not in representing members of the class, but I have had involvement when I was with the law firm. We had a client who was sued in an antitrust class action in Federal Court. So I did work on that case for about eighteen (18) months.

Q So -- in the practice in Louisiana?

A In the practice in Louisiana.

Q I thought that --

A Yes, sir.

Q I thought that's what you meant.
A Yes, sir. I have been consulted by a number of South Carolina lawyers and law firms about ethical issues arising in connection with their handling of class actions, but I have not provided any --
Q You ever --
A -- any services in actually handling the class action itself, so...
Q So never been class counselor for --
A I've never been class counselor.
Q Okay. Can you tell me, please, what has not been done in this instant case that you're now testifying in by counsel for the plaintiffs that should have been done?
A Yes, sir. You have not been able to exercise independent professional judgement on behalf -- solely on behalf of your clients without being influenced by or considering your role and responsibilities in the class action, the malpractice case against you. Those two (2) things had to -- it's just human nature. I am certain they have, at least subconsciously, influenced your exercise of your professional judgement so it was not independent professional judgement as is required by Rule 2.1.
Q Can you give me some examples of what those things are?

A They're the kinds of things that I talked about at -- at length on direct examination --
Q I want specific --
A -- the fact --
Q -- things. Please, understand the question.
A It's not the sort of thing that anybody other than you could know when it was that you made a professional decision to do this or not do that on behalf of these clients. I've not been a fly on the wall in your office, and I certainly have not been inside your head to know when you made what decisions you made, and how you were influenced by your conflicts. And that's why the rules presume that there's a danger of adverse effects on the clients by the lawyers not being able to exercise truly independent professional judgement.
Q And you haven't been inside my head to know whether that happened have you?
A I have not. No, sir.
Q And you have no training in the world of psychiatry or psychology; is that correct?
A No formal training. No, sir.
Q I'd like to ask you, you said several times in your direct examination, (as stated), "Richter negotiated." I take it you mean unilaterally, (as stated), "Richter

negotiated the terms of" the various items you referred to, such as the class definition?

A My understanding is that -- that you, as class counsel, were the lead negotiator for the class in negotiating the terms of the settlement. The terms of the settlement included an agreement by the Diocese that, essentially, empowered you to draft and determine the definition of the class. And the Diocese agreed that they would not contest that, they would not object to that.

Q Can you show me in the class -- in the settlement agreement between the Diocese and the people I represent where it says what you just said it says?

A I don't have it in front of me.

Q I'll give it to you.

A All right.

MS. IVEY: It's going to be one of their exhibits.

MR. RICHTER (resuming):

Q I'm not going to give you a stack of exhibits to go with this because I know --

A I appreciate that and so does His Honor, I'm sure.

MR. RICHTER: I'd like to hand up -- I'd like to mark

for the record, actually, and hand up to this witness Exhibit Number 2. Number 2, which bears the caption Settlement and Arbitration Agreement.

(WHEREUPON, the Settlement and Arbitration Agreement was introduced and received into evidence as Plaintiff's Exhibit Number 2.)

MR. RICHTER (resuming):

Q I'll represent it to you, sir, that that's what that document is and you can see the signatures at -- at the end thereof.

A (Witness views document.)

Q Do you remember the question?

A I do, sir.

Q Do you want to show me those portions --

THE COURT: State the -- state the question one more time for me, please.

MR. RICHTER: Yes, Your Honor.

MR. RICHTER (resuming):

Q The question is show me, please, where in the agreement it says certain things that he just testified to.

A At the top of page three (3) is the language that

created that idea of -- for me, (as read), "The Diocese agrees to take no position as to the creation of the plaintiff classes and to cooperate with the provisions of information reasonably necessary for the approval of such class or classes." Out of that and -- and it may be that I've seen other things, whether it's in the malpractice actions against you or Mr. Shahid's affidavit. I don't recall, but I...

(OFF THE RECORD DISCUSSION)

MR. RICHTER (resuming):

Q Go ahead. I'm listening. I just want to get a clear --

A That's the language in the agreement that created that belief in me or, perhaps, cemented that belief after I'd read things from others. But beyond that, that's the language that --

Q This is the language you rely on?

A That's the language.

Q Okay. Now, I'd like to next ask you, please, if you -- let's see if we can agree on something. At what point in time did this class begin?

A It began when the judge signed the order --

Q Certifying the class?

A -- certifying the class.
Q Okay.
A Right.
Q And then what was the life of the class? Do you know that?
A I do not know what the -- the ending point was for the classes existence.
Q Come and gone by -- by now you agree; correct?
A Oh, it's -- it was a long time ago, absolutely, but at what precise point --
Q I -- I understand.
A -- I -- I really don't know.
Q Now, are you saying that the Diocesan counsel had no input in negotiating the terms of the class? Is that -- I want to make sure I understand your testimony.
A No, sir. I think it -- I think it's -- clearly Mr. Shahid had input into it.
Q Okay.
A But his affidavit certainly indicates that he raised questions, made suggestions, and then went along with what your view was in terms of the definition of the classes.

MR. RICHTER: I need Shahid's affidavit. Now, Shahid's affidavit's, Your Honor, is in the record as

attached to -- what?

MS. IVEY: It's -- it's supplemental materials. Yeah.

MR. RICHTER: Yeah. As supplemental material submitted in -- on April the 24th or 9th, it looks like, of 20 --

WITNESS GREGORY ADAMS: 20 -- it was filed on the 29th.

MR. RICHTER: 29th of April.

MR. RICHTER (resuming):

Q I'm just trying to find out how much I need to hand you.

A I've actually got a copy of --

Q Oh, you got the affidavit itself?

A -- the affidavit.

Q Great.

A A nice, clean copy, so...

Q Yeah. I -- I'm glad that you've got it and that it's already in the record. I won't burden the record anymore. I would like to know, however, where the language is which you referred to earlier, specifically my recollection of your testimony was that Shahid's affidavit says that only Richter and Shahid could testify about this matter. Do you remember saying that?

A No, sir. I don't.

MR. RICHTER: And I'd like to go back and play that portion --

THE COURT: No, he -- I -- I remember specifically. He said that that was the issue, that you two (2) were the only two (2) that were able to discern what the intent behind that actually was.

MR. RICHTER (resuming):

Q You don't recall saying that?

A I recall saying that that was -- but that was my conclusion, that was not what Shahid said. And so I can't point to you where he said it because I don't believe he does say it.

Q Well, you --

A But I --

Q -- but you testified a moment ago that he said it, didn't you?

A No, sir. I don't believe so. I did not intend to say that he said it. I intended to state that as my conclusion from his affidavit and I --

Q Show me in the affidavit, if it's not said, what leads you to that conclusion?

A (Views document.) It's a number of statements that he

makes here starting on paragraph ten (10). (As read), "Mr. Richter communicated with me his intent to create a complete resolution of these particular claims and other potential sexual abuse claims through the creation of a class action including approved by a South Carolina Circuit Court." Paragraph eleven (11), (as read), "In the course of these discussions," which I understand to refer to what he's talking about in paragraph ten (10), your communications with him. (As read), "In the course of these discussions I raised the issue of whether such class action would include for future claimants who allege they suffered from a repressed memory of their childhood of abuse." Paragraph thirteen (13), (as read), "Mr. Richter pursued with me his desire to arrange a meeting with Bishop Robert Baker," and then it goes on and talks about that meeting. Paragraph fourteen (14), (as read), "I received from Mr. Richter a letter dated October 17, 2005 attached and incorporated herein as Exhibit A, which summarizes his account of the meeting with Bishop Baker described in proceeding paragraphs. Mr. Richter specifically included the issue of repressed memory as an issue I had raised." Paragraph sixteen (16), talking about the definition of the class, (as read), "This definition did not exclude any

claimant who suffered any mental disability, any lack of capacity or repressed memory. Those matters were specifically negotiated. And Mr. Richter as class counsel did not require any exceptions or reserves for victims who might come forward after the close of the class action." I believe those are all of the things he says that --

Q Did Mr. Shahid require any kind of entry even mentioning the words repressed memory?

A I'm sorry. I don't understand the --

Q The Diocese --

A -- question.

Q -- did it do anything to require or effectuate the entry of the words repressed memory in the class definition exception, any part of the class whatsoever?

A Well, I certainly would think so. He -- he raised the issue with you. He said he wanted to make sure that that was dealt with one way or another, that there was clarity. No, he -- he -- and again, this comes back to my understanding --

Q Where -- where does he --

A -- that basic --

Q -- say that? I'm sorry. I cut you off.

A Because he said -- I -- he doesn't say that.

Q No, he doesn't, but you just testified he says that.
A No, sir. I did not testify he said that. I testified that that was my understanding of what happened from the things he did say.
Q Go on. I didn't mean to cut you off.
A What I --
Q I apologize.
A What I've testified that he said are the words I read from the affidavit. I -- I have no intent to testify that he said anything other than words that I'm quoting and reading out loud from the affidavit.
Q And do you understand the exhibit that you just referred to. I think you called it A. I'm not sure.
A It's Exhibit A to his affidavit.
Q And that's his letter, is that -- is that what --
A That's your letter.
Q My -- I'm sorry, my letter --
A Yes, sir.
Q -- to him?

Okay. And that's dated October 17 of 2005?

A Yes, it is.
Q All right. Do you -- do you have it there?
A Yes, sir.
Q Good. Look down. What do you understand this letter to be?

A (Views document.) I understand it to be a recitation of your memory or understanding of what was discussed and agreed to at the meeting that you, and the Bishop, and Mr. Shahid, and some other people attended and -- and tried to work out a framework for the resolution of these claims. And you also then set forth an agenda of things that need to be done as -- as you move forward to carry out this -- this basic concept of a settlement that was discussed and agreed to at this --

Q Was there an agreement by that time?

A That's --

Q By October 17th of 2005?

A No, there were -- matter of fact, the first thing you say needs to happen is we'll need to draft a memorandum of understanding. So yeah, then that's a preliminary step before you get to actually drafting and --

Q Yeah.

A -- the settlement agreement.

Q Please, call your attention to the second full paragraph. I'll read you a portion of that and ask you what you understand that to say. (As read), "All of that having been said" -- whatever the introductory paragraph covered -- "I would like to offer some

thoughts about various component parts that would provide us a format for resolution of claims against the Diocese." Do you understand that language?

A Yes, sir.

Q You understand I said that to Shahid?

A I do.

Q Okay. Look, please, on the second page.

A (Complies.) All right, sir.

Q And let me ask you to publish that -- well, the first full paragraph on that page. (As read), "We have also..."

A (As read), "We have also done some research into the repressed memory issue that you raised. We have found only two (2) reported opinions in the entire history of South Carolina jurisprudence and these are in the same case. I enclose these opinions for your convenience. Given the dearth of case law and the high standard established, I think this is much less of a potential problem that it seemed at first blush." I assume that was supposed to be than it seemed at first blush, but --

Q I don't -- yeah, maybe a typo. I don't --

A Yeah.

Q -- remember.

Then if you'd look down, please, into the next

paragraph. Do you see the words that say, (as read), "I think we should look at the following areas?"

A Yes, sir.

Q Do you read that -- do you read that to mean anything other than, (as stated), "We should look at these possible areas of concern, a possible agreement?"

A No.

Q Okay. Now, go down to numbers -- well, at the last sentence in that paragraph, next to the last sentence. (As read), "This is simply a conceptual suggested list of areas that will need attention." What do you understand that to say?

A Here's a starting point, let's --

Q That's right.

A -- let's negotiate it --

Q Yeah.

A -- let's take these steps together --

Q Right.

A -- negotiate an agreement.

Q And no -- nobody was bound to anything at that point were they?

A No, sir.

Q Okay. Thank you. Now, I'd like you to go down to -- there are twelve (12) numbered items.

MR. RICHTER: Your Honor, this is in the record. I'll be glad -- I didn't mean to not hand you a copy --

THE COURT: That's okay.

MR. RICHTER: -- but there's -- it's in the record.

MR. RICHTER (resuming):

Q The twelve (12) numbered items that I suggest are areas to be discussed. Do you agree with that?

A (Views document.) Yes, sir.

Q Thank you. Then the last paragraph says, (as read), "Here I simply wanted to give you topic areas for consideration so that we may continue and expand our dialog if the Diocese is interested in making this kind of overall resolution. If not, please so advise us so that we may continue with our filings and make whatever determination we wish as to the propriety of seeking class certification in appropriate litigation." Anything binding on anybody about that?

A Oh, no, sir.

Q Thank you. Now, do you see the twelve (12) items I -- that I said we ought to look at?

A Yes, sir.

Q Look at number seven (7), please. (As read), "Continued healing and -- continued therapy and healing programs must be available for victims or

survivors." Did that happen in this class settlement?
A I don't know.
Q I represent to you that it did not.
A I accept that.
Q Thank you. Number eight (8), (as read), "An appropriate memorial retreat healing facility or facilities should be established. These would be owned and maintained by the Diocese." Did that happen?
A I don't know whether it happened. I have not seen anything that indicated that it did.
Q And -- and you've not seen, ever, any further reference to that in any document relating to the class in any way; isn't that correct?
A It's correct that I do not recall ever seeing any subsequent reference to this.
Q You don't think it's correct that you didn't see such?
A I -- I could very well -- I mean, to be honest, which is what I'm trying to do, I might have seen it and not remember it, but I -- I cannot tell you that I have ever seen anything that I recall.
Q Look at number nine (9), please.
A (Views document.)
Q (As read), "Victim survivor representation on boards and victim survivor use as a resource by the Diocese."

That didn't happen in this class either did it?
A I don't know.
Q (As read), "Confidential treatment counseling" -- number ten (10) -- "on a permanent basis implemented by the Diocese." That too didn't happen in this class did it?
A I -- I don't know.
Q Can you point to any document indicating that either of those last two (2) items I mentioned happened in this class?
A No, I cannot.
Q And can you point --
A But I certainly would accept your representation that they didn't.

THE COURT: We're getting close.

MR. RICHTER (resuming):
Q Well, thank you. And I do so represent.
A I accept that.
Q Now, look at the bottom under this -- on the signature page.
A (Views document.)
Q Who is Lionel Lofton, Jack Sinclaire, Glenn Churchill?
A They all have Esquire after their name. Mr. Lofton is

the only name that I recognize. I assume they're all lawyers.

Q Do you not know that they were all co-class counsel in this matter?

A No, sir.

Q Do you know why they were copied?

A Well, if they were co-class counsel that would make sense that you would copy them, that would be professional.

Q Have you looked at Mr. Shahid's letter to me in which he copies those people?

A I don't recall that.

Q Okay. And you understand further that David Howler was co-class counsel in this matter do you not?

A Yes, sir.

Q Now, that being the case, do you agree that there are a number of people, as David Howler has said in his affidavit in this matter, who are just as intimately exposed to and cognizant of the issues and actions from the plaintiff's side in this class proceeding who could equally, as well as me, testify? Do you -- are you aware of that?

A I don't believe that's true.

Q Are you aware of him saying that?

A Aware of Mr. Howler saying that?

Q That's right.
A I have read his affidavit. I do not -- as I sit here -- recall that, but I'd be happy to look at it and --
Q When --
A -- confirm it.
Q When did you read it?
A In the last few days.

MR. RICHTER: It's in the record, isn't it?
MS. IVEY: It is.
MR. RICHTER: That's in the record, Your Honor.
THE COURT: Okay.
MR. RICHTER: Okay. Now, I think I can -- I'm -- I realized the time, Your Honor, and I'll wrap it up right now.

MR. RICHTER (resuming):
Q Tell me whether comatose people were included in this class.
A Sure.
Q How did they know that they have a claim?
A They couldn't.
Q Then how could they be included in the class?
A Because they are victims and you defined the class to be all of the victims of the sexual abuse going before

whatever the cut off date was.

Q Well, let's take a comatose example. That person was born before whatever the beginning of April is. Okay?

A Okay.

Q Went comatose some short time after that and has been comatose until the day that the class was certified -- through the day that the class was certified and even through the day that the class wound up. Okay?

A All right.

Q Do you follow me?

A I follow you.

Q In the process, the friendly priest who is the chaplain at whatever facility this person is in, in the Diocese of Charleston, comes by and sexually abuses this person -- make it as aggravated as you want -- even impregnated this person who delivered a child. Assume all that to be the case, does that person, comatose, know that he -- or she in this example -- has been sexually abused by a priest of the Diocese of Charleston?

A No, sir.

Q Now, how is that any different from a person who has repressed memory?

MR. DUKES: I'm going to object to that. That's well

outside of --

THE COURT: I'm going to agree with that.

MR. RICHTER: Okay. Thank you.

MR. RICHTER (resuming):

Q The former clients you claim my representation of the two (2) -- we're here discussing two (2) clients --

A Right.

Q -- in -- in these matters. You claim that my representation of these clients -- these two (2) -- somehow harms the former clients in the class proceeding?

A No, sir.

Q You don't claim that?

A No, sir.

Q Good. So I don't have any conflict with the former clients?

A Not from -- you're talking about your representation of the two (2) clients in these cases right now?

Q That's right.

A Okay. I'm sorry. I misunderstood your question. I thought you were referring to the two (2) identified class members who were ordered to be given notice by Judge Goodstein and never could be found. I -- I misunderstood your question. I'm sorry.

Q Who did Judge Goodstein order to give those two (2) people notice?
A The Diocese I --
Q Thank you.
A Okay. So could you restate your question for me so I can answer the question --
Q Yeah.

MR. RICHTER: Yeah. Would you read the question back, Madam Reporter?

THE COURT REPORTER: I'm sorry, I only hold up to four (4). I'm sorry, I only hold up to four (4). I can't

MR. RICHTER: Okay. I'm -- I don't understand what you're saying, I'm sorry.

THE COURT REPORTER: At -- unless I print the transcript, it's --

MR. RICHTER: Oh, no. No. No. I don't want you to print that. What was the question?

MS. IVEY: You were walking through the hypothetical --

(OFF THE RECORD DISCUSSION)

THE COURT: It's -- the question is, is his representation of the two (2) current --

MS. IVEY: Yes.

THE COURT: -- defendants --

MR. RICHTER: That's right.

THE COURT: -- are you purporting that that is a conflict with former clients?

WITNESS GREGORY ADAMS: If that's the question, yes, I am. It is my expert opinion that there is a conflict between your representation of these clients and your duties to the former clients.

MR. RICHTER (resuming):

Q And how are those former clients harmed by my representation of these two (2) clients that we're dealing with in this matter?

A The prohibition is on you attacking the work that you did for them by saying that the settlement agreement, the contract, and the order you obtained don't mean what they say on their client's face. We don't require harm to the clients in order for it to be a prohibited conflict. Harm is -- is required, of course, as one of the elements of a malpractice claim. But this is not malpractice I'm talking about, it's a violation of the rules, which are prophylactic in their nature. They're designed to prohibit conduct that has the potential to harm clients, or former clients, and we take the -- the temptation away from

the lawyer by saying, (as stated), "No, you can't do that."

Q Yeah.

A So we never get to the question of, (as stated), "Okay. You did that. And did you harm them? Can you be sued?"

Q Well, that's what I want to know. If you can't harm them what is -- I don't -- honestly, don't understand the issue, to be as brutally frank as I can be. And I don't understand your answer. Can you tell me how the former clients may be harmed by my representing these existing clients?

A I can certainly tell you the -- the kinds of harm that this rule was enacted to prevent as a prophylactic --

Q Excuse me for interrupting you, but I --

MR. RICHTER: Judge, I'm asking specifically about this case, and about his claim that somehow former clients I owe a duty to and they are somehow harmed, or I'm transgressing in some way by representing two (2) new clients ten (10) years later. That's what I want to know.

MR. RICHTER (resuming):

Q Do you understand it?

A I understand this question, which is different than

the previous question. I've never said and it is not my opinion that these clients were harmed. That's not what the rules of professional conduct require, that's the decision that the South Carolina Supreme Court made in enacting the rules and the language that they contain. The Court doesn't think it's necessary to have harm to clients in order for you to violate Rule 1.9.

Q Are the clients I represent -- two (2) plaintiffs in these actions -- are their interests materially adverse to the interests of the former client?

A They are by definition because you're attacking the work that you did for the former clients.

Q And how does that impact -- if it were true, assuming what you just said was true, *arguendo*, how does that impact the former clients?

A It -- it impacts them because you are changing -- you're seeking to change the meaning of the settlement agreement and Judge Goodstein's order that you obtained for those clients. You're seeking to change that afterwards.

Q The repressed memory victims, the two (2) clients we've got in this case, I want to ask you a similar thing that I asked you about the comatose example a moment ago where the woman was impregnated and -- at

the hands of a priest who -- while she was comatose. As to these two (2) current plaintiffs, I -- I apologize if I'm repeating.

