

**ENDORSED**

IN THE FIRST JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO  
COUNTY OF SANTA FE

MAY 17 1995

FIRST JUDICIAL DISTRICT CL.  
SANTA FE, RIO ARRIBA &  
LOS ALAMOS COUNTIES  
P.O. Box 2288, Santa Fe, NM 87501

NO. SF 95-1076 (C)

PAUL ORTIZ Y PINO,

Plaintiff,

against

CHRISTIAN BROTHERS MAJOR SUPERIORS, a  
New Mexico corporation, ESTATE OF  
BROTHER ABDON, LOUIS BROUSEAU (SIC),  
BROTHER TOM McCONNELL, NOSF, INC.  
a Louisiana Corporation,

Defendants.



COMPLAINT FOR SEXUAL ABUSE AND RELATED CLAIMS

COMES NOW the Plaintiff, by and through his undersigned counsel, and for his Complaint For Sexual Abuse and Related Claims against the Defendants, states as follows:

1. Plaintiff, Paul Ortiz y Pino, was raised in Santa Fe, Santa Fe County, State of New Mexico, and currently resides in Santa Fe, County of Santa Fe, State of New Mexico. Plaintiff was a minor child at the time the events material hereto occurred.

2. Defendant Christian Brothers Major Superiors is a New Mexico corporation, (hereinafter "Christian Brothers"), and was at all times material hereto authorized to do business and is doing business in Santa Fe County, New Mexico. The Christian Brothers now owns and operates, and at all material times herein has owned and operated and has control over St. Michael's High School. The Christian Brothers assigns its Brothers to St. Michael's and to its Junior Novitiate and Novitiate (training facility to train young men to be Christian Brothers) as teachers and counselors and supervises all its Brothers and their activities.

3. Defendant, NOSF Inc. ("NOSF") is a Louisiana corporation, previously named Brothers of the Christian School of Lafayette, Louisiana, Inc., is and was at all times material hereto authorized to do business and doing business in Layfayette, Louisiana. NOSF assigns its Brothers to and is in charge of various schools in its provence which includes St. Michael's High School and the Junior Novitiate in Santa Fe. NOSF supervises and directs the actions of the Christian Brothers that oversee St. Michael's High School and the Junior Novitiate.

4. Defendant Louis Brouseau (hereinafter "Brouseau") is a resident of Albuquerque, New Mexico. Although Brouseau is no longer a Christian Brother, at the times material hereto, Brouseau was a Brother and a member of the Christian Brothers, and, as such, had taken a variety of vows, among which included vows of chastity and celibacy. Notwithstanding these vows, while a Brother with the Christian Brothers and a teacher at St. Michael's High School, Brouseau repeatedly sexually abused young boys at St. Michael's High School in Santa Fe, New Mexico.

5. Defendant Brother Tom McConnell (hereinafter "McConnell"), is believed to still be a Christian Brother and is believed to be a resident of Denver, Colorado. At all times material hereto, McConnell was a Brother and a Christian Brother and as such had taken a variety of vows, among which included vows of chastity and celibacy. Upon information and belief, notwithstanding these vows, while a Brother with the Christian Brothers and a teacher at St. Michael's High School, McConnell

repeatedly abused young boys at St. Michael's High School in Santa Fe, New Mexico.

6. Brother Abdon (hereinafter "Abdon) is deceased. At all times material hereto, Abdon was a resident of Santa Fe County, New Mexico, and a Brother and teacher at St. Michaels. His estate is listed as a Defendant.

7. In their official capacities as Brothers and teachers at St. Michaels and the Junior Novitiate, Abdon, Brouseau and McConnell came into contact with Plaintiff and Plaintiff's family.

8. Plaintiff was raised by his parents in a devoutly Roman Catholic family whose members were baptized, confirmed and regularly celebrated weekly Mass, receiving the holy sacraments through the Roman Catholic Church. Plaintiff had been taught by the Church to dispense with logic, and to believe and rely upon the teachings of the Church in an act of faith. As such, Plaintiff developed great admiration and respect for and obedience to Roman Catholic Brothers. Plaintiff attended St. Michaels when Abdon, McConnel and Brouseau were Brothers and teachers at St. Michaels.

9. Plaintiff's parents believed that St. Michaels, run by Christian Catholic Brothers and NOSF, would be a positive influence on their son's development and felt that his welfare would be provided for by the Christian Brothers.

10. Plaintiff's parents entrusted their child's physical, emotional and spiritual welfare to the Christian Brothers and NOSF when they enrolled their son in St. Michaels, having no idea that

Brothers Abdon, McConnell and Brouseau had the type of psycho-sexual problems complained of herein.