MR. RICHTER: I'm almost finished, Judge. I don't need -- one and a half minutes.

MR. RICHTER (resuming):

Q As to these two (2) current plaintiffs, did -- did you say that if they had repressed memory -- which I'm not asking you about the proof of or anything else, just assume for the moment that they have repressed memory syndrome -- and didn't know that they had been sexually abused at the time of the creation of the class, the processing of the class, the distribution of the funds in the class, and the wind -- windup of everything within the class. Do you claim that those persons, somehow, are bound by the terms of the class settlement anymore than the comatose example?

A No more, no less. I believe that the comatose person and the suppressed memory victim are equally bound. The language you drafted, negotiated, got Judge Goodstein to approve covers those people.

Q All right. I'm through the -- your testimony at bottom is that the comatose example, that person loses

the right to recover from the class because no claim was -- was filed; isn't that what you're saying?

A They lose the right because of the way you drafted, and negotiated the settlement agreement, and obtained Judge Goodstein's approval of that language that you negotiated, and participated --

Q Now --

A -- the draft in.

Q Thank you. That's what you think about this --

A That is --

Q -- correct?

A That is the basis for my opinion -- a basis for my opinion.

Q Yeah.

A Yes, sir.

Q Now, your opinion is not always so good is it?

A I don't think I would agree with that as a general matter.

Q You've been to Charleston in other matters haven't you?

A Oh, yes, sir.

Q You're the fellow who said in a suit in -- named Doe versus Howe that the ruling of the trial judge was in error for a number of reasons didn't you?

A I don't recall precisely what I testified in that case

--

Q Yeah.

A -- it's been a number of years. I --

Q See -- see if this helps you. You testified, didn't you, and held the position and expressed the position -- I'm not sure whether it in a testimonial sense or not. I think it was in a testimonial sense, but you are the one who said that Judge Roger Young had to recuse himself in that matter because of his relationships with the defendant, Gedney Howe, didn't you?

A I do not recall.

Q Well, I'll -- I can help you by giving you a copy of an opinion.

MR. RICHTER: Mark this as the next in order, please, ma'am.

(WHEREUPON, the Opinion of the Court of Appeals, Doe v. Howe, was marked for identification only as Plaintiff's Exhibit Number 3.)

MR. RICHTER (resuming):

Q And the Court of Appeals -- I'm going to hand this right to you -- through Bert Goolsby, told you to take your opinion and go packing didn't he?

A (Views document.)

MR. DUKES: Judge, I'm not sure what relevance this has to his opinion.

THE COURT: It just goes to the credibility and the weight of his testimony.

MR. : DUKES: All right.

MR. RICHTER: I misstated the name of the case a moment ago, Your Honor. It's not Doe versus Howe, it's Doe versus the Bishop of Charleston --

MS. IVEY: No, that's a different case.

MR. RICHTER: That's not -- that's a different case. I'm sorry. I did say it right. I don't have another copy. He's -- he's got my only copy that...

WITNESS GREGORY ADAMS: (Views document.)

MR. RICHTER: Judge, as soon as he says yes I'm going to sit down.

THE COURT: Not a problem.

MR. RICHTER: Thank you.

WITNESS GREGORY ADAMS: I apologize, Your Honor. I don't recall this and I just have to refresh my memory.

THE COURT: I understand.

WITNESS GREGORY ADAMS: (Views document.) You know what? He says, (as read), "Mr. Richter is the -- the Court doesn't to address the questions related to my affidavit

because of it's holding that the statute of limitations barred the underlying actions. The question of whether the opinions offered by Adams created an issue of material fact in this case is not properly before us. The trial judge did not address the impact of Adam's statements and did not raise this issue in his motion for reconsideration." And it goes on to talk about the other expert, David Flowers.

MR. RICHTER (resuming):

Q And that's the case in which you said Judge Roger Young had to recuse himself; correct?

A No, sir. My testimony was about Gedney Howe's obligations to make disclosures to his client.

Q Okay.

A And the Court simply said that issue wasn't preserved and they didn't need to comment on my expert opinion.

Q Okay.

A So I don't take that as criticism.

Q Are you finished? With your answer, I mean?

A Yes, sir.

Q Thank you.

A I am.

MR. RICHTER: Thank you, Your Honor. And thank you, Mr. Adams. Is there anything you want to --

THE COURT: All righty. All right. You may be excused. Thank you so very much.

WITNESS GREGORY ADAMS: Thank you, Your Honor.

THE COURT: Absolutely. Yes, sir. All right. Y'all ready to write it -- write down some notes?

MS. IVEY: Yeah.

THE COURT: Okay. So we have heard the motion for partial summary judgement. We have heard the -- the motion to compel, the limited collateral review motion, the motion for disqualification. We did not hear the motion for a protective order. I said that I would take the confidentiality motion and issue up whenever we went over the discovery together. The third case that needs to be assigned, y'all certainly can work on that. The only other issue is there was something brought up about amending the pleadings. What was that?

MS. IVEY: Your Honor, that just depends on your ruling today, if we need to change the style of the parties including --

THE COURT: Oh, if I -- if I grant it and not a motion for partial --

MS. IVEY: Right.

THE COURT: -- summary judgement?

MS. IVEY: Right.

THE COURT: Okay. Here's what we're going to do. I

think y'all will all agree that I have done everything that I said I would do in the sense that I tried to get you as much Court time as fast as we could get it. We were all here. I appreciate y'all coming early. I've listened to everything. I've taken everything into consideration. I've read everything that y'all have provided. I've gone back and studied some of the stuff that y'all have provided during some of the breaks. And what I want to do is -- I think it's best, and most prudent, to go ahead and rule on the issues that I have made my decision on. And I think that that would assist y'all in moving the case forward. We have a couple days. Well, let me just tell you what I'm going to do.

I'm denying the motion for partial summary judgement. I believe that there is a longstanding precedent on that and I believe that the plaintiffs have followed along with that precedent. And I understand the defense's argument as to that, as to this new bylaws of the Bishop of Charleston as a Corporation Sole. I have taken that into consideration and I certainly understand their argument, but my ruling is going to be that there's been a long precedent set on behalf of the plaintiffs and the defendants in allowing the -- the Bishop of the Diocese of Charleston, in his official capacity, to be sued and to sue. And so I'm going to leave it as such.

I am not going to rule right now as to the limited collateral review. Just so everyone knows, I will take that under advisement. I want to look at Judge Nicholson and Judge Brown's order as advisory, of course, a little bit further upon making my decision as to that.

I'm going to take the motion to disqualify under advisement. I have been provided affidavits on both sides. And obviously, we just took testimony as to that. I feel like that was probably a good practice. Everybody got an opportunity to cross-examine the witness and get any information that they wanted out, out. So I am going to hold that in abeyance at the current point -- I mean, at this current point.

As for the confidentiality, I am going to take up with the discovery, but here's what I'm doing. Because now we know who the appropriate people and parties are we can start getting down to some discovery. All right? That's my ruling. You can file a motion to reconsider or do whatever you're going to do, but it ain't going to change at this current point because I want this ability on behalf of the Diocese to say, (as stated), "I'm not going to engage in anything because we think we have the wrong proper party." The Court's made a ruling on it, so let's move forward. All right?

How fast or how much time do you think is going to be

required for the Court to make decisions on these motions to compel? Or do you feel like, Mr. Dukes, that because I've made the ruling you can go back to your clients now and say, (as stated), "Listen. He made the ruling. We need to do these things. There's twenty seven (27) interrogatories. I need the information and I need it quickly." How long do you think you'll need to maybe get your answers to the initial interrogatories to the plaintiffs?

MR. DUKES: Judge, some of those interrogatories are inappropriate for this case.

THE COURT: Okay.

MR. DUKES: They're overly broad and I'll have to -- I will have to register objections to that.

THE COURT: Okay.

MR. DUKES: I can get answers and objections within thirty (30) days.

THE COURT: That seems like a fair -- I've got CP non-jury again in Charleston on the week of -- well, that's not enough time.

THE ADMINISTRATIVE ASSISTANT: Twelve (12) days.

THE COURT: Yeah.

THE ADMINISTRATIVE ASSISTANT: You want me to see when the next one is?

THE COURT: Uh-huh.

THE ADMINISTRATIVE ASSISTANT: You have it the week of August 19th.

THE COURT: Where?

THE ADMINISTRATIVE ASSISTANT: Charleston, but it's CP/CP non-jury.

THE COURT: That's perfect.

THE ADMINISTRATIVE ASSISTANT: Okay. August 19th.

THE COURT: Week of August 19th I have CP/CP non-jury in Charleston. That's exactly one (1) month and two (2) days. I would ask you, Mr. Dukes, to do -- as best you can -- on having the information that you -- you think is going to be --

MR. DUKES: I understand.

THE COURT: -- maybe -- you know, borderline, maybe not confidential -- you know, maybe it is, maybe it's not readily available. Spend this month getting it all together. If I rule it, I'm going to tell you to give it to them the next day.

MR. DUKES: That may not be possible, Your Honor, just given the sensitivity of victim's names and such.

THE COURT: Well, find them, keep them confidential, and if I decide that they're not we'll at least have them readily available to give them over.

MR. DUKES: Yes, sir.

THE COURT: Okay. Trey is killing it today. I mean,

he has just been working hard, he is excited about the next thirty (30) days OF his life.

MR. LIMEHOUSE: I know, right?

THE COURT: Trey, you've done an excellent job by the way.

MR. LIMEHOUSE: Thank you.

(LAUGHTER)

THE COURT: So I just want to commend you on how good you've done. You have got a lot of work to do for the next thirty three (33) days, so if they were looking for things for you to do? You've got them.

MR. LIMEHOUSE: Trust me...

THE COURT: So what -- that's what we're going to do. Y'all can prepare the order. I mean, meaning -- ultimately, the motion to compel is granted because it now stakes the parties so they know now that they have to comply with that.

THE ADMINISTRATIVE ASSISTANT: Is that an order?

THE COURT: Yeah.

MS. IVEY: Your Honor, just as a matter of housekeeping, there is still a pending protective order --

THE COURT: Yeah. I saw that.

MS. IVEY: -- regarding the pendency of the motion to

disqualify, so can we resolve that as well?

MR. DUKES: I think that's moot.

MS. IVEY: That's moot?

MR. DUKES: Oh, well --

MS. IVEY: Well, it -- you're holding it in abeyance, sir, under advisement, so I just don't --

THE COURT: What --

MS. IVEY: So long as he agrees.

THE COURT: What is your position as to it, Mr. Dukes?

MR. DUKES: Your Honor, your -- you -- you granted the motion to compel. I think the motion to stay discovery pending ruling on the motion to disqualify, if -- if it's not moot it's meaningless.

MS. IVEY: Okay.

MR. DUKES: So -- so if I -- if you need me to, I will withdraw that motion.

THE COURT: Yeah. If you don't mind, just withdraw that motion. And because -- obviously, here's the thing. If, in fact, at some point in time in the future I disqualify -- Mr. Richter, I -- does that -- would that essentially just -- would it halt the case all -- yeah, it would just be dispositive of the case.

MR. RICHTER: It wouldn't be dispositive of anything --

THE COURT: Would someone be able to come in and --

MS. IVEY: Right.

THE COURT: -- yeah. That's what I'm saying.

MS. IVEY: Right.

MR. DUKES: And --

THE COURT: I'm saying as to you --

MS. IVEY: He has to have --

THE COURT: I'm saying as to you, it just be dispositive. You'd be gone, but the case itself would continue --

MR. RICHTER: Oh, it's still on, Judge.

THE COURT: That's right. And allow somebody to -- to be associated in.

MR. DUKES: And that decision, the Supreme Court has said it is immediately appealable.

THE COURT: Correct.

MR. DUKES: So --

THE COURT: So I'm going to --

MR. DUKES: -- it may stop everything while the Court of Appeals considers it.

THE COURT: Well, I'll -- I'm going to think long and hard on it.

MR. DUKES: I understand, Your Honor.

THE COURT: I know you are. All right. I appreciate all of y'all's help. I appreciate you being here on time. I appreciate y'all being very prepared. That's obviously

very helpful. Hold on.

(OFF THE RECORD DISCUSSION)

THE COURT: And so, as you've seen, I'll give you as much time and -- as you need when we get these things done, but I appreciate you being prepared. And let's try to be as extremely prepared that week, and we'll get you a day, and we'll go through these discovery issues.

MR. RICHTER: Judge, when we get -- on each of these we've asked for cause sanctions, etcetera, fees. Can I suggest that we reserve all of that until you rule to an end on the matters that you have -- had to consider today?

THE COURT: Which is only two (2) left. Right? Motion to disqualify and motion for collateral review.

MR. RICHTER: That's correct.

MS. IVEY: That's correct.

THE COURT: Who moved for sanctions?

MR. RICHTER: We did.

THE COURT: Okay. We're going to see how -- y'all already know my opinion on sanctions. I've told y'all. Y'all are fully aware of -- of -- I'm not shy of doing it at all, but that is all one hundred percent (100%) -- and you can tell your clients, Mr. Dukes, that is one hundred percent (100%) going to be decided on the day that we show

up, and these discovery rules and stuff we're going to have to go through -- because I want this discovery answered. I certainly want you to do your due diligence in protecting your clients, and certainly do the things that you need to do, but again I want you to be prepared.

MR. DUKES: Yes, Your Honor.

THE COURT: And I want your clients to be prepared. And I know you know that. I said that from the get-go. If they're not going to help you, and they're not going to have this information for you, and they're telling you that they can't find the list of these people's names -- and again, I'm telling you go ahead and get it. If I decide that it's not confidential, I want it put it over -- you know, given to them the next day. If you have any problems with them, you let me know --

MR. DUKES: Yes, sir.

THE COURT: -- and I'll handle it for you.

MR. DUKES: Your Honor, do you want it -- this to be -- this -- because it's a denial of a summary judgement you can do it on a Form 4, which is handy.

THE COURT: Well, y'all want to do an order or do y'all want --

MR. RICHTER: We'll do an order.

THE COURT: All right.

MS. IVEY: That's fine.

THE COURT: All righty. Be in touch with us and we will get you a date that week. This is yours, this -- because this is your only copy of the affidavit. The Court's exhibits 1,2, and 3 are going to stay with the --

MR. DUKES: And there's the email --

THE COURT: -- court reporter.

MR. DUKES: -- string from -- with Judge Brown about reserving the -- for summary judgement.

THE COURT: Yeah.

MR. DUKES: That needs to be a Court's exhibit.

THE COURT: It need -- you've got to put it in here because it's -- it's going with my file.

MR. RICHTER: Thank you very much. Nice to see you again.

THE ADMINISTRATIVE ASSISTANT: It was good to see you.

MR. DUKES: Julie, thank you.

THE ADMINISTRATIVE ASSISTANT: Yeah. Absolutely.

THE COURT: Hold on.

THE ADMINISTRATIVE ASSISTANT: I will email y'all the --

THE COURT: It was the email chain.

MR. DUKES: It was the order -- there was an order and the email chain.

THE COURT: This?

MR. DUKES: Yes, sir.

THE COURT: All right. So I -- I was going to keep that. So keep that as a Court's exhibit too, please, Madam Court Reporter.

THE COURT REPORTER: And I'll just put that as 4.

MR. DUKES: Okay. Thank you.

(WHEREUPON, the Email Correspondence was introduced and received into evidence as Plaintiff's Exhibit Number 4.)

THE COURT REPORTER: I'm missing 3.

MR. RICHTER: Thank you, Judge.

THE COURT: All right. See y'all soon.

(WHEREUPON, the hearing in the above-entitled matter was concluded at 4:57 p.m.)

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF RICHLAND)

Be it known that I, the undersigned Patricia A. Szoke, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing transcript represents a true, accurate and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, before the Court of Common Pleas Non-Jury for Berkeley County, South Carolina, so given on July 17, 2019, to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

IN WITNESS WHEREOF I have here unto set my hand this 22nd day of August, 2019.

Patricia A. Szoke

Patricia A. Szoke, CVR
Official Court Reporter
Notary Public for South Carolina
My commission expires 8/17/2020.

THIS TRANSCRIPT WAS PREPARED FOR LAWRENCE E. RICHTER, JR., ESQUIRE

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

DEPOSITION OF MARY LOUISA STOREN

NOVEMBER 18, 2019

JOHN DOE,
Plaintiff,

vs. CASE NO. 2018-CP-10-3929

BISHOP OF CHARLESTON, A CORPORATION SOLE, AND THE BISHOP OF THE DIOCESE OF CHARLESTON, IN HIS OFFICIAL CAPACITY,
Defendants.

RICHARD ROE,
Plaintiff,

vs. CASE NO. 2018-CP-10-4206

BISHOP OF CHARLESTON, A CORPORATION SOLE, AND THE BISHOP OF THE DIOCESE OF CHARLESTON, IN HIS OFFICIAL CAPACITY,
Defendants.

JOHN DOE 432,
Plaintiff,

vs. CASE NO. 2019-CP-10- 1120

BISHOP OF CHARLESTON, A CORPORATION SOLE, AND THE BISHOP OF THE DIOCESE OF CHARLESTON, IN HIS OFFICIAL CAPACITY,
Defendants.

TIME: 9:30 AM

LOCATION: THE RICHTER LAW FIRM
MOUNT PLEASANT, SOUTH CAROLINA

REPORTED BY: RONDA K. BLANTON, RPR
NCRA REGISTERED PROFESSIONAL REPORTER
CLARK & ASSOCIATES, INC.
P.O. BOX 12198
CHARLESTON, SC 29422
843-762-6294
office@clark-associates.com
WWW.CLARK-ASSOCIATES.COM

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:

THE RICHTER FIRM
BY: LAWRENCE E. RICHTER, JR., ESQ.
622 Johnnie Dodds Boulevard
Mount Pleasant, SC 29465

ON BEHALF OF THE DEFENDANTS:

TURNER PADGET GRAHAM & LANEY
BY: RICHARD S. DUKES, ESQ.
40 Calhoun Street, Suite 200
Charleston, SC 29401

ON BEHALF OF THE WITNESS:

BARNWELL WHALEY PATTERSON & HELMS, LLC
BY: M. DAWES COOKE, JR., ESQ.
288 Meeting Street, Suite 200
Charleston, SC 29401

- - -

INDEX

EXAMINATION

BY MR. RICHTER 4

CERTIFICATE OF REPORTER 98
DEPONENT CORRECTION SHEET 99

EXHIBITS

No. 01	Notice of Deposition, Case 2018-CP-10-3929	4
No. 02	Notice of Deposition, Case 2018-CP-10-4206	8
No. 03	Notice of Deposition, Case 2019-CP-10-1120	8
No. 04	6/20/16 Storen Letter to Whalen With Attachments	69
No. 05	Collection of Emails/Letters from File	84
No. 06	Prescription Charges/Receipts	84
No. 07	Diocese Victims Detailed Cost Record	85
No. 08	Health Insurance Claim Forms	85
No. 09	Sherbondy Invoices	85

MARY LOUISA STOREN,
having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. RICHTER:

Q. Would you state your full name, please?

A. Mary Louisa Storen.

MR. RICHTER: Let's go off the record.

(Off-the-record discussion.)

(Exhibit No. 01 was marked for identification.)

Q. Miss Storen, what is your address, please?

A. My home address or office?

Q. I'll get them both. Go ahead.

A. Home is -- it's boulevard. Johnnie -- my office address is 757 Johnnie Dodds, Suite 100, 29464.

Q. And where do you live in town?

A. I live in [redacted] so the address is --

Q. [redacted].

A. -- [redacted]. And it's --

Q. That's close enough. If we need you,

I'll find you. All right. And if we need you --

A. [redacted].

Q. If we need you, what is the best telephone contact?

A. [redacted].

Q. Thank you, ma'am.

Now, I have to explain some things to you; and then we'll begin questioning.

This is a deposition. Have you been deposed before?

A. Yes.

Q. Well, you know then, generally at least, the ground rules; and so I'll do what the rule requires me to tell you and nothing beyond that right now.

The format is that I'll pose questions to you. I'll try to do that directly and narrowly. If you listen to those questions, please, and if you can, answer them the same way, directly and narrowly. You have the right to explain your answer as fully as you might want to or need to.

If you have questions -- but if we can hit that method of communication, these things go a lot faster; and everybody's in favor of that, I

think.

If you have questions during the deposition, pose them to me, please, and not to your counsel or to anyone else. You're now a sworn testifying witness so you can't communicate with anyone about your testimony at this time.

If you need to consult with your lawyer about something, we may be able to even ask you about that when you begin testifying again.

A. You would ask me if I needed to consult my attorney? I didn't hear what you said.

Q. No. If you communicate with someone, let's say your lawyer, about your testimony, we may be authorized to question you about that as well. So I don't think this is going to take long enough to be a problem for anyone.

Next, if you need anything, just say so.

This lady is taking down your testimony two ways. It's being recorded by an audio system; and it's also being taken down, as you can see, by a stenotype system.

Neither one of those systems gets nods, however, or gestures and so you need to --

A. Oh, okay.

Q. -- not answer by nodding or shaking your

head.

A. I understand.

Q. Just answer orally, directly, please.

In addition to that, if you don't understand something, just ask; and I'll try to make it clear. Or, otherwise, we're going to assume you do understand; and you'll go ahead and make your answer.

We'll break whenever you need to. And any questions you have or needs, I think I told you, just say so; and we'll get it done.

Now, I'd like to begin by showing you a document marked Plaintiff's Exhibit No. 01 to your deposition, which you'll see bears the title "Notice of Deposition." And there's probably a subpoena attached to it, yeah, as well.

I just need you to identify that that is the notice you appeared pursuant to.

A. It is.

Q. Thank you, ma'am.

Now --

MR. DUKES: Larry, was that in all three cases or --

MR. RICHTER: I'm going to do it in all three. I'm debating to do it one, two,

three.

(Exhibits No. 02 and No. 03 were marked for identification.)

Q. Currently, there are three cases in which I represent persons claiming against the Diocese and/or Bishop; and although you've been noticed separately in each of the three by agreement, all counsel see the wisdom of putting -- trying, at least, to do this in one quick sitting.

And I'm going to hand you the same packet that I handed you before but in another case marked Plaintiff's Exhibit No. 02 and just ask you if you can authenticate that that's the notice to which you appeared.

A. Yes.

Q. Thank you.

And the same thing for No. 03, please. Record should reflect that No. 02 is Richard Roe, and No. 03 is John Doe 432.

A. Correct.

Q. Good. Now that's out of the way.

Can you tell me, please, about your personal background? And I'd really like to start with your education as you started school;

and let's go through that, please.

A. I mean, 12 years at Ashley Hall. College was mostly at the University of South Carolina, some time at University of Maryland. Graduate school is Florida State and University of South Carolina where I got my Master's in social work.

Q. And what was your undergraduate degree?

A. Sociology.

Q. And you obtained that degree where?

A. University of South Carolina.

Q. And then where does your Master's come from?

A. University of South Carolina.

Q. But you had interim or partial studies for those at other institutions?

A. Sure, yes.

Q. Thank you.

Can you do the same thing with your employment history, please?

A. First job was at Santee-Wateree Mental Health Center in Sumter, South Carolina. Two years. And then I worked at Sea Island Comprehensive Health Care Corporation along the sea islands of South Carolina for maybe two

years. Then three years at Dialysis Clinic, Inc., as well as I did some home health, PRN, nursing home consulting. Started private practice in 1985.

Q. And are you still in private practice?

A. Yes. And also owned an employee assistance company for a number of years.

Q. What is the name of your practice?

A. Louisa Storen, LISW, LMFT.

Q. Have you ever been in any other private practices?

A. No.

Q. Do you have partners or employees?

A. No. I have an unpaid employee, which is my husband.

Q. Who is your husband?

A. Joseph Boyd.

Q. And what is his background? Where is he from?

A. He was born in Wisconsin, you mean? Is that what you mean?

Q. Yeah. Where he is from.

A. Yeah, yeah.

Q. And what -- how long has he been here in South Carolina, and how long have you been

married?

A. We've been married 25 years; and he's been here 40, 50 years. Came here with the Navy.

Q. I know this will be astonishing because of my youthful appearance; but my wife Anne and I, who, you know, have celebrated our 51st wedding anniversary.

A. Congratulations.

MR. COOKE: Congratulations.

(Off-the-record discussion.)

BY MR. RICHTER:

Q. Anyway, are you still involved with Saint Mary's?

A. No. No.

Q. Can you tell me, please, what is your professional relationship with the Diocese of Charleston?

A. I am an independent contractor, and my title is victim assistance coordinator.

Q. And you do that by contract?

A. Yes.

Q. And do you remember the term? How long your contract is?

A. Well, I -- I think I've been doing it about 18, 19 years; and I signed the contract

then, and I quit for a year or so. And I don't know if I signed another contract or if it's verbal.

Q. But you show up --

A. I do.

Q. -- when you're called.

A. I do.

Q. What did you do when you quit?

A. I just needed a break. My --

Q. I mean, did you do private practice?

A. I've always done private practice. I still do private practice. It's along with.

Q. What was that time period when you did not serve as a contractor of the Diocese?

A. It's when Monsignor Carter was no longer victim assistance --

Q. Vicar General?

A. That. Vicar --

Q. General.

A. Yeah. When he -- when he resigned, I resigned. I needed a break. So I don't know what year that was.

Q. Are you a member of a parish now?

A. Christ Our King.

Q. And is that how you came to know

Monsignor Carter?

A. He's my cousin.

Q. He was here not very long ago.

A. I know. He told me that.

MR. COOKE: I saw him on Friday.

(Off-the-record discussion.)

BY MR. RICHTER:

Q. Can you tell me, please, where you are licensed to practice?

A. South Carolina.

Q. Where else? Anywhere?

A. No.

Q. Have you ever been licensed anywhere?

A. No.

Q. And what is it that you are licensed to practice?

A. I am a licensed independent social worker; and I'm a licensed marriage family therapist, which is to say I'm a psychotherapist.

Q. And does that enable you, for example, to prescribe medication?

A. No.

Q. And can you tell me, please, how many sex abuse claims or cases you have been -- you have handled or had reported to you with

allegations against the Diocese or its employees?
A. I can't.
Q. Diocese of Charleston or its employees?
A. I never thought to count them. I can't.
Q. Are there a lot or a little bit?
MR. DUKES: Object to form.
A. It seems like there was a flurry of cases or, you know, before or around the class action lawsuit; and then it died down. And then, you know, it kind of -- they trickle in very occasionally.
Q. What does that mean? "Very occasionally"?
A. In terms of sexual abuse of children by priests currently, I haven't had any of those in years because we -- I also reach out for any victims of inappropriate sexual attention from any staff of the Diocese or volunteers or anybody. But from priests, under 18, I can't think of any.
Q. When you say "under 18" you mean --
A. Versus people --
Q. People molested under the age of 18?
A. Yeah. That are children currently versus people coming forward from when they had

abuse as children, and they're coming forward as adults now.

Q. And you still see that?

A. I have seen that. Yes.

Q. And how recently have you seen that?

A. How recently have I had another victim like that?

Q. An adult come forward to say, "When I was a child, I was abused by Father So-and-So"?

A. Memorial Day weekend, I saw --

Q. This year?

A. Yes.

Q. When was Memorial Day? May?

A. Yes. That week. The week after.

Q. And are you able to categorize the calls that you do get or put them in any kind of pattern of a -- of offense, of abuse?

A. They vary. Each call is different.

Q. And what do you do then? Let's take the Memorial Day -- if I can say it that way -- Memorial Day example that you used.

A. I met with the person and then agreed to find counselors for that person, which I did; and we've been seeing that -- counselors have been seeing that person since.

Q. But you have not been seeing that person?

A. I have because I have been leading the victim group, support group of victims. It's a very small group.

Q. Does that mean you're counseling this person that we're talking about or not?

A. It's a support group. I just facilitate the support group. I give them my office, and I let them participate in helping each other.

Q. And then what do you do there?

A. I -- I just -- I'm a presence, a calm presence.

Q. But you don't offer any sort of advice or treatment of any kind?

A. I make sure their treatment is coordinated. They have counselors. I just wanted them to meet each other and support each other.

Q. I understand.

But when you are there yourself, when you go to those meetings amongst these victims, do you offer guidance, counseling, direction to those people or not?

A. I think I would say I'm more there to

provide support and listen much -- not so much -- for instance, there is a retreat happening next weekend in Atlanta for victims of sexual abuse; and I offered for both people that come to go to that, and they accepted. So that kind of facilitation of other resources I make available, but mostly I'm actively listening and supporting them.

Q. In that group that you're describing, does it have a name, first of all?

A. No.

Q. In that group that you're describing, how many participants are there?

A. There are only -- well, it's varied but three. Three or four.

Q. Current?

A. Yes.

Q. Today?

A. Today.

Q. And are those persons who are in that group now all victims of abuse or priests of the Diocese of Charleston?

A. Two of them are. One isn't.

Q. And as to the one who isn't, who abused him?

A. Her.
Q. Her. I'm sorry. Her.
A. A lot of people.
Q. But no one from within the Diocese?
A. No.
Q. Then how did she get to you?
A. She converted to Catholicism, and so she is a -- she fits nicely in with the two men that are in there.
Q. These are adults that you're dealing with?
A. Yes.
Q. You're talking about?
A. Yes.
Q. And do you enjoy any sort of professional relationship with the people who call in to you and say, "I'm a victim"?
A. I am, sort of, the gatekeeper to make sure they find a therapist that -- you know, the Diocese is the State of South Carolina. So if they need therapy elsewhere, I have a database of therapists throughout the State. So I hook them up with a therapist in another town.
I'm just the gatekeeper. I make sure they find somebody they like. I follow up to

make sure it's a good relationship. They're satisfied. I just keep making sure they get the services; and if they are somewhat dissatisfied with services, I would help them locate another therapist.

Q. And that happens from time to time. People relocate from one counselor to another?

A. Yes. That has happened before. Yes.

Q. And what confidentiality do these people who are victims enjoy with you?

A. Well, they enjoy that I'm not going to tell their story. As a contractor for the Catholic church, they know that I'm also going to get the Catholic church to pay for their bills; ad so they're going to let me let the Catholic church know.

And also the Catholic church is audited every year, and they need to know how many victims come forward to be able to honestly answer how many new victims come forward and how we dispose of their cases.

Q. And can you tell me, please, why so many people have been abused by Catholic priests?

MR. DUKES: Object to form.

A. I can't.

Q. You acknowledge that a lot of people have been abused by Catholic priests, don't you?
A. Yes.
Q. Do you know the numbers?
A. Not offhand.
Q. Do you know the numbers of dollars that the Catholic church in the United States has parted with to victims of priest sexual abuse?
A. No.
Q. Do you know -- well, do you contribute to Christ Our King through its collection process at Sunday mass?
A. Sometimes.
Q. And do you know how much of your money has been spent that you put in the collection basket for the purpose of paying sex abuse victims?
A. I don't know how much of my money has.
Q. And do you know why you don't know that?
A. Because I don't -- I couldn't even tell you how much I've contributed. So I can't imagine how much of that contribution has gone to that.
Q. But the church doesn't make that available to you, does it?

A. I've not asked.
Q. I'm sorry?
A. I've not asked. So I don't know if it it's available or not.
Q. And do you know how much -- I'm sorry if I'm repeating myself. Do you know how much the Diocese of Charleston has spent on sex abuse victims?
A. No.
Q. And just for the Diocese, do you know how many victims there have been since, let's say, 1950?
A. That information was published, and I don't remember it.
Q. Where was it published?
A. In the "News & Courier."
Q. Published the number of victims?
A. I think so.
Q. Do you know how many priests of -- just of the Diocese now we're focused on. We did the church a moment ago, but just the Diocese of Charleston. How many priests have been child abusers in the Diocese of Charleston since 1950?
A. I don't know. I mean, I've been told. I don't remember the --

Q. Who told you?
A. I think it was published in the paper, and that's where I saw it; and I don't remember it.
Q. Do you remember when that was in the paper?
A. Seems like it was January or February, somewhere like that. Wait a minute. No. It was March-April, I think.
Q. Did you read the report that was released in the last of March of this year about the number of credibly-accused priests?
A. Yes.
Q. And do you know William Croghan? Did you know William Croghan?
A. No.
Q. The Priest William Croghan? And your answer is no?
A. No.
Q. Do you know about his abusive activities?
A. I do not.
Q. Do you know that the Diocese paid hundreds of thousands of dollars in compensation as a result of his abusive sexual --

A. No, I did not. I did not.
Q. Let's run through who you do know as a priest -- to be a priest abuser.
A. Who was a priest abuser?
Q. Who do you know who was a priest abuser? I'm just asking you the names you know.
A. Well, I believe Father Condon was.
Q. Eugene Condon. Is that the Condon you're referring to?
A. Yes. I know Godwin. Father Godwin. Goodwin. Godwin. Father Berberich. I know these, but I'm not going to be able to recall them. I should -- I mean, I can't recall them.
Q. Those are the only names you can recall who were abusers?
A. Yes.
Q. And are you familiar with the sex abuse advisory board?
A. Yes.
Q. Can you tell us what that is, please?
A. It's part of the charter policies and procedures to make sure that we are following through with our policies and procedures.
So if a claim comes forward, it's presented to the sexual advisory board; and their

job is to determine in listening to what the investigator has come forward with as to whether the -- the claim is -- trying to remember what the word is. Possible or not.

Q. Credible?

A. Credible. That's the word I was looking for.

Q. And what is it that makes a claim credible?

A. If it could have happened. If the priest and the victim were in the same place around the same time would be one of the ways they determine credibility.

Q. And do you have -- first, did you -- do you have any familiarity with the fact that William Croghan was not published in the list of some 41 or 42 priests whose names were published as being credible abusers back at the March date we referenced just a little while ago? Were you aware of that?

A. I'm not.

Q. Are you aware of the case even in which the Diocese paid out hundreds of thousands of dollars to a victim who I represented at the hand -- who was victimized at the hands of

William Croghan?

A. No.

Q. Do you know why that would not be credible?

A. I don't know.

Q. Do you know why the Diocese would pay out hundreds of thousands of dollars to a victim and then say that the claim against William Croghan is not credible?

A. No. And I'm not privy to the conversations of the sexual advisory board on when they decide whether something's credible or not. I'm not part of that.

Q. Have you ever incurred any sanction in any professional capacity, any --

A. No.

Q. -- any licensure suspension --

A. No.

Q. -- or anything like that?

A. No.

Q. Thank you.

Now, tell me, please, what your relationship with a woman named Whalen up in Greenville is.

A. She is a therapist I have sent a couple

of victims to, and I admire her work and respect her a great deal.

Q. Up through this case, not through this case but through another case, I've come to know her and really like her. She's a --

A. Very good at what she does.

Q. Yes, yes. Thank you.

Now, when you sense -- let's use Miss Whalen as an example. When you send some victim who has now showed up at your front door or calls you on the phone, when you send that person to that counselor here -- the example is Whalen -- do you, then, have hands off with that?

A. Initially with Ms. Whalen when I first send her a case, we talked a great deal around that case; and when I was in Greenville, I met her in person. We had lunch. We've had many, many conversations on the phone about the prior victim and the current one she's seeing.

So she is, definitely, someone that I certainly don't feel the need to double-check on how she treats because I hear from the people I've sent to her how well they feel like they have been handled by her.

Q. And all whatever feedback or reports

back you have gotten concerning Whalen, only this counselor --

A. Right.

Q. -- have all of those been positive?

A. Yes.

Q. Thank you.

Now, I notice that you brought some records. In those records, is there a document which authorizes you to speak with anybody in this example that we're using to speak with Dr. Whalen about the victim's specific case and circumstances?

A. I didn't see it in there. I did not see it in there. A release.

Q. Yeah. And that's what I want to ask you. Do you refer to it as a release or a HIPAA form, or what is it?

A. It would be a release of information, and actually I think that Dorothy would have gotten it from her side because she's the one releasing information to us so that she can get paid by the Diocese.

When I initially sent her the client, I probably used the first name; and so I didn't disclose -- I mean, I protected the man's

confidentiality until he met with her on his permission and sent the letter authorizing payment to Miss Whalen.

Q. To her?

A. Yeah.

Q. And did he also authorize you to communicate with her about his care?

A. Yes.

Q. That's the document I'm looking for.

A. Right.

Q. And that's the one you don't --

A. I don't see in the file.

Q. And in a couple of minutes -- well, in a little while, we're going to mention these other two claimants.

Is that same situation true, albeit they're not counseled by this counselor Whalen? The authorization is what I'm asking about. Is that --

A. I don't know the other two clients.

Q. Okay. All right. Well, we'll get to that; and I'll share names with you in just a moment.

A. Yes.

Q. Just a few moments.

Can you tell me whether the Diocese requires -- in exchange for paying the costs of counseling resulting from sexual abuse by the Diocese is what we're talking about now. What does the Diocese require the victim to do by way of giving the Diocese access to his or her records through counseling?

A. Earlier on when I began this, we required more than we do now. When I first began, we modeled our program after the Archdiocese of Chicago; and that was, sort of, managed care model in which the release asked for, you know, diagnosis, how many treatment sessions they thought would be authorized, prognosis, that sort of thing.

Health care -- mental health care has evolved. It's gotten away from the managed care and authorizing X amount of sessions at a time. Everybody that comes to me, I am assuming, has Post Traumatic Stress Disorder; and I also assume they will need long-term treatment. So rather than saying you can have six months of treatment at a time and then you can renew after that, I just let them have an unspecified amount of treatment.

Q. And what is it -- the specified amount, what is that?

A. Unspecified.

Q. I'm sorry. Unspecified. What they need, in other words.

A. Yes. Right. And the church has not ever bucked how much treatment I've authorized or asked me to shut it down, or this is costing too much. They've allowed me to have a blank check in terms of making sure people get what they need therapy wise.

Q. Over your career, first, how many priest sex abuse victims have you had dealings with?

A. I can't tell you.

Q. Can you estimate it?

A. I really can't. I mean, had I known that was going to be a question -- maybe I should have anticipated that question. I could have looked back and told you, but I can't tell you.

Q. Is it a large number or just a few?

A. Depends on how you define "large" or a "few." But it's more than a few, but I can't estimate.

Q. Is it more than 100?

A. No. I would -- again, you're asking me

to guess.

Q. You don't know.

A. Right. I don't know.

Q. I understand.

How do you make a determination that this Victim A, we'll pay for his counseling treatment; however, Victim B, we will not? How do you do that?

A. I haven't had to do that because on any call, I am expected to reach out in a pastoral way and offer counseling. So whether it's credible or not, person coming forward, I want to assume that they have a need; and we reach out and pay for counseling, credible or not.

Q. Now, are you aware that for months I've been asking for payment on behalf of my client, Richard Roe, who I tell you is Mr. Roe, whose name you were given earlier.

A. I heard that from Elaine Fowler last week.

Q. Is that the first time you ever heard that?

A. Yes.

Q. And what did you hear?

A. She asked -- she said that someone who

has already been receiving counseling for a period of time that had not come forward to me would like counseling paid for, and that is being provided by a -- I think a nurse -- a Ph.D. nurse in Atlanta, and that's what I heard.

Q. So was some question posed to you?

A. She didn't know that nurses were also therapists. She was just verifying that a Ph.D. nurse is a therapist.

Q. Is that the first contact you've had with Miss Fowler or anybody else concerning counseling payment for Mr. Roe?

A. Yes.

Q. And were -- so you weren't asked, do it or don't do it?

A. I was not.

Q. Did you express your opinion as to whether that person should, in fact, be treated the same way as this person we're talking about now, Doe? His name's --

A. No. I think I might have had a conversation with her earlier -- I'm trying to remember -- in which she had mentioned there was a victim that Larry Richter wanted that victim's counseling paid for; and she was trying to decide

how to handle it, since, you know, normally the counseling would be paid for. It comes to me first, and then I authorize it; and she was trying to decide whether to advise the bishop or monsignor to pay for it or not.

And that was the conversation maybe two weeks before last week. So there have been two very brief conversations about it.

Q. Did she tell you that she had had this issue presented to her or to the Diocese through their counsel, one of which she is, for months and hadn't done anything about it?

MR. DUKES: Object to form.

A. I haven't heard -- I had not heard about it, no.

Q. So she didn't tell you that?

A. No. I heard about it last week and then maybe two weeks before.

Q. And I take it you don't know why it was ignored for such a long period of time?

MR. DUKES: Object to form.

A. No, I don't.

Q. Now, what do you know about the bishop's sex abuse case in which he is accused of being a perpetrator?

A. I know he was accused of being a perpetrator by someone in New York and that I heard that the person who accused him had said to his aunt, "It's worth a try." And that's about the sum total of what I know.

Q. Who told you that?

A. That -- I think it was Elaine Fowler, and I think that -- I think that this came about, in part, because New York has for a year opened up the statute of limitations. That's when I first heard about it was recently. Elaine told me about it. I wasn't at the meeting where the staff -- but I saw her later that day, and she told me --

Q. And are you aware that hundreds and hundreds of cases were filed as soon as the State of New York did open that window that you're talking about?