11. At the material times herein Abdon, McConnell and Brouseau were members and Brothers of the Christian Brothers and NOSF, employed by said organizations as teachers and counselors of the young men attending St. Michaels and the Junior Novitiate. Abdon, McConnell and Brouseau were under the direct supervision and control of the Christian Brothers and NOSF.

12. Abdon, McConnell and Brouseau took advantage of their access to Plaintiff and Plaintiff's respect, reverence and admiration for his teachers, the Catholic Church and its clergy, by independently performing non-consensual sex acts on Plaintiff. Upon information and belief, the Christian Brothers and NOSF were aware of, or should have known that Abdon, McConnell and Brouseau were abusing Plaintiff and others. Upon information and belief, The Christian Brothers and NOSF were aware, or should have known, that Abdon, McConnell and Brouseau were pedophiles and knew, or should have known, what Abdon, McConnell and Brouseau were doing to Plaintiff and others, yet did nothing to protect Plaintiff and others from Abon, McConnell and Brouseau's sexual and psychological abuse and allowed them to continue to associate with young men.

13. On, about and/or following Abdon, McConnell and Brouseau's sexual abuse of Plaintiff, Christian Brothers and NOSF knew, or should have known, that Abdon, McConnell and Brouseau had sexually and psychologically abused Plaintiff, yet Christian Brothers and NOSF failed to take any steps to mitigate Plaintiff's

damages through the provision of therapeutic or psychological assistance and treatment or otherwise and instead supervised and/or participated in a cover-up of Abdon, McConnell and Brouseau's deviant and unlawful activities and/or failed to ascertain that Plaintiff was a victim of Abdon, McConnell and Brouseau's sexual and psychological abuse so that emotional and psychological treatment could be provided to Plaintiff and his family.

14. As a direct result of the aforesaid conduct by Defendants, Plaintiff has suffered, and will continue to suffer, severe emotional distress, embarrassment, humiliation and loss of self-esteem. Plaintiff was prevented, and will continue to be prevented, from performing his normal daily activities and obtaining the full enjoyment of life, has sustained loss of earnings and earning capacity, has incurred and/or will incur expenses for medical and psychological treatment, therapy and counseling, and has incurred and will continue to incur other related damages.

#### *CAUSE OF ACTION*

##### *COUNT I*

*(Battery/Estate of Abdon, McConnell, Brouseau,  
The Christian Brothers and NOSF)*

15. Plaintiff re-alleges paragraphs 1 through 14 hereinabove in full.

16. In performing their duties as Brothers and teachers, Abdon, McConnell and Brouseau were under a duty to touch and relate to Plaintiff only in those ways that reasonable Catholic Brothers

and teachers would believe, under all the circumstances, had been consented to, and was legal and spiritually appropriate. The conduct of Abdon, McConnell and Brouseau, as set forth hereinabove, constituted breaches of the aforesaid duty and batteries by Abdon, McConnell and Brouseau upon Plaintiff, which batteries included rape and sexual and psychological assault and abuse and other unlawful contact with Plaintiff, which proximately caused Plaintiff to suffer the above-referenced damages.

17. The conduct of Abdon, McConnell and Brouseau, as set forth hereinabove, occurred while they were employed by The Christian Brothers and NOSF, acting within the course and scope of their employment. The Christian Brothers and NOSF are, therefore, responsible for the injuries to Plaintiff proximately resulting from the aforesaid conduct by Abdon, McConnell and Brouseau.

WHEREFORE, on Count I, Plaintiff prays for damages from the Estate of Abdon, McConnell and Brouseau, The Christian Brothers and NOSF in an appropriate amount together with prejudgment interest, post-judgment interest, costs and such further relief as the Court deems proper.

COUNT II

*(Negligent Failure to Warn/The Christian Brothers and NOSF)*

18. Plaintiff re-alleges paragraphs 1 through 17 hereinabove in full.

19. At all times material hereto, The Christian Brothers and NOSF, knew of Abdon, McConnell and Brouseau's aberrant behaviors, and knew that they had a duty to warn the students of St. Michaels

and the Junior Novitiate that they were likely to be subjected to Abdon, McConnell and Brouseau and their aberrant sexual propensities. The Christian Brothers and NOSF failed to issue said warnings.

20. The negligent conduct of The Christian Brothers and NOSF, as set forth hereinabove, constituted a breach of the aforesaid duty, which breach proximately caused Plaintiff to suffer the above-referenced damages.