A. Right. But not against the bishop.

Q. No. But only one against the bishop that I'm aware of.

A. Yes. I just wanted to make sure --

Q. When you say bishop, you mean Richard Malone?

A. Yes.

Q. The only one I know about --
A. Same here.
Q. -- in which he is named.
A. Correct.
Q. Do you have any knowledge of why the Diocese would claim that names of victims of sex abuse are, for some reason, confidential?
A. Why the names of the victims or priests are confidential? Because they're trying -- I would think the reason is to the protect the privacy of the victims.
Q. How about if that same person -- two things. Lets's assume --
A. What same person?
Q. The sex abuse victim, the person that we're discussing right now.
A. Right.
Q. Let's assume two things happened to that person for purposes of this question.
Number 1, that person gets raped by his pastor.
A. Right.
Q. Then he walks out of the rectory, or wherever he was raped, goes up the sidewalk; and the same priest comes out and robs him with a

gun. Takes all his money.

Is that second event confidential?

MR. DUKES: Object to form.

A. I would think not.

Q. Of course, it's not. He's a victim of crime.

A. Right.

Q. When he's a victim, the public is a victim.

A. He's a victim of crime twice.

Q. Yeah. That's what I'm trying to understand what the reasoning is within the Diocese, if you can help me understand it, about why one kind of crime, the victim's name is not confidential. Another kind of crime, the victim's name is confidential.

MR. DUKES: Object to form.

Q. That's what I'm trying to understand.

A. Well, I think that in working with victims, they feel a lot of shame, even though it's not their shame; and they are very hesitant to come forward. And they're very protective of who knows what happened to them, in my experience.

Q. You're talking about sex abuse

victims --

A. Right.

Q. -- at the hands of priests; right?

A. And sex abuse victims of any --

Q. Well, let's -- for the moment at least, lets's restrict it to victims of priests.

A. Sure. I don't know --

Q. They feel impacted substantially, don't they? Those victims?

A. Each victim is different. As Adler said, it's not what happens to you. It's how it affects you.

Q. If each victim is different, why is the Diocese's position about not revealing the names of victims uniform?

MR. DUKES: Object to form.

A. I don't know. I don't make Diocese policies.

Q. I'm just asking you if you --

A. I don't know.

Q. That's fine.

I asked you a moment ago about the sex abuse advisory board. How big is that board?

MR. DUKES: Object to form.

A. I'm not sure. 15, 20 people maybe.

Q. How many members of the clergy are on that board, if you know?
A. Two. Three. I don't know.
Q. Priests.
A. I believe there's two.
Q. And --
A. Three.
Q. -- who are those people?
A. Who are they?
Q. Yeah.
MR. DUKES: I'm going to instruct her not to answer that question.
MR. RICHTER: Is she your witness? Is this your witness?
MR. DUKES: No.
MR. RICHTER: You don't represent her?
MR. COOKE: I'm going to instruct her not to answer.
MR. RICHTER: That's fine. Certify the question, Miss Reporter.
Q. Who else is on that advisory board?
MR. COOKE: Instruct her not to reveal the names of any members of the board.
Q. You're going to accept that instruction?

A. Yes, sir.
Q. Can you tell me, please, whether that -- what that board does?
A. They are to help determine the credibility of allegations. We also have a part in tweaking policy and procedure around victims and their treatment.
Q. Do they have any role in shaping matters of faith or doctrine for the Catholic church or for the Diocese of South Carolina?
A. I don't think so.
Q. Now, let's go specifically to John Doe.
Before we do that, I want to go back to my question about the Diocese requiring that victims who had their counseling paid for by the Diocese had to give access to that counseling information to the Diocese.
Do you know what I'm talking -- do you recall that discussion?
A. Well, if they want the Diocese to pay for their treatment, they need to have the Diocese know who to pay and how many sessions and those kinds of things.
Q. Well, what does who to pay have to do with the substance of the counseling session?

A. Well, I'm just saying, who to pay is when the counseling happens, who do you write the check to that did the counseling, what dates, how much. All those things are important to the Diocese to know.

Q. That's not what I'm asking about.

A. I'm sorry.

Q. I'm asking about the substance of that counseling. The Diocese required that the substance of the counseling had to be made available to the Diocese for some period of time. That was the policy, wasn't it?

A. I think what I was saying in the earlier days, 18 years ago, we followed more of a managed care; and what that meant was I would ask diagnosis, prognosis, length of treatment. And I got away from that very quickly.

So information that we require is who is the therapist, the dates of service, the cost of service; and then I check with the victims to make sure they're satisfied with the treatment they're getting.

Q. My question to you is:

A. Yes.

Q. Was there ever a time that the Diocese

of Charleston required that victims of priest sexual abuse for whom the Diocese was paying counseling costs, that that victim had to reveal to the Diocese or authorize his counselor to reveal to the Diocese the substance of his case? Of his claim? Of his counseling?

A. I think I'm answering it by saying what we required was dates of service, diagnosis, prognosis, those questions. I have never required copy of the counselor's therapy notes. So I'm trying to answer your question.

Q. Well, I'd appreciate it if you'd answer it yes or no.

I'm asking if the Diocese, to your knowledge, has ever required the sex abuse victims for whom the Diocese pays the cost of counseling have been required to either themselves or authorize -- by authorizing their counselor to release the information of their treatment, the substance of the counseling, to the Diocese?

A. I think you instructed me earlier that I could say more than just yes or no to make my --

Q. You can. But is there a reason why you can't say yes or no to that?

A. What I'm saying is -- because it sounds very generalized -- that we're requiring all substance of their treatment to be released, and that is not the true. That is notice what we have required.

What we have required is less than what an insurance company would require; but similar in terms of diagnosis, dates of treatment, name of therapist, are they licensed, therapists's Social Security number so we can write checks.

Also if a therapist feels that the person is -- is needing something other than they, they will contact me and say, "I think this victim needs psychiatric care." And they will tell me why or whom, and I will authorize that.

That is the extent to which the Diocese has required information on the treatment of victims.

Q. And is it your testimony under oath here today that such an exchange of information is appropriate between the person counseling this victim and someone who is not counseling this victim?

A. Someone who is not counseling this victim is myself, who is the victim assistance

coordinator only; and then I turn that over to the financial department so they'll pay the bills.

MR. RICHTER: Would you restate the question, please, ma'am.

(The pending question was read back by the reporter.)

Q. Do you understand the question?

A. Well, my answer is: Someone not counseling the victim is the victim assistant, not just anybody on the street, is the way the question sounds. It's one person. It's myself who's the victim assistance coordinator. Not just anyone.

Q. The graven of the question is the word "appropriate." Is it appropriate? That exchange of information that I just asked you about now twice --

A. It is appropriate for the exchange of information to happen between the therapist and the victim assistance coordinator, yes.

Q. Who is -- and the victim assistance coordinator is not the counselor or --

A. Right.

Q. -- the patient is not a -- do y'all call

them patients? I'm using that word. I don't even know if that's the right reference.

A. Victims.

Q. Yeah. When you counsel somebody, do you call that person a patient or --

A. That's when I'm counseling. That's private practice. That's different than what I do as victim assistance coordinator.

Q. When you counsel somebody --

A. It's a patient.

Q. Thank you.

And when you're not counseling someone, is that, then, a client of yours or what?

A. When I'm not counseling someone as an independent contractor for Diocese, I would call them a victim.

Q. A victim.

A. Yes.

Q. So those are the two references?

A. Right.

Q. Patient or victim.

A. Right.

Q. I understand.

Why -- withdrawn.

Do you know how big a problem -- within

the Catholic church first. And then I'm going to ask you about the Diocese of Charleston -- priest sexual abuse of minors has been?

MR. DUKES: Object to form.

A. How big a problem it's been?

Q. Uh-huh.

A. In my mind, it's a big problem, yes.

Q. And that's what I was trying to get to with you earlier. Why is that? Why is it such a big problem in the church?

A. I do not know.

Q. Have you heard people offer explanations? Professional people like yourself, same expertise, have you heard those persons try to explain why that is?

A. Not to my satisfaction.

Q. I just want to know if you've heard them try to explain it. I didn't ask you if you were satisfied.

A. Yes.

Q. And who did you hear try to do that?

A. Probably other Catholics. And professionally, I've heard -- I haven't heard anything that's stuck with me as something that made sense to me so I don't -- I can't tell you

what they were.

Q. And do you have your own individual opinion about why there has been such a level of priest sex abuse within the church?

A. No.

Q. You don't have anything in mind?

A. No.

Q. And I ask the same question. I said church. Now I'm asking Diocese specifically. The Diocese of Charleston, same questions.

A. No.

Q. Do you know why there are so many policies now that the church is involved with about we're going to do this and we're not going to do that and here is the sanction and here's what we're going to tolerate and here's what we're not going to tolerate and there's no place and it's a horrible sin and we cannot tolerate this a moment longer?

All of those things that the church has said and the Diocese of Charleston has said over the last few years, why are there so many of those kinds of things? Do you know that?

MR. DUKES: I'm going to object to the form of the question.

A. I'm not sure why there's so many statements against --

Q. So many policies. Start with that.

A. Policies. I think they're trying to be accountable and make right what was wrong before in terms of making sure as much as they can that child sexual abuse is prevented in the future -- now and in the future.

Q. Well, if it's not going on now, what are the policies aimed at?

A. The intention is prevention and not saying it will never happen again, but we're trying to prevent it from happening.

Q. I think I understand your answer.

Tell me, then, when it was that the church and the Diocese of Charleston did not seek to prevent child sexual abuse at the hands of priests?

MR. DUKES: Object to form.

A. I don't know how to answer that question. Perhaps if you say it again.

MR. RICHTER: I can ask that it be republished, if you would, ma'am.

(The pending question was read back by the reporter.)

MR. DUKES: Object to form.

A. Well, I'm believing that many in the church in the past would not have condoned or wanted child sexual abuse; and yet it happened. And some people were not aware that it was happening; and when they became aware that it had happened and was happening, that's when they tried to enact these policies to help prevent it.

So I think the answer to the question would be before the UCCB came forward with standards in terms of how to prevent and be transparent about what had happened going forward, and I guess that was 18 years ago. I'm not sure. I don't remember the date.

Q. Well, almost that. I think you're referring to 2002, are you not? Following the Boston blowup?

A. (Nods head.)

Q. Now, you said some were not aware that priests were sexually abusing children.

A. Right.

Q. And does that mean that some were aware that priests were sexually abusing children?

A. I would believe so.

Q. Well, what's the explanation for why

that was all right?

A. I didn't say it was all right.

Q. I'm asking you what the explanation is for why that's all right.

A. I don't have an explanation. I hadn't heard an explanation.

Q. There is no explanation for that, is there?

A. I don't see one, no.

Q. What do you -- what is it that you think should happen to priests who sexually abuse children?

A. I think they should be prosecuted by the legal authorities, just as a non priest would.

Q. And what about those members of the Catholic hierarchy who have covered up the sexual abuse of children at the hands of priests or bishops? What should happen to them?

A. I guess the same thing. If they're -- if there is, you know, enforcement by law that could happen, that should happen as well.

Q. And within the Diocese of Charleston, do you know of instances in which persons -- I'll start with bishops -- were aware of child sexual abuse by priests and did not report it to

authorities?

A. I don't know specifically of such instances, but I'm assuming some bishops did know in the past but --

Q. Did or did not?

A. Did.

Q. Here in the Diocese?

A. Yes. But I don't know the specifics.

Q. Well, I can show you some writings that will help you along with that.

A. Are you going to now?

Q. No, not right now.

A. Okay.

Q. But just to make you feel better about your own instincts, I can show you some writings, at least by three bishops --

A. Okay.

Q. -- as far back as 1957 or '58. That was about 50 years before the Dallas charter, wasn't it?

A. Yes.

Q. And as late as 1992 or '3 or so, that was before the Dallas charter too, wasn't it?

A. Yes.

Q. Now, we will break whenever you say you

need a break; but let me tell you that, generally, we've been going an hour and 15 minutes now. And, generally, every hour or hour and 15 minutes, we'll just take a comfort break.

If this is a good time for you, let's just take a five-minute break. Let me -- I have to caution you that you're a testifying witness now so that you can't communicate with anyone about your testimony. Okay?

A. I have one question. Do you have any idea how long this will last just in terms of my schedule for other patients?

Q. It all depends on your answers. I can tell you that.

A. Right. I know. I have somebody scheduled at one. Do you believe it is reasonable that I will be able to make that or not?

Q. Well, we had another deposition scheduled for 1:30. So that's what I'm -- I mean, I think -- it would suit me -- the quicker we get it done will suit me.

A. Sounds good.

MR. RICHTER: Let's take a short break.

(A recess was taken.)
BY MR. RICHTER:
Q. Can you tell me, please, ma'am, how a child who is sexually molested by a priest is affected by that molestation?
MR. DUKES: Object to form.
A. Depends on the individual child.
Q. Well, let's run the range. How may they most likely be affected? Be affected, first of all.
MR. DUKES: Object to form.
A. I think it depends on the individual again. Some victims I have seen grow up to be high achievers, and some are not. In fact, have much -- have many damages as a result of the abuse.
Q. And how is it -- strike that.
What do you understand the Diocese's liability obligation -- let me rephrase it.
What do you understand is the Diocese's obligation concerning children who are damaged by having been sexually abused by a priest?
MR. DUKES: Object to form.
A. What do I think their obligation is?
Q. Uh-huh.

A. I think their obligation is, of course, to reach out in a pastoral way and offer counseling and try to promote healing of that person. The rest might be a legal question that I can't address in terms of whether there should be compensation or not.

Q. You don't have an opinion as to whether a child who has been raped by his pastor when he's 10 years old should be compensated for having been so raped?

A. I have known some victims who do not want that. So to say that all victims want or need that, I can't say.

Q. I didn't ask you that.

MR. RICHTER: Will you read that back, Madam Court Reporter?

(The pending question was read back by the reporter.)

A. My opinion is that in some cases, they should be compensated, and some cases certain victims don't want to be. So, no. They don't need to be.

Q. Let's talk about only those victims who say they want to be compensated. Should those persons all be compensated?

MR. DUKES: Object to form.

A. I think it depends on the situation of the abuse. It's not one size fits all. Every situation's so very different.

Q. And let's assume for the sake of this question the following, please: Assume that a 10-year-old child is anally penetrated by the fully erect penis of his pastor, a full-grown adult male, do you know how that feels to that child?

MR. DUKES: Object to form.

A. Of course, not.

Q. And do you think that child should be compensated for having been exposed to that penetration?

MR. DUKES: Object to form.

A. I don't know.

Q. Do you know anything about what the public attitude is about that?

MR. DUKES: Object to form.

A. What public attitude?

Q. As to whether or not a child has been raped --

A. You're saying the public --

Q. You asked me a question. We're making a

record, among other things. So please don't interrupt me. I'm not going to interrupt you.

A. Of course, not.

MR. RICHTER: Would you read back the last question to her and the response from her, please, where she poses a question to me and then I begin answering?

(The requested testimony was read back by the reporter.)

Q. And I want to answer your question. "What public attitude?"

What is the public attitude, as you know it, toward compensating the child who has been raped at age 10 by having inserted into his anus the fully erect penis of an -- of his pastor who is an adult male fully grown?

A. I do not know --

MR. DUKES: Object to form.

A. -- what the public attitude is.

Q. And I want to ask you that same question about a child who is a parochial school student who was so raped by his teacher, lay teacher, in that parochial school.

MR. DUKES: Object to form.

A. Are you asking me what the public

attitude is toward that?

Q. If you know.

A. I don't know what the public attitude is.

Q. What about your own attitude? Should that child be compensated or not?

A. Yes.

Q. To what degree? Do you know that?

A. I don't know.

Q. Now, I may be able to -- the file folders that you handed me, I think there were four of them.

A. Yes.

Q. Can you tell me by type of document what is in each of those folders broadly first, and then we'll see whether we need to --

A. Okay. So one is all the bills from Dr. Sherbondy, the psychiatrist who saw John Doe.

Another is a file of all the charges -- billing charges from Ms. Whalen with regard to John Doe.

One is, obviously, just the deposition notices you gave me.

Another is a list of all the prescription charges that were paid for for John

Doe, and then it is what I call common file in that --

Q. Your common file. Is that the word you used?

A. Yes.

Q. I just didn't get the word.

A. June 2016 authorization letter to Dorothy Whalen in treating Mr. Doe and an intake form that just summarizes. There's some phone messages in here.

Q. And that's the entire breadth of your own file about the matter?

A. Yes.

Q. Thank you.

A. Plus the summaries of my meeting with Mr. Doe, with Mr. John Doe, directions to his home.

Q. When did you come into contact with Mr. Doe? Do you recall?

A. I received a phone call from him 3/16 --

Q. I can't hear you while Mr. --

A. That's mine. That's mine.

Q. Oh. It's yours. Would you turn it off, please.

A. I will when it stops.

Q. No. I want it off before it stops 'cause I can't hear you.
A. I don't know how to turn it off until it stops.
Q. Is it your phone? Is that what it is?
A. Yes.
Q. Can you tell me, please, ma'am --
A. This still isn't turned off. I'm sorry.
Q. Just turn it down or whatever you can.
A. I'm trying.
Okay. I got a phone call from him on 3/16 -- 3/16.
Q. March the 16th?
A. I'm not sure if that's the first time because I -- that doesn't have a date as to what year it was. So -- I first heard from him in June 2016. The exact date, I don't have.
Q. I can turn that back down if you need it.
A. Sir?
Q. I can turn that back down since you took your sweater off. Coat off.
A. Oh, no.
Q. Is this the note that you were looking at?

A. I think -- I don't think that was the first phone call I got because I first met him in June. So that might have been the following March.

Q. Oh, I see. This is not -- you met him in June.

A. Yes.

Q. I think you said there are no notes on that.

Now, do you know how he got to you or how you --

A. I don't know.

Q. And then you referred him out, I think you said, to Ms. Whalen; and that was her --

A. He called me. I rode up to Greenville and met with him to his home, heard his story, and then referred him to Ms. Whalen.

Q. Well, let me make sure I'm complete in what I get in here. Do you call that your common file? What do you call it?

A. I was just trying to divide up all these things before on one Thursday or Friday. I just wrote that as common.

Q. Just so you could find them again?

A. Yeah.

Q. I understand.

This letter to -- which I take it to be your first letter to Miss Whalen is dated June 20 of '16. Does that help you recall the time frame?

A. Yes.

Q. Just generally the time that Mr. Doe contacted you?

A. Yes. I had already gone up there before that.

Q. I want to go into your files with you and make some entries into the record. But before we do that, I want to -- I'm trying to close the circle.

You mentioned a Memorial Day contact from someone about victimization at the hands of a priest, I think.

A. Right.

Q. And did you say what happened? What has transpired with that particular case? Where it is or how -- was it resolved if it's resolved?

A. It has not been resolved, and the gentleman is receiving counseling.

Q. At your hands or someone else's hands?

A. Someone else's hands.

Q. Are you familiar with the counseling?
A. Yes.
Q. Do you --
A. And he also goes to the support group -- support group I mentioned.
Q. Yes. You did mention a support group.
So is his counseling being paid for by the Diocese?
A. Yes.
Q. And does that mean that his claim is credible or not?
A. It doesn't matter. I don't know what -- doesn't --
Q. You said that actually --
A. Right.
Q. -- a little earlier.
Well, you heard his -- whatever his story was, didn't you?
A. Yes.
Q. And is it credible or not, in your mind?
MR. DUKES: Object to form.
A. In my mind, yes.
Q. So after you finished, he comes in and sits down. I don't know exactly how it works, but let's assume he calls you up. You invite him

to come in. He comes in and sits down. He tells you his story.

Is that the way that it works?

A. Yes.

Q. And now you've heard what you believe is a credible story of sex abuse by a priest of a minor, I take it, then -- was this person a minor at the time of the abuse?

A. Yes.

Q. So what happens from that point? Where does the information go about him?

A. Well, the information goes to -- I contacted a therapist and the psychiatrist for him to be treated by; and I also let Monsignor Harris know that we had a new claim, and he is the vicar general. He's the person I report to.

Q. He's in Columbia.

A. Well, he comes down here quite a bit.

Q. No. I know that.

And that's the course that this particular -- I'm going to say memorial of that case, if that's all right with you.

A. Yes.

Q. Memorial Day case to then -- then what happens? He goes to those counselors who you

mentioned.

A. Right.

Q. And they begin a course of treatment --

A. Correct.

Q. -- with him.

How does the information get up the line to the bishop if he is the ultimate authority in the Diocese?