WHEREFORE, on Count II, Plaintiff prays for damages from the The Christian Brothers and NOSF in an appropriate amount together with prejudgment interest, post-judgment interest, costs and such further relief as the court deems proper.

COUNT III  
*(Negligent and Intentional Infliction of Emotional  
Distress/the Christian Brothers, NOSF,  
Estate of Abdon, McConnell and Brouseau)*

21. Plaintiff re-alleges paragraphs 1 through 20 hereinabove in full.

22. The foregoing conduct by Abdon, McConnell, Brouseau, The Christian Brothers and NOSF constitutes a negligent and/or intentional infliction of emotional distress upon Plaintiff, and caused Plaintiff to suffer the foregoing damages.

23. The conduct of Abdon, McConnell and Brouseau, while they were employed by The Christian Brothers and NOSF occurred while they were employed by The Christian Brothers and NOSF acting within the course and scope of their employment. The Christian Brothers and NOSF are, therefore, responsible for the injuries to Plaintiff

proximately resulting from the aforesaid conduct by Abdon, McConnell and Brouseau.

24. Moreover, the actions and inactions of The Christian Brothers and NOSF, as set forth hereinabove, constitute a separate and independent basis for concluding that The Christian Brothers and NOSF negligently and/or intentionally inflicted emotional distress upon Plaintiff and caused Plaintiff to suffer the foregoing damages.

WHEREFORE, on Count III, Plaintiff prays for damages from the Estate of Abdon, McConnell, Brouseau, The Christian Brothers and NOSF in an appropriate amount, together with prejudgment interest, post-judgment interest, costs, and such further relief as the Court deems proper.

COUNT IV  
*(Negligent Hiring, Placement and Supervision/  
The Christian Brothers and NOSF)*

25. Plaintiff re-alleges paragraphs 1 through 24 hereinabove in full.

26. At all times material hereto, and when they first sexually abused and sexually exploited Plaintiff, Abdon, McConnell and Brouseau were under the supervision, employ and control of The Christian Brothers and NOSF.

27. The Christian Brothers and NOSF, their agents and employees, knew, or should have known, of Abdon, McConnell and Brouseau's sexual proclivities, propensities, and unlawful actions. Despite such actual knowledge, The Christian Brothers and NOSF employed Abdon, McConnell and Brouseau in positions wherein their



unlawful conduct was repeated upon Plaintiff. The Christian Brothers and NOSF further failed to provide reasonable supervision of Abdon, McConnell and Brouseau.

28. As a direct result of the negligent hiring, placement and failure to supervise Abdon, McConnell and Brouseau by The Christian Brothers and NOSF, Plaintiff has suffered the aforesaid injuries.

WHEREFORE, on Count IV, Plaintiff prays for damages from The Christian Brothers and NOSF in an appropriate amount, together with prejudgment interest, post-judgment interest, costs and such further relief as the Court deems proper.

COUNT V  
*(Fraud/The Christian Brothers and NOSF)*

29. Plaintiff realleges paragraphs 1 through 38 hereinabove in full.

30. By holding Abdon, McConnell and Brouseau out to the public as trustworthy Brothers, teachers and counselors, despite knowledge to the contrary, The Christian Brothers and NOSF fraudulently intended to and did induce Plaintiff to remain in and financially support St. Michaels and the Junior Novitiate.

31. Plaintiff relied on said conduct by The Christian Brothers and NOSF, treating Abdon, McConnell and Brouseau with respect and obedience, thereby becoming subjected to Abdon, McConnell and Brouseau's unlawful behavior and the aforesaid damages.

32. Moreover, The Christian Brothers and NOSF, defrauded Plaintiff of his right to pursue redress for damages by covering up

Abdon, McConnell and Brouseau's deviant propensities, by failing to disclose the wrongfulness of these propensities to Plaintiff or to his parents, by failing to secure psychological treatment for Plaintiff.

33. The aforesaid fraudulent conduct by Defendants The Christian Brothers and NOSF has caused Plaintiff to suffer the aforesaid damages.

**WHEREFORE**, on Count V, Plaintiff prays for damages from The Christian Brothers and NOSF in an appropriate amount, together with prejudgment interest, post-judgment interest, costs and such further relief as the Court deems proper.

COUNT VI

*(Negligent Entrustment/The Christian Brothers and NOSF)*

34. Plaintiff re-alleges paragraphs 1 through 33 hereinabove in full.

35. The Christian Brothers and NOSF are religious organizations which were responsible for, among other things, the physical and spiritual well-being of the children who were students at St. Michaels and the Junior Novitiate. The Christian Brothers and NOSF were entrusted with the care, psychological welfare, and physical safety of these children, one of whom was Plaintiff.