A. In that particular case, the victim and I met with the bishop.

Q. Oh, you had a live meeting with the bishop?

A. Yes.

Q. And what was the result of that meeting?

MR. DUKES: Object to form.

A. A bishop heard a story and expressed regret and apologized for what happened, and that was it.

Q. Did the bishop acknowledge that this individual who was accompanying you to this meeting was, in fact, a sex-abused victim by a priest of the Diocese?

A. He said he was sorry what happened to him and sorry for his pain and suffering.

Q. And do you take that apology to be an

apology, an expression of sorrow for this person having been sexually victimized by a priest of this Diocese?

A. I don't know if that's what that means or if the bishop was saying that he was sorry that the victim perceived that he had been abused. I don't know that the bishop was saying what he was hearing was credible or not. I think he was waiting to see what the process of the investigation and the sexual advisory board was.

Q. Well, the bishop didn't say that he was sorry this young man, I take it --

A. Right.

Q. -- that he was sorry this young man perceived that he had been abused. That's not what the bishop said, is it?

A. I don't think so, but I can't really remember.

Q. I understand.

But you were convinced, in any event, because you thought it was credible when you first heard the story. Isn't that what you testified to a few moments ago?

MR. DUKES: Object to form.

A. Yes.

Q. I don't -- I can't use the name of the person who was the perpetrator in the Memorial Day case, but I take it -- well, I shouldn't say "I take it."

Was that person, the priest perpetrator, someone who would have a file kept on him by the Diocese?

A. Was there a file kept on the perpetrator?

Q. Perpetrator, yeah.

A. Yes.

Q. And was that different than a straight personnel file? You may have a -- I don't know whether you have a personnel file. But the bishop's secretary, I guess, would have a personnel file on him or her.

Is that different? Is there some monitoring or sex abuse offense-related file that's kept on that person?

A. I don't know.

Q. You are not an -- well, you are an officer of the Diocese, I guess. You don't have access to -- do you have access to the personnel files of the --

A. No.

Q. What would you have to do to gain access to the file of an accused perpetrator?
A. I don't know that I could gain access.
Q. Have you ever tried?
A. No.
Q. So is the answer you don't know what you'd have to do to gain access?
A. Correct.
Q. So has that matter -- the Memorial Day matter -- has it evolved to an extent that some final call has been made by the bishop, this is a claim we're going to honor, this is a claim we're not going to honor?
MR. DUKES: Object to form.
A. I'm not sure what you're asking me. When you say "a claim we're going to honor," has there been a financial --
Q. I don't know.
A. I don't know either. I don't quite know what you mean by "claim."
Q. Well, somebody calls you up. Do you consider that person a claimant against the Diocese or not?
A. A victim?
Q. Yeah.

A. Coming forward?
Q. You said you referred to them as victims.
A. Right.
Q. Yeah. This person, the Memorial Day person --
A. Right.
Q. -- is that person seeking compensation from the Diocese?
A. I believe so.
Q. You do believe so?
A. Yes.
Q. So do you know whether that person has been notified that his claim or compensation from the Diocese will be honored or whether that person has been told his claim for compensation from the Diocese for this abuse will not be honored?
A. His claim will not be honored.
Q. His claim will not be honored?
A. Correct.
Q. Even though you believe it happened?
A. Correct.
Q. Do you -- can you tell me why that is?
A. I don't know.

Q. How do you know it won't be honored?
A. I think he received a letter saying so.
Q. Not from you.
A. No.
Q. Do you know who the letter came from?
A. I'm not sure if -- I'm not -- I don't know who it's from.
Q. But it's a Diocese letter; correct?
A. Yes.
Q. Yes or no?
A. I said yes.
Q. Oh, I'm sorry. I didn't hear you.
Now, let me put in -- was this letter to Ms. Whalen a part of this file? (Indicating.)
A. Yes.
MR. RICHTER: And I've got copies for y'all, whoever wants copies. Dawes, do you want --
MR. COOKE: I want one. Thank you.
MR. RICHTER: Richard's going to bill the Diocese by pound in this case because we have so much paper going around.
Q. Let me ask you, ma'am, if you can verify that.
MR. DUKES: This is four?

MR. RICHTER: This will be four.

MR. DUKES: And this is the common file? Is that what you're calling it?

MR. RICHTER: Yeah.

Q. I don't mean anything disparaging by the term "common file." That's what we're going to call it, unless that offends you in any way.

A. Doesn't offend me.

Q. Yes, this is the common file. Call it common file. I'm going to hand you, ma'am, what has been marked as Exhibit No. 04 to your deposition.

(Exhibit No. 04 was marked for identification.)

MR. DUKES: Let's make sure when the exhibit is attached to the transcript, we have to redact Mr. Doe's name on the first page, probably throughout.

MR. RICHTER: We will do that. I trust the reporter implicitly.

MR. COOKE: Let me point out some redactions that we've already made in the last document of that packet.

MR. RICHTER: What is the last document?

MR. COOKE: It's an email dated June 15, 2016, to Bonnie Sigers. That's actually for --

THE WITNESS: Monsignor and Bonnie.

MR. COOKE: Right, right. Do you see that? It's a two-page document. One, two, three, fourth paragraph, there are two names that are blacked out; and then on the very last paragraph, there's a name that's been blacked out.

MR. RICHTER: Okay.

MR. COOKE: And those are names of individuals other than Mr. Doe.

Q. You've got that in front of you, ma'am. And let me ask you if you can identify that as being a copy of what we refer to as your common file.

A. Yes.

Q. And is it all-inclusive?

A. Yes.

Q. Okay. Thank you.

MR. RICHTER: This is four in order. I want them all in the record, please.

Q. Let me -- I may want to ask you a question or two about this.

How is this file laid out and assembled? Does it go chronologically from back to front or front to back, or is there any methodology?

A. Back to front. Well --

Q. Yeah. Going from the back, the first writing I see is dated June 15 from you to Bonnie Sigers.

A. Right. And also went to Monsignor Harris.

Q. It's copied to him, yes. I see that.

A. And the intake form is at the top. So it's not back to front. That was actually when I first had contact. I think it's 6/13/16.

Q. Yeah. I see it. 6/13.

A. Keep that at the top to --

Q. Keep that at the top. Okay.

A. Yes.

Q. I will. And where does this June 20 letter fall in the file?

A. That's after I met with him.

Q. Yeah. Where do you have it in your file? I just want to make --

A. I have it on a separate side. (Indicating.)

Q. Separate side. Okay.

A. Yeah.

Q. Well, I'm going to put that at the very back of -- no. I'm going to put it just in front of your June 15 letter to Bonnie Sigers.

A. Right.

Q. Will that be confusing in any way? It's got a sticker on it. It's going to be the first page.

Now, tell me, ma'am, about what you thought of that letter as well as any -- let's go back to the June the 15th letter.

Now, this was written how long after you met with Mr. Doe? Well, it says "yesterday in Greenville." So can we assume that you met with him in Greenville on June the 14th of '16?

A. Yes.

Q. Did he ever come to you here in Charleston?

A. No. I think I must have gotten a call from him on the 13th. I went to see him on the 14th.

Q. And then you went to him the next day. I understand.

And does it accurately represent the factual account that you received from Mr. Doe --

A. Yes.
Q. -- in your first meeting?
Thank you. And did that ever change in any way?
A. No.
Q. Thank you.
Let's go forward a page, which is handwritten. There are two pages of handwritten notes that I see next. One begins with Doe with a Gmail. JGJ at Gmail. Is that your note or someone else?
A. Yes. Mine.
Q. And what is -- what does the very bottom line of that short handwritten page read?
A. Trintellix. Is that what you're referring to?
Q. Yes. So that's one word; and it's a medication, is it?
A. Must be.
Q. And what's the word on the line above that?
A. Looks like task. Tasmer (phonetic). Tapsmer (phonetic).
Q. You don't know what that means?
A. No.

Q. Above that, are we looking at --
A. Publix pharmacy phone number.
Q. A phone number. I see. And what does this entry "small condo" mean on that page?
A. I think he was telling me where he lived.
Q. Now, let's go to the page in front of that. Tell us what information that page contains and what it means.
A. His phone number, his name. I don't know why he told me his cousin was [redacted]. He went to Sacred Heart in Charleston, had two male teachers, Chris Hartnett and Hall Brooks, who molested him and others as well.
Q. And do you know the others who --
A. No.
Q. -- Mr. Hartnett and Mr. Brooks?
A. No.
Q. Can you tell me, please, did you know ever either Mr. Hartnett or Mr. Brooks?
A. No.
Q. And then there are some -- what appear to be Google Maps. Does that --
A. That's to help me get to his condo in

Greenville.

Q. I see.

Then flipping up to the phone call message that you talked about earlier dated 3/16.

A. I know. That doesn't -- I don't -- I don't understand why -- I don't understand that.

Q. Might it not be the year following you meeting him in June?

A. But I didn't need directions to go up there in March. I had already seen him in June.

Q. Well, does this say that you need directions?

A. It says, "Get directions for Louisa." That's my husband's writing.

Q. It says what?

A. Right here, it says, "Get directions for Louisa." That's my husband's writing. (Indicating.)

Q. I see.

A. One mile off of 385 and then his address. So I don't know -- I can't explain that date. It seems like he would have -- that would have been a June thing for -- I don't know. I can't tell you.

Q. But you didn't know Mr. Doe before the

initial contact from --

A. No. No, sir.

Q. And that was, clearly, June of '16.

A. Yes. '13.

Q. June 13 of 2016. Did you say your husband works in your office?

A. He does.

Q. And is it typical that he would be working in a file to this extent?

A. He answers the phone. That's a phone message.

Q. Yeah. But it's working the file, isn't it?

A. He's, like, my admin person.

Q. Then I'd like to go, please, to the next sheet, which at the top says, "As of 11/1 of '18 at 5:30 p.m." What does that mean?

A. I'm sorry.

Q. This is the Diocese of Charleston --

A. Yeah. I know. I'm just -- as of. Okay. I thought -- I was trying to go through each victim and write down how much treatment, how much we were paying, and so forth, try and get a handle on what I've done with each victim. I was doing that in every file.

Q. What inquiry did you make into the abuser Hartnett -- and I'm going to ask you the same thing about abuser -- I can't even say his name. The second person.

MR. DUKES: Brooks.

Q. Brooks.

A. What inquiry?

Q. Yes, ma'am.

A. Well, the inquiry was hearing that they taught him at Sacred Heart; and he just told me that. I didn't inquire.

Q. And same thing for Brooks?

A. Yes.

Q. Now, were you -- when you met Mr. Doe, were you familiar with Sacred Heart school?

A. Yes.

Q. And were you familiar with sex abuse --

A. Yes.

Q. -- occurring at Sacred Heart school?

A. No. Not prior to that.

Q. Did you know in your life ever Eddie Fischer?

A. I never met him.

Q. Do you know who he is or was?

A. Correct, yes. I guess he was at Sacred

Heart then.

Q. Yes, ma'am.

A. I had forgotten that.

Q. He was. And do you know anything about Father Frederick Hopwood abusing students at Sacred Heart?

A. I just didn't put together that's where he was also. I didn't know where all these priests were but I --

Q. Well, let's make the record clear.

A. Sure.

Q. Fischer was not a priest. He --

A. I understand.

Q. -- was a teacher at Sacred Heart.

Now, Hopwood, you're correct, was a priest.

A. I didn't know where all Hopwood was located.

Q. Well, you -- whether Hopwood was assigned to Sacred Heart or not, that doesn't keep him from going there and abusing someone.

A. Correct.

Q. You do agree?

A. That's a possibility.

Q. Thank you.

And you actually made up the information that's here on this victim summary sheet?

A. Right. Right.

Q. You are -- are you comfortable with the basis that Mr. Doe articulated for having depression and suicidal ideation?

A. Am I comfortable with the fact that he said that or --

Q. I mean, is it -- yeah. What I'm trying to ask you, is that what you would expect from him or somebody like him?

A. Would I expect --

MR. DUKES: Object to form.

A. I'm sorry. He said that he was depressed, and he had thoughts of suicide. Yes, I believed him.

Q. Okay. Thank you.

And then that your note at the bottom of the intake involving child -- incident involving child, that form, indicates Dorothy Whalen as being the person to whom you referred him.

A. Right.

Q. And then the next and my last page in this file -- and I take it your last page in the file as well -- is this June the 20th letter to

Dorothy Whalen.

Please, what is -- what is this letter? If it has a particular reference?

A. Authorizing her to treat John Doe and have her to send the bill to us so she would get paid.

Q. And that's your call, and that's what you --

A. Yes.

Q. Your function was carried out here.

A. Right.

Q. This way.

A. Yes.

Q. I wonder if you could, please, because I'm confused. If you could look down, please, to the third paragraph. Second sentence in that paragraph, publish it. Paragraph, publish it out loud in the record, please.

A. If I can assist in the healing --

Q. If I can assist, correct, that line.

A. "If I can assist in the healing of our mutual client, if you have concerns or need" -- it should say further clarification -- "you can reach me at my direct phone number, which is [redacted] or [redacted]."

Q. And who is your mutual client?
A. John Doe.
Q. And that's who you told me you call a victim?
A. Yes. I also --
Q. You also call him a client, don't you?
A. Yes. Apparently.
Q. You seem to maintain that status as mutually having him as a client with Miss Whalen, don't you?
A. In that, I handle her treatment request as when she called and said that he was continuing to have depression; and she wanted to refer him to Dr. Sherbondy, and so that's what I was suggesting. And that's what ended up happening when she referred him to a psychiatrist for further care.
Q. Did you ever have any interaction with any of the victims of the Priest Eugene Condon or Gene Condon?
A. I don't know.
Q. Each person whom, among other things, had a footlocker or some photographs --
A. Right.
Q. -- of the boys, naked photos of boys.

A. Uh-huh.

MR. DUKES: And presided over Dawes Cooke's wedding.

THE WITNESS: Oh, crap. Sorry.

(Off-the-record discussion was held.)

BY MR. RICHTER:

Q. You don't know whether you had any interaction with any of those people?

A. I don't know.

Q. Do you know how many there were?

A. I assume a lot, but I don't know how many.

Q. Do you know how many photos there were?

A. No, I don't. You just said a footlocker full. So I'm not sure how many that is.

Q. Do you know how long his abuse went on?

A. I don't know.

Q. And do you know what happened -- what the bishop did when he learned of the abusive conduct of Gene Condon?

A. I do not.

Q. Thank you.

Now, these next ones, can you tell us who Rose Bundy is, please?

A. She is at the Diocese. She is an

assistant to Bonnie Sigers, who was out on sick leave. Mr. Doe had -- there's a letter from Mr. Doe that's not --

MR. DUKES: Do you have a copy of that letter?

MR. RICHTER: Yeah. Well, I should. Yeah, I do.

MR. DUKES: Thank you. Will you put this in the record?

MR. RICHTER: I'm going to, yes.

MR. DUKES: Okay.

Q. I just want to understand what it is before --

A. I'm trying to -- there is a letter from Mr. Doe that does not have a date on it, but he was talking about receipts for medicines and he -- here are the receipts totaling.

So I think the man owed now 239. So I -- I think in view of the fact that -- I think Miss Sigers was out on sick leave, and that's why I was communicating with Rose with regard to some of the receipts on the prescriptions.

Q. For reimbursement or payment to --

A. Yes. And at some point he was fired from his job, and I think that we changed

pharmacies. I think that there's a letter from my husband Joe over to Rose with regard to this.

Q. I'm looking for the letter from Mr. Doe. Is that what you're referring to? (Indicating.)

A. This is what it looks like. (Indicating.)

Q. This one? (Indicating.)

A. Yes.

Q. Thank you.

So, in other words, you got a request from Mr. Doe to be reimbursed for the cost of his various medications?

A. Right.

Q. And did you honor that request?

A. Yes.

MR. RICHTER: And I'm going to mark this as No. 05, please.

(Exhibit No. 05 was marked for identification.)

Q. Can you authenticate, please, No. 05 as being a photocopy of your file there?

A. (Complies with request.) Correct.

(Exhibit No. 06 was marked for identification.)

Q. Next, please, I have the following

documents which are labeled as No. 06 in order.

Can you authenticate that as being a copy of your full file concerning prescriptions they're filling and paying for them as it relates to John Doe in this case?

(Exhibits No. 07, No. 08, and No. 09 were marked for identification.)

A. It's not in the same order so it's taking me --

Q. That's all right. Take whatever time you need.

MR. DUKES: Just so I'm clear on the numbers, the set of documents regarding Mr. Doe being reimbursed with a couple of handwritten notes or letters in there, that is Exhibit No. 05?

MR. RICHTER: Yeah. That's No. 05.

MR. DUKES: And then the file of -- at the top says Diocese Prescription Charges for John Doe, that's No. 06?

THE REPORTER: Yes.

MR. DUKES: And then the two-page documents with Diocese Victims Cost Record, three pages, is No. 07?

THE REPORTER: Yes.

MR. DUKES: The claim forms coming from Miss Whalen to Louisa is No. 08?

THE REPORTER: Yes.

MR. DUKES: And then No. 09 are the Sherbondy bills. I just want to make sure I have them marked correctly.

THE REPORTER: Yes.

MR. DUKES: Thank you.

A. These are all out of order from my --

Q. It's substantively the same thing. That's what I'm asking you.

A. Yes.

Q. And I'm going to ask you about these other files that you handed in to me. I just need to get you to authenticate that those are actual copies of your file. I don't want to take your file from you.

A. Yes, sir.

Q. So let's go through No. 07, No. 08, and No. 09 as well.

A. Yes.

Q. Thank you, ma'am. I want to put all of those in, please.

And now, you didn't have any part, did you, in incurring the costs for or conducting the

actual sessions with Dorothy Whalen that John Doe attended, did you?

A. Could you repeat the question?

MR. RICHTER: Yeah. Could you read it back, please, ma'am.

(The pending question was read back by the reporter.)

A. Incurred the cost. I authorized the cost of the sessions. I did not attend any of the sessions.

Q. Okay. Thank you.

And I want to ask those same questions about the insurance --

A. Insurance?

Q. -- reimbursement forms.

A. Is that for Whalen?

Q. I can't read.

A. Who are those for? Was that Greenville Therapy Center?

Q. This is -- yes.

A. Those aren't insurance forms. That's them billing us. They're using -- they used insurance forms, but insurance wasn't billed.

Q. This says "Insurance Claim Form" on it.

A. Yeah.

Q. But those aren't the costs that you incurred in --

A. I authorized them.

Q. You authorized. Okay.

And you authenticated the accuracy of those already; and then I'd like to ask you about the Sherbondy packet of documents, which is Exhibit No. 09.

A. Right.

Q. Same question.

A. Yes.

Q. Okay. Thank you, ma'am.

MR. RICHTER: Now we've got all those in the record. Please put, madam reporter, all of those in the record, if they're not.

Q. Now, I'd like to know, please, about -- the questions that I have posed to you thus far have been in Case No. 2018-CP-10-3929, John Doe's case.

A. Right.

Q. I'm now going to ask you a few things about Case No. 2018-CP-10-4206 for which you were also noticed for deposition. Do you recall that?

A. Which one was that?

Q. This is -- Roe is the --

A. Yes.
Q. And then I'm going to -- let me do that first. As to Richard Roe, who we know is Richard Roe. As to Mr. Roe, what has been your involvement with him and his claim?
A. I have no involvement with him. I have had no involvement.
Q. No involvement at all?
A. No.
Q. Did you know the Roe family here in Charleston?
A. No.
Q. Did you know the Doe family here in Charleston?
A. Some of them.
Q. Lot of them.
A. (Nods head.)
Q. I think I may have asked you this. I'm sorry if I'm repeating myself.
Did you counsel Gene Condon in any way?
A. No.
Q. And the perpetrators in the Roe case, I'd like to ask you about, please, Father Frederick Hopwood. Did you counsel him in any way?

A. No.
Q. And Reverend William Croghan, did you counsel him in any way?
A. No.
Q. Did you counsel any of -- and I realize how long ago this was, and I'm respectful of your youth. Did you counsel any of the Eddie Fischer victims from Sacred Heart school?
A. No, sir. Wait a minute. Wait. Yeah. Yes, sir. I mean, not counsel. I didn't counsel them. I met with one.
Q. In the same process --
A. Same process.
Q. -- that you've been describing?
A. Yes.
Q. And when was that? Do you remember?
A. Years ago. I don't remember when.
Q. I just wondered if it was at the time -- if you remember, if it was at the time, generally, of the class action matter that --
A. Probably before.
Q. Yeah. That was not until 2006 or '7 or something.
A. Yeah. I think that was before.
Q. And same question about Frederick

Hopwood victims from Sacred Heart school. Did you have occasion to counsel any of them or deal with them in any way?