36. The Christian Brothers and NOSF violated this duty of care to Plaintiff by negligently entrusting Plaintiff with Abdon, McConnell and Brouseau, known pedophiles, who sexually and emotionally abused Plaintiff while Plaintiff was entrusted to their care.

37. Said negligent entrustment has caused Plaintiff to suffer the aforesaid damages.

WHEREFORE, on Count VI, Plaintiff prays for damages from The Christian Brothers and NOSF in an appropriate amount together with prejudgment interest, post-judgment interest, costs and such further relief as the Court deems proper.

COUNT VII  
(Duty To Control/The Christian Brothers and NOSF)

38. Plaintiff re-alleges paragraphs 1 through 47 hereinabove in full.

39. The foregoing conduct by The Christian Brothers and NOSF constitutes a breach of the duty to control an individual with a dangerous propensity, as a result of which Plaintiff has suffered the damages described hereinabove.

WHEREFORE, on Count VII, Plaintiff prays for actual damages from The Christian Brothers and NOSF in an appropriate amount, together with prejudgment and post-judgment interest, costs, together with punitive damages upon a finding that aforesaid conduct was willful, intentional, grossly negligent, and such further relief as the Court deems proper.

COUNT VIII  
(Negligence/The Christian Brothers and NOSF)

40. Plaintiff re-alleges paragraphs 1 through 39 hereinabove in full.

41. Upon information and belief, The Christian Brothers and NOSF knew of Abdon, McConnell and Brouseau's dangerous and exploitative propensities, their history as pedophiles and

molesters of student children, and their unfitness and incompetence to serve as teachers and counselors. Despite such knowledge, The Christian Brothers and NOSF negligently and recklessly sponsored Abdon, McConnell and Brouseau for positions of trust and authority as teachers and counselors where they were able to commit wrongful and negligent acts against Plaintiff as described herein. The Christian Brothers and NOSF negligently and recklessly failed to remove Abdon, McConnell and Brouseau's faculties to operate as Catholic teachers and counselors; negligently and recklessly failed to report Abdon, McConnell and Brouseau's sexual molestation of the children to law enforcement authorities; negligently and recklessly failed to institute other pertinent proceedings against Abdon, McConnell and Brouseau; negligently and recklessly continued to hold Abdon, McConnell and Brouseau out and allow Abdon, McConnell and Brouseau to hold themselves out to Plaintiff and others as fit and competent Roman Catholic Brothers, teachers and counselors; recklessly employed Abdon, McConnell and Brouseau and then negligently and recklessly assisted Abdon, McConnell and Brouseau in suppressing public knowledge of Abdon, McConnell and Brouseau's prior history of sexual molestation of students, and negligently and recklessly failed to provide warning to Plaintiff or his family.

42. As a direct result of the aforesaid conduct by The Christian Brothers and NOSF, Plaintiff has suffered the injuries stated above.

WHEREFORE, on Count VIII, Plaintiff prays for actual damages from The Christian Brothers and NOSF in an appropriate amount, together with prejudgment and post-judgment interest, costs, together with punitive damages upon a finding that aforesaid conduct was willful, intentional, grossly negligent, and such further relief as the Court deems proper.

COUNT IX

*(Punitive Damages/Estate of Abdon, McConnell, Brouseau,  
The Christian Brothers and NOSF)*

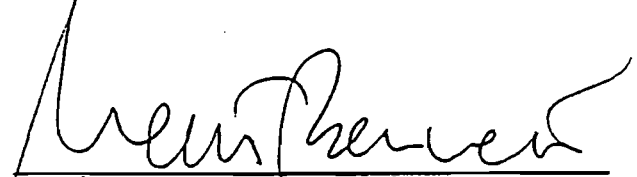
43. Plaintiff re-alleges paragraphs 1 through 42 hereinabove in full.

44. The above-referenced conduct of the Defendants, and each of them, was willful, intentional, reckless and grossly negligent thereby entitling Plaintiff to recover punitive damages from the Defendants, and each of them, for the purpose of punishing these Defendants and to set an example for society which will deter others from the commission of like offenses.

WHEREFORE, on Count IX, Plaintiff prays for punitive damages from the Estate Abdon, McConnell, Brouseau, The Christian Brothers and NOSF in an appropriate amount, together with prejudgment interest, post-judgment interest, costs, and such further relief as the Court deems proper.

Respectfully submitted,

TINKLER & BENNETT

A handwritten signature in cursive script, appearing to read "Merit Bennett", written over a horizontal line.

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ATTORNEYS FOR PLAINTIFF