A. I don't even know who they were.

Q. Okay.

A. I mean, I may have. I mean, I don't think I counseled them about it.

Q. If so, likely, it was processing like --

A. Correct.

Q. -- the same way that you processed in the Doe case that we've just been through?

A. Yes.

Q. And as to Roe, you don't know him personally?

A. No.

Q. And have you received any information concerning him?

A. The only information was with the conversation that Elaine mentioned, that request for his therapy bills. I mentioned I heard briefly last week and maybe two weeks before.

Q. And I think you said you didn't press her about why those had not been paid?

A. No.

Q. Now --

A. I didn't --
Q. Go ahead.
A. I don't -- I didn't know that they had or hadn't been paid.
Q. I understand.
As to Roe, have you come to have any knowledge concerning the degree of his injuries resulting --
A. No.
Q. -- from sex abuse at the hands of priests at the Diocese of Charleston?
A. No, sir.
Q. Thank you.
Let me ask you, please, ma'am, I asked you some substantive questions, which I'd like to avoid going over fully again, if we can.
For example, I asked you about compensation for victims, that sort of thing. Several things that we talked about. Do you recall that?
A. Yes.
Q. If I pose those same questions to you here concerning the Roe matter, Richard Roe matter, would your responses be the same?
A. I -- I'm not sure what the questions are

that -- or what the response was with regard to him because I don't know anything about him or his abuse.

Q. Well, I think you better cancel your 1:30 because I'm going to have to go back through. We've got it all here before us and --

A. It's a 1 o'clock.

Q. Well, 1 o'clock, whatever it was.

A. Will I be available for my 2 o'clock?

Q. I don't know. We're going to have to do this with Roe. Then we're going to have to do it with the third.

MR. COOKE: For what it's worth, I thought you were doing all three simultaneously.

MR. DUKES: The question accounts for all three victims.

MR. COOKE: The general questions you asked her weren't specific to any victim. They were just questions about her knowledge so --

MR. DUKES: About victims.

MR. COOKE: Yeah.

MR. DUKES: I think you've already asked the questions sufficiently --

MR. RICHTER: Here's my question.

Can we -- do y'all think we can -- if there needs to be any further repetition or any further examination, can we all just stipulate that one examination under whatever name it occurred counts for all?

MR. DUKES: I think your questions, Larry, were general enough that, I mean, you didn't ask specifically of Mr. Doe. You said victims, and I think her answers to that were -- would be consistent depending -- for any victim that you asked.

MR. RICHTER: And can you stipulate to that?

MR. DUKES: Yeah.

MR. RICHTER: Dawes, is that all right with you?

MR. COOKE: Sure.

MR. RICHTER: Okay. Thanks. Probably can keep your 1 o'clock.

THE WITNESS: (Thumbs up.)

Q. Now, having heard that, do you understand that we're treating your answers to the general questions that I asked you about things, like compensation, as being applicable across the board?

A. Right.
Q. Are you comfortable with that?
A. Yes.
Q. Okay. Thank you.
Now, let's go to, please, Case No. 2019-CP-10-1120, John Doe 432. And I think we identified to you that that was the plaintiff named Doe 432.
A. Correct.
Q. Do you know him?
A. I don't, although I think there were some Doe 432s who grew up around Queen Street, but I think they were my brother's ages; but I don't know him.
Q. Neither did I until --
A. Yeah.
Q. -- this.
MR. RICHTER: Don't put this on the record.
(Off-the-record discussion.)
BY MR. RICHTER:
Q. Ma'am, do you understand where we are now? I'm asking you about Mr. Doe 432 and what your contact has been with him, John Doe 432?
A. I've had no contact.

Q. At all?
A. None.
Q. And do you know whether the Diocese is paying any counseling costs for him or prescription costs or anything else?
A. Not that I know of.
Q. And you said you knew maybe some Doe 432s, but the brothers --
A. My brothers would talk about Doe 432s around the corner, I think at the cathedral, when we were kids.
Q. He did go to the cathedral, this person.
A. I don't know if it's the same family or not.
Q. But in any event, you haven't had any dealing with him?
A. No.
Q. Well, then I don't know that -- I can tell you that his perpetrator was Frederick Hopwood, and I think you indicated you knew who Frederick Hopwood was; and do you know anything about the degree of his career on sexual abuse?
A. Yes.
Q. What is your understanding of it?
A. I just know that he sexually abused

children, or that's what I heard.

Q. Did you have occasion to either counsel any of those or to oversee the referral of any of those people's care?

A. I don't know.

Q. And then the same. We'll treat your other answers the same way that we described earlier; and I think with that, I can stop. But they may want to go forward.

MR. DUKES: I don't have anything for you, Louisa. Thank you.

MR. COOKE: No questions.

MR. RICHTER: That's it.

(The deposition concluded at 12:04 p.m.)

- - -

CERTIFICATE OF REPORTER
STATE OF SOUTH CAROLINA
COUNTY OF HORRY

I, Ronda K. Blanton, a Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the witness in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and location therein stated; that the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed by computer-aided transcription; that the foregoing is a full, complete, and true record of the testimony of the witness and of all objections made at the time of the examination; and that the witness was given an opportunity to read and correct said deposition and to subscribe the same.

Should the signature of the witness not be affixed to the deposition, the witness shall not have availed himself/herself of the opportunity to sign or the signature has been waived.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal on November 25, 2019, at Myrtle Beach, Horry County, South Carolina.

Ronda K. Blanton
NCRA REGISTERED PROFESSIONAL REPORTER, RPR
Notary Public,
State of South Carolina at Large
My Commission expires:

May 15, 2028.

DEPONENT CORRECTION SHEET

I, the undersigned, MARY LOUISA STOREN, do hereby certify that I have read the foregoing deposition

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON John Doe, Plaintiff, vs. Bishop of Charleston, a Corporation Sole and The Bishop of the Diocese of Charleston, in his official capacity, Defendants.	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CA No. 2018-CP-10-3929 **NOTICE OF DEPOSITION OF LOUISA STOREN**

TO: Louisa Storen

PLEASE TAKE NOTICE that the attorneys for Plaintiff will take the oral testimony by deposition of the below named individual at the time and date listed below. Said deposition will be taken before a qualified notary public in the offices of **The Richter Firm, LLC, 622 Johnnie Dodds Blvd., Mt. Pleasant, SC 29464.** This deposition is to be taken pursuant to Rule 30 of the South Carolina Rules of Civil Procedure.

Said deposition is being taken for pre-trial discovery, for use at trial and for such other purposes as may be permitted by law. The deposition will continue from day to day until completed.

Louisa Storen
November 18, 2019 at 9:30 am

Signature block to follow on next page



THE RICHTER FIRM, LLC

By: Lawrence E. Richter, Jr.
622 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464
(843) 849-6000

ATTORNEYS FOR PLAINTIFF

Nov. 4, 2019
Mt. Pleasant, South Carolina

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF CHARLESTON

John Doe, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

Bishop of Charleston, et al., Defendants

Case Number: 2018-CP-10-03929

Pending in Charleston County

TO: Louisa Storen, LISW, LMFT
757 Johnnie Dodds Blvd #100,
Mt Pleasant, SC 29464

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
The Richter Firm, LLC 622 Johnnie Dodds Blvd. Mt. Pleasant, SC 29464	November 18, 2019, 9:30AM

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

Any and all documents in your possession or control relating to John Doe.

PLACE	DATE AND TIME
The Richter Firm, LLC 622 Johnnie Dodds Blvd. Mt. Pleasant, SC 29464	November 18, 2019, 9:30AM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
	, AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature Indicate if Attorney for Plaintiff or Defendant	11/4/19 Date	Lawrence E. Richter, Jr. Print Name

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Attorney's Address and Telephone Number :
The Richter Firm, LLC, 622 Johnnie Dodds Blvd., Mt. Pleasant, SC 29464

843-849-6000

Clerk of Court/Issuing Officer's Signature | Date | Print Name

Pro Se Litigant's Name, Address and Telephone Number :

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE	☐YES ☐NO AMOUNT $
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A)A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON Richard Roe, Plaintiff, vs. Bishop of Charleston, a Corporation Sole and The Bishop of the Diocese of Charleston, in his official capacity, Defendants.	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CA No. 2018-CP-10-4206 **NOTICE OF DEPOSITION OF LOUISA STOREN**

TO: Louisa Storen

PLEASE TAKE NOTICE that the attorneys for Plaintiff will take the oral testimony by deposition of the below named individual at the time and date listed below. Said deposition will be taken before a qualified notary public in the offices of **The Richter Firm, LLC, 622 Johnnie Dodds Blvd., Mt. Pleasant, SC 29464.** This deposition is to be taken pursuant to Rule 30 of the South Carolina Rules of Civil Procedure.

Said deposition is being taken for pre-trial discovery, for use at trial and for such other purposes as may be permitted by law. The deposition will continue from day to day until completed.

Louisa Storen
November 18, 2019 at the conclusion of the deposition in
Case #2018-CP-10-3929

Signature block to follow on next page



THE RICHTER FIRM, LLC

By: Lawrence E. Richter, Jr.
622 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464
(843) 849-6000

ATTORNEYS FOR PLAINTIFF

Nov 4, 2019
Mt. Pleasant, South Carolina

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF CHARLESTON

Richard Roe, Plaintiff

v.

Bishop of Charleston, et al., Defendants

SUBPOENA IN A CIVIL CASE

Case Number: 2018-CP-10-4206

Pending in Charleston County

TO: Louisa Storen, LISW, LMFT
757 Johnnie Dodds Blvd #100,
Mt Pleasant, SC 29464

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
The Richter Firm, LLC 622 Johnnie Dodds Blvd. Mt. Pleasant, SC 29464	November 18, 2019, at the conclusion of the deposition scheduled in case #2018-CP-10-3929.

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

Any and all documents in your possession or control relating to Richard Roe.

PLACE	DATE AND TIME
The Richter Firm, LLC 622 Johnnie Dodds Blvd. Mt. Pleasant, SC 29464	November 18, 2019, at the conclusion of the deposition scheduled in case #2018-CP-10-3929.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
	, AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE. TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature
Indicate if Attorney for Plaintiff or Defendant

11/4/19
Date

Lawrence E. Richter, Jr.
Print Name

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Attorney's Address and Telephone Number :
The Richter Firm, LLC, 622 Johnnie Dodds Blvd., Mt. Pleasant, SC 29464

843-849-6000

Clerk of Court/Issuing Officer's Signature | Date | Print Name

Pro Se Litigant's Name, Address and Telephone Number :

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE	☐YES ☐NO AMOUNT $
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A)A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON John Doe 432, Plaintiff, vs. Bishop of Charleston, a Corporation Sole and The Bishop of the Diocese of Charleston, in his official capacity, Defendants.	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CA No. 2019-CP-10-1120 **NOTICE OF DEPOSITION OF LOUISA STOREN**

TO: Louisa Storen

PLEASE TAKE NOTICE that the attorneys for Plaintiff will take the oral testimony by deposition of the below named individual at the time and date listed below. Said deposition will be taken before a qualified notary public in the offices of **The Richter Firm, LLC, 622 Johnnie Dodds Blvd., Mt. Pleasant, SC 29464.** This deposition is to be taken pursuant to Rule 30 of the South Carolina Rules of Civil Procedure.

Said deposition is being taken for pre-trial discovery, for use at trial and for such other purposes as may be permitted by law. The deposition will continue from day to day until completed.

Louisa Storen
November 18, 2019 at the conclusion of the deposition in Case #2018-CP-10-4206

Signature block to follow on next page



THE RICHTER FIRM, LLC

By: Lawrence E. Richter, Jr.
622 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464
(843) 849-6000

ATTORNEYS FOR PLAINTIFF

May 4, 2019
Mt. Pleasant, South Carolina

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF CHARLESTON

John Doe 432, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

Bishop of Charleston, et al., Defendants

Case Number: 2019-CP-10-1120

Pending in Charleston County

TO: Louisa Storen, LISW, LMFT
757 Johnnie Dodds Blvd #100,
Mt Pleasant, SC 29464

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
The Richter Firm, LLC 622 Johnnie Dodds Blvd. Mt. Pleasant, SC 29464	November 18, 2019, at the conclusion of the deposition scheduled in case #2018-CP-10-4206.

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

Any and all documents in your possession or control relating to John Doe 432.

PLACE	DATE AND TIME
The Richter Firm, LLC 622 Johnnie Dodds Blvd. Mt. Pleasant, SC 29464	November 18, 2019, at the conclusion of the deposition scheduled in case #2018-CP-10-4206.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
	, AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature
Indicate if Attorney for Plaintiff or Defendant

11/4/19
Date

Lawrence E. Richter, Jr.
Print Name

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Attorney's Address and Telephone Number :
The Richter Firm, LLC, 622 Johnnie Dodds Blvd., Mt. Pleasant, SC 29464

843-849-6000

Clerk of Court/Issuing Officer's Signature | Date | Print Name

Pro Se Litigant's Name, Address and Telephone Number :

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE	☐YES ☐NO AMOUNT $
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A)A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

7 IN OUR MAILBOX
20-16 (>5PM)

THE DIOCESE OF CHARLESTON

June 20, 2016

Dorothy K. Whalen, MSW
3519 Pelham Rd.
Greenville, SC 29615

Re: [redacted]

Dear Ms. Whalen:

The purpose of this letter is to let you know that I am referring the above named individual to you for psychotherapy. In my capacity of Victim Assistance Coordinator, I am letting you know that the Diocese of Charleston will be responsible for payment of your services.

As part of this office's stewardship and accountability, I request that all bills be submitted on a monthly basis. It is particularly important to include your social security number and license number. Our Financial Services Department requires that all bills include the provider's social security number for tax purposes prior to payment.

Your monthly bill, including your license number and tax identification number, should be mailed to Louisa Storen, LISW at 757 Johnnie Dodds Blvd., Ste# 100, Mt. Pleasant SC 29464. If I can assist in the healing of our mutual client, if you have concerns, or for further clarification, you can reach me at my direct phone number which is (843) 416-1103 or (843) 856-0748.

It is my hope that the detailed information in this letter will help you and prevent any misunderstanding of our procedures. Thank you for your willingness and professional expertise to work with this office in assisting those who have reported being hurt by a member of the church find healing.

Sincerely yours,

Louisa

Louisa Storen, LISW
Victim Assistance Coordinator

Thanks Dorothy!

EXHIBIT
Storen
4
11/19/18 RB
PENCAD 800-631-6989

Child Protection Services
Post Office Box 818 • Charleston, SC 29402
Phone (843) 853-2130 ext.216 • Confidential Fax (843) 723-1649 • www.catholic-doc.org

Roman Catholic
DIOCESE
OF CHARLESTON

INCIDENT INVOLVING CHILD
INTAKE FORM

DATE REPORTED: 6/13/16

PERSON COMPLETING INTAKE FORM: Louisa Storen, LISW, VAC Diocese of Chas.

DATE OF INCIDENT: Many years ago

CALL RECEIVED FROM: [redacted]

WHO WAS INVOLVED IN INCIDENT: Teachers Chris Harnett & Hal Brooks (both deceased)

PARISH OF INCIDENT: Sacred Heart Elementary School

WHAT IS THEIR CONCERN: Depression. History of suicidal ideation

HAVE THEY CONTACTED ANYONE ELSE YET, IF YES, WHOM!

_____

_____

DO THEY KNOW IF LAW ENFORCEMENT OR DSS IS INVOLVED?

_____

_____

OTHER PERTINENT INFORMATION: [redacted] has been referred to Dorothy Whalen, LISW, for therapy.

DIOCESE OF CHARLESTON: VICTIM SUMMARY SHEET
(From: VAC Database 1)

COMPLAINTANT NAME: [redacted]
DATE OF INITIAL COMPLAINT:
DATE FILE CLOSED:

ALLEGED ABUSER 1: Harnette, Chris ABUSER POSITION: Teacher
ABUSER STATUS: Deceased

ALLEGED ABUSER 2: Brooks, Hal ABUSER STATUS: Deceased
ABUSER POSITION: 0

ALLEGED ABUSER 3: , ABUSER STATUS:
ABUSER POSITION:

LOCATION OF ABUSE: Sacred Heart Elementary School
DIOCESE OF ABUSE: Charleston
CURRENT DIOCESE OF COMPLAINANT: Charleston
WHEN DID ABUSE HAPPEN: Many years ago
STATUS OF CASE: In Treatment

TREATMENT ENTITY 1: Whalen, Dorothy, MSW, LISW
TREATMENT START DATE: 06/20/16
TREATMENT END DATE:
TREATMENT COST: $3,215

TREATMENT ENTITY 2: Sherbondy, Shane, MD
TREATMENT START DATE: 04/03/17
TREATMENT END DATE:
TREATMENT COST: $1,235

TREATMENT ENTITY 3: Pharmacies (Presecription Meds)
TREATMENT START DATE: 43025
TREATMENT END DATE:
TREATMENT COST: $ 453

TREATMENT ENTITY 4:
TREATMENT START DATE:
TREATMENT END DATE:
TREATMENT COST:

OTHER COST:

NOTES & COMMENTS
Depression and history of suicidal ideation.

GET DIRECTIONS FOR LOUISA

PHONE CALL

FOR LOUISA DATE 3-16 TIME 9:23 A.M. P.M.

M [redacted]

of [redacted] 385

PHONE [redacted] CEL [redacted]

MESSAGE nieces + nephews' graduation [redacted]

SIGNED [redacted]

- [x] TELEPHONED
- [x] RETURNED YOUR CALL
- [x] PLEASE CALL
- [ ] WILL CALL AGAIN
- [ ] CAME TO SEE YOU
- [ ] WANTS TO SEE YOU

YOUR TRIP TO:

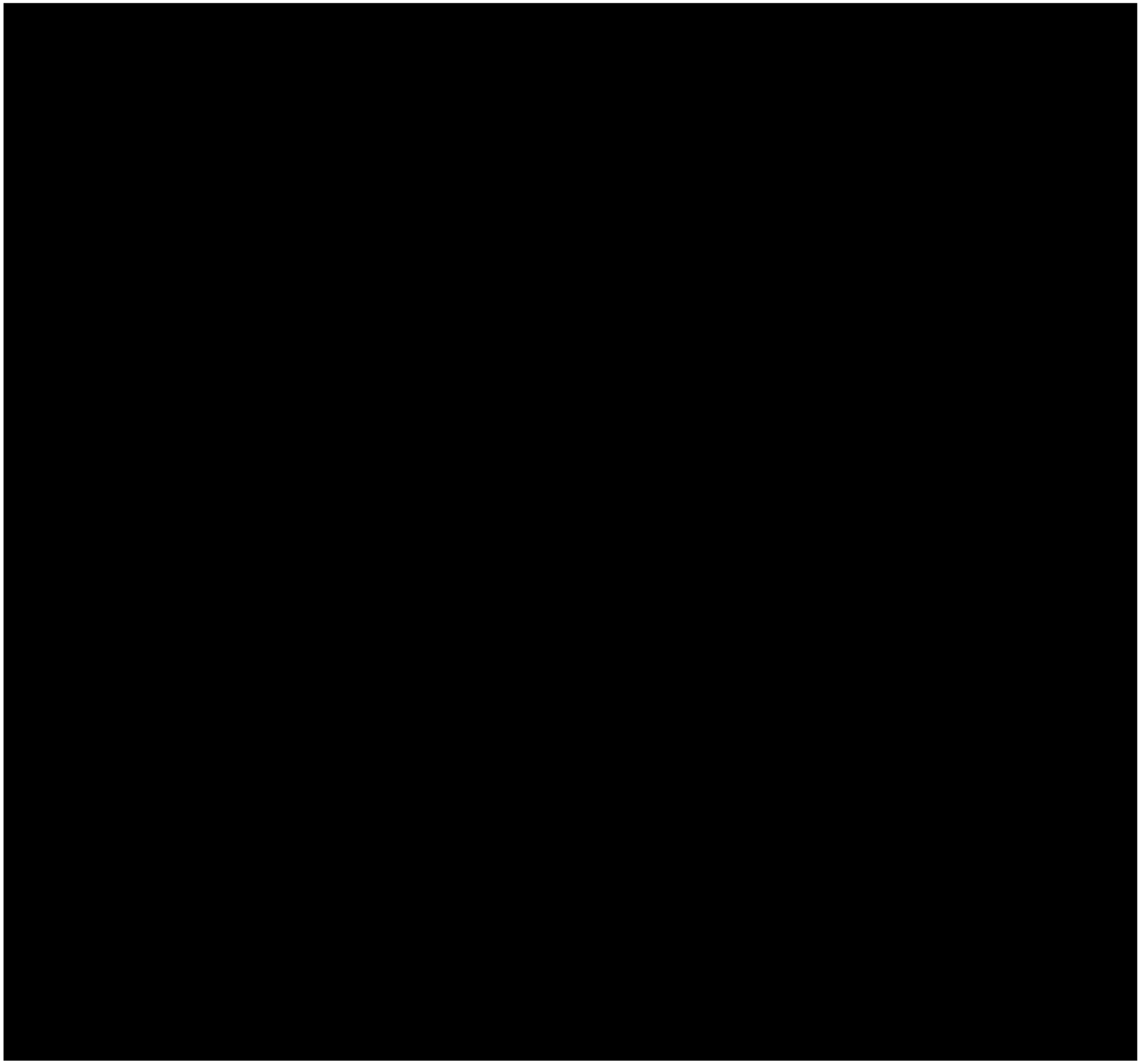
[redacted]

[redacted]









[redacted] [redacted]

[redacted]

Cousin: [redacted]

Chas. ~~Catholic~~ Do Sacred Heart +
2 male teachers
Chris Hornette & Hal Brooks
Molested others as well

[redacted]

Small condo [redacted]

[redacted]

[redacted] Publix

Tasha

Trintellix

Bonnie Sigers

From: Louisa Storen <louisa@louisastoren.com>
Sent: Wednesday, June 15, 2016 1:03 PM
To: Bonnie Sigers
Subject: FW: [redacted]

From: Louisa Storen [mailto:louisa@louisastoren.com]
Sent: Wednesday, June 15, 2016 12:08 PM
To: 'Msgr. Richard D. Harris, V.G.' <msgrharris@stjosephcolumbia.org>
Subject: [redacted]

Dear Monsignor,

I met with [redacted] for a couple hours yesterday in Greenville. I learned the following:
His father, [redacted], a realtor (a partner of Joseph Griffith) and legislator from Charleston. [redacted] was the second of seven children.

[redacted] related that at the age of five he was molested by a neighbor boy who was 16. He never told anyone. [redacted] stated he had a disastrous few years in elementary school at Sacred Heart in that he repeated first and second grades twice. When he was eleven years old he was repeatedly molested by two teachers – Chris Hartnett and Hal Brooks. He said that on several occasions he was taken on an outing in Columbia with Mr. Hartnett and they went to a house where there was a "party" involving Mr. Harnett, Mr. Brooks and some other boys. [redacted] did not tell anyone (his father wasn't around much due to his time at the State house). [redacted] decided his only way to stop the abuse was to run away. At thirteen he ran away for the first time to California. The next few years consisted of his being returned home, being put in juvenile detention, being put in several different schools and running away repeatedly. In his early 20's [redacted] joined the Marine Corps. Eventually he married a woman and they had three children. His wife and three children were killed in house fire, which led to [redacted] becoming extremely depressed and suicidal. He had a child outside of marriage, a son who lives in Florida with two grandchildren. Nine years after the fire he remarried a woman who had five daughters. This has been an exceedingly happy marriage and he enjoyed helping her raise her daughters.

Three years ago he and his wife moved to Greenville because one of her daughters lives there. He suffers from heart disease and diabetes. Currently he works as a meat cutter at Publix and his wife works at the local technical college. During his life [redacted] had many different jobs including a landscaping business in Charleston.

Other pertinent information include: [redacted] noted that two other boys were abused by these same teachers. Their names are [redacted] and [redacted]. As an adult [redacted] approached Ralph about their shared experience and only said "that faggot's dead". Mr. Hartnett in fact did die of Aids. [redacted] does not have any idea what happened to Hal Brooks. When he was in school [redacted] was befriended by another teacher who was also gay name Jeff Pelham. [redacted] believed that Mr. Pelham suspected the other two teachers had been inappropriate with [redacted] but the two of them never talked about it.

During the years while in Charleston [redacted] was an active member of the Cathedral. He spoke fondly of Monsignor Roth. He thought about confiding in Monsignor Roth but never did. [redacted] wife does not know about the molestation he suffered as a child. Previously he went to a counselor at the VA outpatient clinic in Greenville. He said the counseling was devastating for him and felt the counselor dug too deeply and too quickly into these painful memories. He did not want to go back there. Since that counseling experience, he has been unable to think about anything else. He said that he had not slept for three nights prior to my visit. I have offered him counseling with an experienced therapist in

Greenville that we have used before. [redacted] was especially pleased that she was Roman Catholic and would like to see her.

[redacted] had a great deal of trouble telling me his story. Frequently, he broke down in tears and would not talk about parts of his life eg. The details of the house fire. I did not take notes and am not completely sure about some details; he may only have four stepdaughters.

With your approval, I will set him up with therapist, Dorothy Whalen. Please let me know if I should ask him if he is willing to talk to Paul Buseti and also if this case and need to go before the sexual advisory board. Please call me with any questions.

Sincerely, Louisa

Total Control Panel Login

To: bonnie@catholic-doc.org Remove this sender from my allow list
From: louisa@louisastoren.com

You received this message because the sender is on your allow list.

Joe Boyd

From: Joe Boyd <joe@louisastoren.com>
Sent: Tuesday, June 11, 2019 12:09 PM
To: 'Rose Budney'
Cc: 'louisa'
Subject: [redacted] Receipts for Prescription Reimb
Attachments: [redacted] PrescripReimbDocs_8-6-18to5-14-19.pdf

Hi Rose,

Ok, I think I now have all the documents and receipts, which I have attached. There is also the letter [redacted] included to Louisa that explains a couple things. Also included is a reconciliation I did to match up his total with the receipts. The only thing is that they don't match entirely. He says we owe him $320.94 and I came up with $295.48 for a difference of $25.46. There are a few receipts that I think are duplicates. If you include these duplicates the numbers still don't match up exactly, there is a difference of $7.16 then? You can see these calculations on the spreadsheet I included.

We received this packet of information via his attorney regarding his case with the diocese and asked for reimbursement per our agreement. So Louisa would like the diocese to just go ahead and use [redacted] $320.94 amount. If you need authorization from Monsignor Harris Louisa said she will talk to him about contacting you.

Thanks Rose, take care.
Joe



Joe Boyd

From: Rose Budney <rbudney@charlestondiocese.org>
Sent: Tuesday, June 11, 2019 8:52 AM
To: Joe Boyd
Subject: RE [redacted] Reimbursement For Prescription Meds

Joe,

Good morning. I believe I will need the receipts.

Blessed Day!

Rose

Rose Budney
Administrative Assistant
Office of Child and Youth Protection

EFFECTIVE SEPT. 1, 2018: All diocesan emails will be sent to your **charlestondiocese.org** email addresses. Don't wait; get yours set up today! Don't wait; get yours set up today! Please note that per diocesan policy, all correspondence betwwen parishes/schools and diocesan offices must be completed using the @charlestondiocese.org email address. All futurecommunications, including responses to emails, will be sent **only to your charlestondiocese.org** email address

ROMAN CATHOLIC DIOCESE OF CHARLESTON

901 Orange Grove Road, Charleston, SC 29407
www.charletondiocese.org
rbudney@charlestondiocese.org
843.261.0431 Fax: 843.804.9433

From: Joe Boyd [mailto:joe@louisastoren.com]
Sent: Monday, June 10, 2019 4:29 PM
To: Rose Budney <rbudney@charlestondiocese.org>
Cc: 'louisa' <louisa@louisastoren.com>
Subject: [redacted] Reimbursement For Prescription Meds

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Rose,

I hope you had a good weekend.

I have a reimbursement that needs to be made that I don't think you've done before, except maybe with Bonnie. She's had to do this before. The diocese has agreed to pay for [redacted] **medications**, which we've been doing for some time. Most of the time the pharmacy he gets his meds from uses the diocese credit card on file (I don't think the pharmacy he used this time has the credit card on file), or Bonnie has had to call the pharmacy with the credit card number. However, every now and then [redacted] pays for the meds himself and then we, the diocese, reimburses him directly by cutting a check to him personally. This is one of those times :-)

He's contacted Louisa about some prescriptions he's had to have filled, and that he paid for himself, over the last 6 months or so. The total amount he paid is **$239.94**. Louisa said this is valid and is asking if you would please have a check cut to him as soon as you can. He's not working right now and had to pay for these meds out of pocket, so thus he needs the reimbursement as soon as he can get it.

Thanks,
Joe

[redacted] PRESCRIPTIONS						
	DATE FILLED	AMOUNT				COMMENT
RECEIPTS						
	08/06/18	$90.10				
	08/20/18	$9.00				
	09/04/18	$9.00				
	11/17/18	$2.42				
	11/27/18	$18.66				
	11/27/18	$30.00				
	12/01/18	$2.42				
	12/18/18	$2.42				
	01/24/19	$2.66				
	02/19/19	$40.49				
	02/23/16	$2.32				
	03/31/19	$2.32				
	04/05/19	$30.00				
	04/06/19	$12.00				
	04/30/19	$2.37				
	05/14/19	$39.30				4 Prescritptions
				His Total	Difference	
	TOTAL:		$295.48	$320.94	$25.46	
DUPLICATES						
	02/23/19		$2.32			
	05/14/19	$12.00				
	05/14/19	$6.30				
	05/14/19	$12.00				
			$30.30			
With Duplicates Added Back In:			$328.10			
	[redacted] TOTAL:		$320.94			
			$7.16			

To:
Louisa Storen
From [redacted].

Reciepts For Meds.
Total = $320.94

Dear Louisa,
As I last Recall You ~~Re[illegible]rst~~ me For 360 or So. I had. (Reemburst) told you I thought there was an overage amount of about $(81.00) don't Remember exactly, but close to -

Here is Reciepts since totalling about 320.94
-81.00
=239.94

So I think the Amount owed Now is $239.94

I think this is Correct.
I lost my job in may so it would be NICE if I could get this SAP. Thank you in Advance, [redacted].
too me.

P.S. Some of the amounts ~~[illegible]~~ Changed because of change in Insurance Change, and some beause of Meds Changing

THE RICHTER FIRM, LLC
Attorneys & Counselors at Law
622 Johnnie Dodds Boulevard
Mount Pleasant, South Carolina 29464

CONFIDENTIAL
Louisa Storen, LISW, LMFT
757 Johnnie Dodds Blvd #100
Mt Pleasant, SC 29464

[redacted]

8-28-18

~~$130.~~

~~360.~~

Pt. had his 7th stint.
His ~~son~~ daughter had Ca. & is in remission.
Pt.'s Rx Ded $ ~~he~~ we overpaid him. I suggested that instead of refunding us $ - He hold it and use it to pay for ongoing Rxs til that $ runs out. Then send us receipts again which we will repay.

Louisa Storen

From: Louisa Storen <louisa@louisastoren.com>
Sent: Monday, May 7, 2018 10:17 AM
To: [redacted]
Subject: receipts

Please send copies your Rx. receipts to me: Louisa Storen, 757 Johnnie Dodds Blvd., Suite 100, Mt. Pleasant, 29464. Please call me if the Diocese can help in any other way.

Best regards, Louisa

Pt kept her cabin right
Never tasted sea water

[redacted] - ex pensive

5-4-10 New Rx: Trim

Trintellix Tasha

Publix [redacted]

refill due

ET/3C $90.

D

Ric Irwin's downtown

East side

(L) toward

then Pelham

then another Lt

Right hand side

3RD Lt go Rt

to Pelham

(L) Pelham



03/15/2018

JASON FLASSING
225 Adley Way

Greenville, SC 29607

Plan member ID: [redacted]
Case number: [redacted]
Prescriber name: JASON FLASSING
Prescriber fax: 8649879770

NOTICE OF APPROVAL

Dear [redacted]

OptumRx®, on behalf of PUBLIX SUPERMARKETS, is responsible for reviewing pharmacy services provided to PUBLIX SUPERMARKETS members. OptumRx received a request on 03/15/2018 from your prescriber for coverage of TRINTELLIX TAB 10MG.

Your request for TRINTELLIX TAB 10MG has been approved.

How long does this approval last?
TRINTELLIX TAB 10MG, use as directed, is approved through 03/15/2019. Please note: Doses/quantities above plan limits and/or maximum Food and Drug Administration (FDA) approved dosing may be subject to further review. Reviewed by: System

What happens when the authorization expires?
It is recommended that your prescriber contact OptumRx for continued authorization before your authorization expires so that you do not experience any disruption in therapy.

Thank you for your patience and understanding during the review process. You may now fill your prescription for this medication.

If you have any additional questions, please call OptumRx toll-free at 1-877-665-6609.

Sincerely,

OptumRx

cc: JASON FLASSING

[*]

DOE_3929_001423

All Optum® trademarks and logos are owned by Optum, Inc. All other brand or product names are trademarks or registered marks of their respective owners.

© 2016 Optum, Inc. All rights reserved. ORX9494_160523

[redacted] 0 1 [redacted] CTRxApp

DOE_3929_001424

OPTUMRx®

JASON FLASSING
225 Adley Way

Greenville, SC 29607

Hours of Operation:
5 a.m. - 10 p.m. PT, Monday-Friday
6 a.m. - 3 p.m. PT, Saturday

Address:
P.O. Box 25183
Santa Ana, CA 92799

Date: 03/15/2018

To:	JASON FLASSING	From:	OptumRx
Phone:	(864)987-9747	Phone:	1-800-711-4555
Fax:	8649879770	Fax:	1-800-527-0531
Reference #:	[redacted]		
RE:	Prior Authorization Request		

Patient Name: [redacted]
Patient DOB: [redacted]
Patient ID#: [redacted]
Decision Made: Approve
Medication Name: TRINTELLIX
GPI/NDC: 58120093100320

Decision Notes:

TRINTELLIX TAB 10MG, use as directed, is approved through 03/15/2019. Please note: Doses/quantities above plan limits and/or maximum Food and Drug Administration (FDA) approved dosing may be subject to further review. Reviewed by: System

*Specialty Pharmacy is available by phone 5 a.m. – 7 p.m. PT, Monday-Friday

This document and others if attached contain information from OptumRx that is privileged, confidential and/or may contain protected health information (PHI). We are required to safeguard PHI by applicable law. The information in this document is for the sole use of the person(s) or company named above. Proper consent to disclose PHI between these parties has been obtained. If you received this document by mistake, please know that sharing, copying, distributing, or using information in this document is against the law. If you are not the intended recipient, please notify the sender immediately and [illegible]

[*]

DOE_3929_001421

(PHI). We are required to safeguard PHI b[illegible] law. The information in this document is for the sole use o[illegible]erson(s) or company named above. Proper consent to disclose PHI between these par[illegible]s been obtained. If you received this document by mist[illegible]ase know that sharing, copying, distributing or using information in this document is against the law. **If you are not the intended recipient, pl[illegible] notify the sender immediately and return the document(s) by mail to the OptumRx Privacy Office, 17900 Von Karman, M/S CA016-0101, Irvine, CA 92614.** [2]

[redacted] C 1 [redacted]

MDCOVER

DOE_3929_001422

TTY/TDD:
If you have a hearing or speech impairment, please call OptumRx at TTY/TDD 1-800-498-5428.

This document and others if attached contain information from OptumRx that is proprietary, confidential and/or may contain protected health information (PHI). We are required to safeguard PHI by applicable law. The information in this document is for the sole use of the person(s) or company named above. Proper consent to disclose PHI between these parties has been obtained. If you received this document by mistake, please know that sharing, copying, distributing or [*] using information in this document is against the law **If you are not the intended recipient, please notify the sender immediately and return the**

We are required to safeguard PHI by appli law. The information in this document is for the sole use of the pr s) or company named above. Proper consent to disclose PHI between these part. as, obtained. If you received this document by mistake, ple r that sharing, copying, distributing or using information in this document is against the l. . . **If you are not the intended recipient, please notify th. . . er immediately and return the document(s) by mail to OptumRx Privacy Office, 17900 Von Karman, M/S CA016-0203, Irvine, CA 92614.**

All Optum® trademarks and logos are owned by Optum, Inc. All other brand or product names are trademarks or registered marks of their respective owners.

© 2016 Optum, Inc. All rights reserved. ORX0494_160523

[2]

Nondiscrimination Notice and Access to Communication Services

OptumRx and its family of affiliated Optum companies does not discriminate on the basis of race, color, national origin, age, disability, or sex in its health programs or activities.

We provide assistance free of charge to people with disabilities or whose primary language is not English. To request a document in another format such as large print or to get language assistance such as a qualified interpreter, please call the number located on the back of your prescription ID card, TTY 711. Representatives are available 24 hours a day, seven days a week.

If you believe that we have failed to provide these services or discriminated in another way on the basis of race, color, national origin, age, disability, or sex, you can send a complaint to

OptumRx Civil Rights Coordinator
11000 Optum Circle
Eden Prairie, MN 55344
Phone: 1-800-562-6223, TTY 711
Fax: 855-351-5495
Email: **Optum_Civil_Rights@Optum.com**

If you need help filing a complaint, please call the number located on the back of your prescription ID card, TTY 711. Representatives are available 24 hours a day, seven days a week. You can also file a complaint directly with the U.S. Dept. of Health and Human services online, by phone, or by mail:

Online: https://ocrportal.hhs.gov/ocr/portal/lobby.jsf
Complaint forms are available at http://www.hhs.gov/ocr/office/file/index.html
Phone: Toll-free 1-800-368-1019, 800-537-7697 (TDD)
Mail: U.S. Dept. of Health and Human Services. 200 Independence Avenue, SW Room 509F, HHH Building Washington, D.C. 20201

This information is available in other formats like large print. To ask for another format, please call the telephone number listed on your health plan ID card.

[x]

DOE_3929_001427

All Optum® trademarks and logos are owned by Optum, Inc. All other brand or product names are trademarks or registered marks of their respective owners.

© 2016 Optum, Inc. All rights reserved. ORX9494_160523

Multi-language Interpreter Services

ATTENTION: If you speak English, language assistance services, free of charge, are available to you.
Please call the toll-free phone number listed on your identification card.

ATENCIÓN: Si habla **español (Spanish)**, hay servicios de asistencia de idiomas, sin cargo, a su disposición. Llame al número de teléfono gratuito que aparece en su tarjeta de identificación.

請注意：如果您說中文 **(Chinese)**，我們免費為您提供語言協助服務。請撥打會員卡所列的免付費會員電話號碼。

XIN LƯU Ý: Nếu quý vị nói tiếng **Việt (Vietnamese)**, quý vị sẽ được cung cấp dịch vụ trợ giúp về ngôn ngữ miễn phí. Vui lòng gọi số điện thoại miễn phí ở mặt sau thẻ hội viên của quý vị.

알림: **한국어(Korean)**를 사용하시는경우 언어 지원 서비스를 무료로 이용하실 수 있습니다. 귀하의 신분증 카드에 기재된 무료 회원 전화번호로 문의하십시오.

PAALALA: Kung nagsasalita ka ng **Tagalog (Tagalog)**, may makukuha kang mga libreng serbisyo ng tulong sa wika. Pakitawagan ang toll-free na numero ng telepono na nasa iyong identification card.

ВНИМАНИЕ: бесплатные услуги перевода доступны для людей, чей родной язык является **русском (Russian)**. Позвоните по бесплатному номеру телефона, указанному на вашей идентификационной карте.

تنبيه: إذا كنت تتحدث **العربية (Arabic)**، فإن خدمات المساعدة اللغوية المجانية متاحة لك. الرجاء الاتصال على رقم الهاتف المجاني الموجود على معرّف الهوية.

ATANSYON: Si w pale **Kreyòl ayisyen (Haitian Creole)**, ou kapab benefisye sèvis ki gratis pou ede w nan lang pa w. Tanpri rele nimewo gratis ki sou kat idantifikasyon w.

ATTENTION : Si vous parlez **français (French)**, des services d'aide linguistique vous sont proposés gratuitement. Veuillez appeler le numéro de téléphone gratuit figurant sur votre carte d'identification.

UWAGA: Jeżeli mówisz po **polsku (Polish)**, udostępniliśmy darmowe usługi tłumacza. Prosimy zadzwonić pod bezpłatny numer telefonu podany na karcie identyfikacyjnej.

ATENÇÃO: Se você fala **português (Portuguese)**, contate o serviço de assistência de idiomas gratuito. Ligue gratuitamente para o número encontrado no seu cartão de identificação.

[*]

All Optum® trademarks and logos are owned by Optum, Inc. All other brand or product names are trademarks or registered marks of their respective owners.

© 2016 Optum, Inc. All rights reserved. OSZ9494_160523

DIOCESE PRESCRIPTION CHARGES FOR: [redacted]



DATE	PAID TO	NUMBER SESSIONS	THERAPIST1 COST	THERAPIST 2 COST	Rx COST
10/17/17	Publix Pharmacy				$5.64
11/15/17	Publix Pharmacy				$5.64
12/15/17	Publix Pharmacy				$5.64
01/16/18	Publix Pharmacy				$5.64
02/08/18	Publix Pharmacy				$5.64
03/13/18	Publix Pharmacy				$2.46
03/13/18	Shane Sherbondy, MD Stmt 3/31/18			$160.00	$30.00
03/21/18	Publix Pharmacy				$122.28
04/27/18	Publix Pharmacy				$90.10
05/24/18	Publix Pharmacy				$90.10
07/03/18	Hampton Village Commons Pharmacy				$90.10
08/06/18	Publix Pharmacy				$90.10
08/20/18	Publix Pharmacy				$9.00
09/04/18	Publix Pharmacy				$9.00
11/27/18	Publix Pharmacy				$18.66
11/27/18	Publix Pharmacy				$30.00
12/01/18	Publix Pharmacy				$2.42
12/18/18	Publix Pharmacy				$2.42
12/20/18	Publix Pharmacy				$2.42
01/24/19	Publix Pharmacy				$2.66
02/23/19	Publix Pharmacy				$2.32
03/31/19	Publix Pharmacy				$2.32
04/05/19	Publix Pharmacy				$30.00
04/06/19	Publix Pharmacy				$12.00
04/30/19	Publix Pharmacy				$2.37
05/14/19	Publix Pharmacy				$39.30
2/19/169	Publix Pharmacy				$40.49
				TOTAL Rx:	$748.72

DIOCESE OF CHARLESTON **CHECK REQUEST** **Date:** 08.01.18

Please Make Check Payable To: [redacted]

Check One: Corp: ____ Non-Corp. ____ tax ID ____ (*Mandatory if Non-Corp.)

Mailing Address: [redacted]

(for the check) [redacted]

Invoice No.:

Invoice Date:

Invoice Total: $360.40

Customer/Account No.:

Invoice Due Date: Upon Receipt

Discount Amount:

For Accounting Use Only				
Vendor No.:	1237			
System No:				
1099	—			
Posting Date:				
New Vendor:	Requested		Approved	

Description: Therapy

(Provide description and attach invoice or documentation)

CONFIDENTIAL

To Be Charged To:

Cost Center Description	GL Account Description	GL Number (4 digits)	Fund/ Cost Center	Entity Business Purpose Employee	Amount
VG	Counseling	6260	1-207		360.40

TOTAL (Must Agree with Check Amount): 360.40

Requested by: **Date:**

Approved by: Bonnie Sigers **Date:** 08.01.18

ALL CHECKS WILL NORMALLY BE MAILED DIRECTLY TO THE VENDOR. IF CIRCUMSTANCES REQUIRE OTHERWISE, PLEASE SIGN HERE.

Please allow two extra days for checks to be returned to your program.

SPECIAL INSTRUCTIONS: Documentation on file in Director's office.

Received by Diocesan
8-2-18
AUG 03 '18

R:\Check Requests\Therapists\2018\Condon, James Reimbursment\[05.22.18.xls]Ck Request

Office of Finance

DoC-Doe 00002

[redacted]

08/09/2018 Check 243605

Document No.	Document Date	Posting Description	Amount	Discount	Net Amount
JC-080118	8/1/2018	Reimbursement	360.40		360.40

Total **360.40**

DoC-Doe 00001

(D)

Your Prescription Receipt

[redacted]

Publix Pharmacy# 0874
215 PELHAM RD
GREENVILLE, SC 29615

Phone# (864) 370-8215

Rx: [redacted] **New**
Filled: 05/14/19

ARIPIPRAZOLE 2 MG TAB
NDC: 13668-0216-90 Mfg: TORRENT PHARMAC
Qty: 30 Days: 30
No Refills. Auth Required.
JASON FLASSING

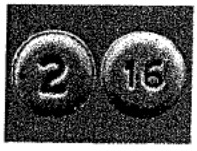
Primary Ins. PUBLIX ASSOCIATE RX BENEFIT
Primary Ref. [redacted]

Your plan(s) have saved you $472.95

Your Medication

AMOUNT DUE: $12.00

NDC# 13668-0216-90
Side 1 - 2
Side 2 - 16
Form: tablet
Shape: round
Color: yellow



CALL YOUR DOCTOR FOR MEDICAL ADVICE ABOUT SIDE EFFECTS. YOU MAY REPORT SIDE EFFECTS TO THE FDA AT 1-800-FDA-1088.

DRUG NAME: ARIPIPRAZOLE 2 MG TAB M. ORRENT PHARMAC
GENERIC NAME: ARIPIPRAZOLE 2 mg

USES: Aripiprazole is used to treat certain mental/mood disorders (such as bipolar disorder, schizophrenia, Tourette's syndrome, and irritability associated with autistic disorder). It may also be used in combination with other medication to treat depression. Aripiprazole is known as an antipsychotic drug (atypical type). It works by helping to restore the balance of certain natural chemicals in the brain (neurotransmitters). This medication can decrease hallucinations and improve your concentration. It helps you to think more clearly and positively about yourself, feel less nervous, and take a more active part in everyday life. Aripiprazole can treat severe mood swings and decrease how often mood swings occur.
PRECAUTIONS: See also Warning section. Before taking aripiprazole, tell your doctor or pharmacist if you are allergic to it; or if you have any other allergies. This product may contain inactive ingredients (such as propylene glycol), which can cause allergic reactions or other problems. Talk to your pharmacist for more details. Before using this medication, tell your doctor or pharmacist your medical history, especially of: problems with blood flow in the brain (such as cerebrovascular disease, stroke), diabetes (including family history), heart problems (such as low blood pressure, coronary artery disease, heart failure, irregular heartbeat), nervous system problems (such as dementia, NMS, seizures), obesity, low white blood cell count (including history of low white blood cell count caused by medications), swallowing problems, breathing trouble during sleep (sleep apnea). This drug may make you dizzy or drowsy or blur your vision. Alcohol or marijuana (cannabis) can make you more dizzy or drowsy. Do not drive, use machinery, or do anything that needs alertness or clear vision until you can do it safely. Avoid alcoholic beverages. Talk to your doctor if you are using marijuana (cannabis). This medication may make you sweat less, making you more likely to get heat stroke. Avoid doing things that may cause you to overheat, such as hard work or exercise in hot weather, or using hot tubs. When the weather is hot, drink a lot of fluids and dress lightly. If you overheat, quickly look for a place to cool down and rest. Get medical help right away if you have a fever that does not go away, mental/mood changes, headache, or dizziness. Liquid preparations of this product may contain sugar. Caution is advised if you have diabetes. Ask your doctor or pharmacist about using this product safely. Older adults may be more sensitive to the side effects of this drug, especially seizures, drowsiness, dizziness, lightheadedness, confusion, tardive dyskinesia, swallowing problems, and other serious (rarely fatal) side effects. (See also Warning section.) Drowsiness, dizziness, lightheadedness, and confusion can increase the risk of falling. Before having surgery, tell your doctor or dentist about all the products you use (including prescription drugs, nonprescription drugs, and herbal products). During pregnancy, this medication should be used only when clearly needed. Babies born to mothers who have used this drug during the last 3 months of pregnancy may rarely develop symptoms including muscle stiffness or shakiness, drowsiness, feeding/breathing difficulties, or constant crying. If you notice any of these symptoms in your newborn especially during their first month, tell the doctor right away. Since untreated mental/mood problems (such as bipolar disorder, schizophrenia) can be a serious condition, do not stop taking this medication unless directed by your doctor. If you are planning pregnancy, become pregnant, or think you may be pregnant, immediately discuss with your doctor the benefits and risks of using this medication during pregnancy. This medication passes into breast milk. Breast-feeding while using this drug is not recommended. Consult your doctor before breast-feeding.
HOW TO USE: Read the Medication Guide and, if available, the Patient Information Leaflet provided by your pharmacist before you start taking aripiprazole and each time you get a refill. If you have any questions, ask your doctor or pharmacist. Take this medication by mouth with or without food as directed by your doctor, usually oncedaily. The dosage is based on your medical condition, response to treatment, age, and other medications you may be taking. Be sure to tell your doctor and pharmacist about all the products you use (including prescription drugs, nonprescription drugs, and herbal products). To reduce your risk of side effects, your doctor may direct you to start this medication at a low dose and gradually increase your dose. Follow your doctor's instructions carefully. The manufacturer directs to swallow this medication whole. However, many similar drugs (immediate-release tablets) can be split/crushed. Follow your doctor's direction on how to take this medication. If you are using the liquid form of this medication, carefully measure the dose using a special measuring device/cup. Do not use a household spoon because you may not get the correct dose. Do not increase your dose or use this drug more often or for longer than prescribed. Your condition will not improve any faster, and your risk of side effects will increase. It may take several weeks before you get the full benefit of this drug. Use this medication regularly to get the most benefit from it. To help you remember, take it at the same time each day. It is important to continue taking this medication even if you feel well. Do not stop taking this medication without consulting your doctor. Some conditions may become worse when this drug is suddenly stopped. Your dose may need to be gradually decreased. Tell your doctor if your condition does not improve or if it worsens.
OVERDOSE: If someone has overdosed and has serious symptoms such as passing out or trouble breathing, call 911. Otherwise, call a poison control center right away. US residents can call their local poison control center at 1-800-222-1222. Canada residents can call a provincial poison control center. Symptoms of overdose may include: very fast heartbeat, loss of consciousness.
SIDE EFFECTS: See also Warning section. Dizziness, lightheadedness, drowsiness, nausea, vomiting, tiredness, excess saliva/drooling, blurred vision, weight gain, constipation, headache, and trouble sleeping may occur. If any of these effects persist or worsen, tell your doctor or pharmacist promptly. Dizziness and lightheadedness can increase the risk of falling. Get up slowly when rising from a sitting or lying position. Remember that your doctor has prescribed this medication because he or she has judged that the benefit to you is greater than the risk of side effects. Many people using this medication do not have serious side effects. Tell your doctor right away if you have any serious side effects, including: fainting, mental/mood changes (such as increased anxiety, depression, suicidal thoughts), trouble swallowing, restlessness (especially in the legs), shaking (tremor), muscle spasm, mask-like expression of the face, seizures, trouble controlling certain urges (such as gambling, sex, eating or shopping), interrupted breathing during sleep. This medication may rarely make your blood sugar rise, which can cause or worsen diabetes. Tell your doctor right away if you have symptoms of high blood sugar such as increased thirst/urination. If you already have diabetes, check your blood sugar regularly as directed and share the results with your doctor. Your doctor may need to adjust your diabetes medication, exercise program, or diet. This medication may rarely cause a condition called tardive dyskinesia. In some cases, this condition may be permanent. Tell your doctor right away if you develop any unusual uncontrolled movements (especially of the face, mouth, tongue, arms, or legs). This medication may rarely cause a very serious condition called neuroleptic malignant syndrome (NMS). Get medical help right away if you have any of the following symptoms: fever, muscle stiffness/pain/tenderness/weakness, severe tiredness, severe confusion, sweating, fast/irregular heartbeat, dark urine, signs of kidney problems (such as change in the amount of urine). A very serious allergic reaction to this drug is rare. However, get medical help right away if you notice any symptoms of a serious allergic reaction, including: fever, swollen lymph nodes, rash, itching/swelling (especially of the face/tongue/throat), severe dizziness, trouble breathing. This is not a complete list of possible side effects. If you notice other effects not listed above, contact your doctor or pharmacist. In the US - Call your doctor for medical advice about side effects. You may report side effects to FDA at 1-800-FDA-1088 or at www.fda.gov/medwatch. In Canada - Call your doctor for medical advice about side effects. You may report side effects to Health Canada at 1-866-234-2345.
WARNING: If you are using aripiprazole in combination with other medication to treat depression, also carefully read the drug information for the other medication. There may be a slightly increased risk of serious, possibly fatal side effects (such as stroke, heart failure, fast/irregular heartbeat, pneumonia) when this medication is used by older adults with dementia. This medication is not approved for the treatment of dementia-related behavior problems. Discuss the risks and benefits of this medication, as well as other effective and possibly safer treatments for dementia-related behavior problems, with the doctor.

The information in this monograph is not intended to cover all possible uses, directions, precautions, drug interactions, or adverse effects. This information is generalized and is not intended as specific medical advice. If you have questions about the medicines you are taking or would like more information, check with you doctor, pharmacist, or nurse.
Information last revised December 2018. Copyright(c) 2018 First Databank, Inc. Information last revised December 2018. Copyright(c) 2018 First Databank, Inc.

(V)

Your Prescription Receipt

[redacted]

Publix Pharmacy# 0874
215 PELHAM RD
GREENVILLE, SC 29615

Phone# (864) 370-8215

Rx[redacted] **New**
Filled: 05/14/19

ESZOPICLONE 3 MG TAB
NDC: 65862-0969-01 Mfg: AUROBINDO PHARM
Qty: 30 Days: 30
2 Refills by 11/13/2019
JASON FLASSING

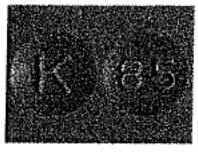
Primary Ins. PUBLIX ASSOCIATE RX BENEFIT
Primary Ref. #[redacted]

Your plan(s) have saved you $112.65

Your Medication

AMOUNT DUE: $6.30

NDC# 65862-0969-01
Side 1 - K
Side 2 - 85
Form: tablet
Shape: round
Color: blue



CALL YOUR DOCTOR FOR MEDICAL ADVICE ABOUT SIDE EFFECTS. YOU MAY REPORT SIDE EFFECTS TO THE FDA AT 1-800-FDA-1088.

DRUG NAME: ESZOPICLONE 3 MG TAB MI UROBINDO PHARM
GENERIC NAME: ESZOPICLONE 3 mg

USES: This medication is used to treat a certain sleep problem (insomnia). It may help you fall asleep faster, stay asleep longer, and lessen how often you wake up during the night, so you can get a better night's rest. Eszopiclone belongs to a class of drugs called sedative-hypnotics. It acts on your brain to produce a calming effect. Use of this medication is usually limited to short treatment periods of 1 to 2 weeks or less. If your insomnia continues for a longer time, talk to your doctor to see if you need other treatment.
PRECAUTIONS: Before taking eszopiclone, tell your doctor or pharmacist if you are allergic to it; or to zopiclone; or if you have any other allergies. This product may contain inactive ingredients, which can cause allergic reactions or other problems. Talk to your pharmacist for more details. Before using this medication, tell your doctor or pharmacist your medical history, especially of: kidney disease, liver disease, lung/breathing problems (such as chronic obstructive pulmonary disease-COPD, sleep apnea), mental/mood problems (such as depression, thoughts of suicide), personal or family history of a substance use disorder (such as overuse of or addiction to drugs/alcohol), personal or family history of sleepwalking, a certain muscle disease (myasthenia gravis). The effects of this drug can last even after you wake up the next day. If you did not get 7 to 8 hours of sleep or took other medications that made you sleepy or are more sensitive to this drug, you may feel alert but not think clearly enough to drive. Alcohol or marijuana (cannabis) can also make you more sleepy. Wait at least 8 hours after taking this drug before driving, and do not drive, use machinery, or do anything that needs alertness until you can do it safely. Avoid alcoholic beverages. Talk to your doctor if you are using marijuana (cannabis). If you take the 3 milligram dosage of eszopiclone, do not drive, use machinery, or do anything that needs alertness the next day. Before having surgery, tell your doctor or dentist about all the products you use (including prescription drugs, nonprescription drugs, and herbal products). Older adults may be more sensitive to the side effects of this drug, especially dizziness, confusion, unsteadiness, and excessive drowsiness. These side effects can increase the risk of falling. Also see the How To Use section. This medication should be used only when clearly needed during pregnancy. Discuss the risks and benefits with your doctor. Infants born to mothers who take this medication near the time of delivery may have undesirable effects such as excessive sleepiness. Tell your doctor if you notice such effects in your newborn. It is unknown if this medication passes into breast milk. However, similar drugs pass into breast milk. Consult your doctor before breast-feeding.
HOW TO USE: Read the Medication Guide provided by your pharmacist before you start using eszopiclone and each time you get a refill. If you have any questions, ask your doctor or pharmacist. Take this medication by mouth as directed by your doctor, usually just before you get into bed. Do not take it with or right after a high-fat or heavy meal since it may not work as well. The dosage is based on your medical condition, age, liver function, other medications you may be taking, and response to treatment. Do not take more of this medication than prescribed because your risk of side effects will increase. The starting dose is 1 milligram at bedtime as directed. That dosage lessens the risk of having trouble safely doing activities requiring alertness the next day (such as driving or operating machinery). Also, you may not be fully alert the next day, yet you think you are fully alert. If you are prescribed the 3 milligram dosage of eszopiclone, you should not do activities the next day that require alertness. Ask your doctor or pharmacist for more details. If you are an older adult or you have liver disease, a low dose will usually be prescribed to lessen the risk of being impaired the next day. Do not stop your medication without talking to your doctor or pharmacist. Do not take a dose of this drug unless you have time for a full night's sleep of at least 7 to 8 hours. If you have to wake up before that, you may have some memory loss and may have trouble safely doing any activity that requires alertness, such as driving or operating machinery. (See also Precautions section.) This medication may cause withdrawal reactions, especially if it has been used regularly for a long time or in high doses. In such cases, withdrawal symptoms (such as nausea, vomiting, flushing, stomach cramps, nervousness, shakiness) may occur if you suddenly stop using this medication. To prevent withdrawal reactions, your doctor may reduce your dose gradually. Consult your doctor or pharmacist for more details, and report any withdrawal reactions right away. When this medication is used for a long time, it may not work as well. Talk with your doctor if this medication stops working well. Though it helps many people, this medication may sometimes cause addiction. This risk may be higher if you have a substance use disorder (such as overuse of or addiction to drugs/alcohol). Take this medication exactly as prescribed to lower the risk of addiction. Ask your doctor or pharmacist for more details. Tell your doctor if your condition persists after 7 to 10 days, or if it worsens. You may have trouble sleeping the first few nights after you stop taking this medication. This is called rebound insomnia and is normal. It will usually go away after 1 or 2 nights. If this effect continues, contact your doctor.
OVERDOSE: If someone has overdosed and has serious symptoms such as passing out or trouble breathing, call 911. Otherwise, call a poison control center right away. US residents can call their local poison control center at 1-800-222-1222. Canada residents can call a provincial poison control center. Symptoms of overdose may include: slow/shallow breathing, a deep sleep from which you cannot be awakened.
SIDE EFFECTS: Dizziness, dry mouth, unpleasant taste, or difficulty with coordination may occur. If any of these effects persist or worsen, tell your doctor or pharmacist promptly. To reduce the risk of dizziness or falling, get up slowly when rising from a sitting or lying position. This medication may make you sleepy during the day. Tell your doctor if you have daytime drowsiness. Your dose may need to be adjusted. Remember that your doctor has prescribed this medication because he or she has judged that the benefit to you is greater than the risk of side effects. Many people using this medication do not have serious side effects. Tell your doctor right away if you have any serious side effects, including: memory loss, mental/mood/behavior changes (such as new/worsening depression, abnormal thoughts, thoughts of suicide, hallucinations, confusion, agitation, aggressive behavior, anxiety). Rarely, after taking this drug, people have gotten out of bed and driven vehicles [redacted] ("sleep-driving"). People have also sleepwalked, prepared/eaten food, made phone calls, or had sex while not fully awake. Often, these people do not remember these events. This problem can be dangerous to you or to others. If you find out that you have done any of these activities after taking this medication, tell your doctor right away. Your risk is increased if you use alcohol or other medications that can make you drowsy while taking eszopiclone. A very serious allergic reaction to this drug is rare. However, get medical help right away if you notice any symptoms of a serious allergic reaction, including: rash, itching/swelling (especially of the face/tongue/throat), severe dizziness, trouble breathing. This is not a complete list of possible side effects. If you notice other effects not listed above, contact your doctor or pharmacist. In the US - Call your doctor for medical advice about side effects. You may report side effects to FDA at 1-800-FDA-1088 or at www.fda.gov/medwatch. In Canada - Call your doctor for medical advice about side effects. You may report side effects to Health Canada at 1-866-234-2345.

The information in this monograph is not intended to cover all possible uses, directions, precautions, drug interactions, or adverse effects. This information is generalized and is not intended as specific medical advice. If you have questions about the medicines you are taking or would like more information, check with you doctor, pharmacist, or nurse.
Information last revised October 2018. Copyright(c) 2018 First Databank, Inc.Information last revised October 2018. Copyright(c) 2018 First Databank, Inc.