

IN THE CIRCUIT COURT OF THE ELEVENTH  
JUDICIAL CIRCUIT IN AND FOR MIAMI-  
DADE COUNTY, FLORIDA

JOHN DOE NO. 20,

CASE NO. 05-08488CA 06

Plaintiff,

vs.

ARCHDIOCESE OF MIAMI, INC.,

Defendant.

THE ORIGINAL FILED  
ON FEB 16 2005  
IN THE OFFICE OF  
CIRCUIT COURT DADE CO. FL  
CIVIL DIVISION

COMPLAINT

Plaintiff, JOHN DOE NO. 20, brings this Complaint against Defendant, ARCHDIOCESE OF MIAMI, INC., as follows:

PARTIES AND JURISDICTION

1. This is a claim for damages in excess of \$15,000.00, exclusive of interest, costs, and attorney's fees.
2. Plaintiff JOHN DOE NO. 20 is sui juris. Because this Complaint concerns sexual abuse upon a minor, Plaintiff brings this Complaint under a fictitious name to protect his identity.
3. Defendant ARCHDIOCESE OF MIAMI, INC. (the "ARCHDIOCESE") is a non-profit Florida Corporation responsible for the interests of the Roman Catholic Church (the "Church") in Broward and Miami-Dade Counties.

BACKGROUND

4. The Church (offers many opportunities for minors and families to become active and

involved in Church activities. As a result, Priest and Clergy have abundant and frequent contacts with minors, individually and in groups.

5. Because of the opportunities to be with minors, the Church attracts many truly caring and giving individuals; however, at the same time, service in the Church attracts an extraordinary number of pedophiles, child molesters and sex abusers.

6. Officials and religious figures at the highest levels of the Church are well aware of the attraction of the Church to those who will do serious harm to minors.

7. Such persons who will do serious harm to minors seek employment by the Church as clergy, where they will obtain privacy with minors and control over them. As religious figures, they wield enormous influence over minors, who are required to address them as "Father" or such other terms connoting love and authority.

8. Religious figures in the Church are bestowed with an heir of infallibility, and are considered conduits for parishioners to make a connection with the deity and live more meaningful lives.

9. As a result, when these seemingly infallible holy men commit unspeakable, perverted sexual acts with minors, it has an extraordinarily traumatic effect on the victims, psychologically and emotionally.

10. Instead of exercising due care and diligence to protect minors under these circumstances from the serious harm described above, the Church gives clergy complete discretion and freedom to have personal and private encounters with minors. At the same time, the Church has done nothing to screen abusers or protect minors from the sexual predators who infiltrate its ranks.

11. Quite the opposite, the Church has gone to great lengths to protect “its own”. It is the custom, policy and practice of the Roman Catholic Church, through its cardinals, bishops, priests and other officials and agents, to conceal instances of child sexual abuse and complaints by victims. It zealously maintains the secrecy of the horrifying truth of rampant child sexual abuse in the Church, by among other things:

- Failing to disclose complaints to law enforcement officials, parishioners and the public;
- Maintaining secret archives and files of evidence of sex abuse, accessible only to bishops;
- Instructing Church officials in destruction of incriminatory documents and spoliation of evidence regarding sexual abuse by clergy;
- Transferring sex offending clergy to the Church facilities in other locations where their pasts would not be known to parishioners, and the abusers would have a “fresh start” with a new group of vulnerable children;
- Threatening and coercing victims and their families to withdraw complaints and retract allegations of sexual abuse;
- Paying “hush money” to victims and their families, in exchange for promises of non-disclosure and confidentiality.

12. Each of the acts and practices set forth above are done to protect and shelter the abuser; obstruct justice; conceal criminal conduct; evade prosecution; avoid being compelled by criminal and civil courts to turn over information or allegations regarding child sexual abuse; avoid

public awareness and scandal about pedophile clergy; and avoid financial loss.

13. The Church's conduct is outrageous given the enormous trust and confidence placed in its religious figures. The Church actively solicits and encourages this trust and confidence from parishioners and the public.

#### **SEXUAL ABUSE OF JOHN DOE NO. 20**

14. JOHN DOE NO. 20 was born in 1964. In or about May, 1980, JOHN came to Miami in what is known as the Mariel Boatlift.

15. Upon his arrival in Miami, JOHN was assigned to live in a facility operated by the ARCHDIOCESE of Miami in Opa-Locka. The facility was one of many residential facilities operated by the ARCHDIOCESE for unaccompanied minors arriving from Cuba.

16. While at the facility JOHN was sexually abused by a cook whose name is PHILLIPE. JOHN reported the sexual abuse to the administrator at the Opa-Locka facility, Frank Garcia.

17. While at the Opa-Locka facility, JOHN met a seminarian whose name is ROLANDO GARCIA ("GARCIA").

18. GARCIA was working for the Archdiocese of Miami and he later became an ordained Priest for the Archdiocese of Miami.

19. On several occasions GARCIA brought JOHN to his parent's home in Homestead, Florida. GARCIA had heard about the sex abuse committed upon JOHN by PHILLIPE and asked JOHN to show him what had happened.

20. GARCIA then took advantage of the opportunity and he sexually abused JOHN. After the sexual abuse committed upon JOHN by GARCIA, JOHN became angry and acted out in a

violent manner. JOHN got into fights and was sent to a juvenile detention center. Following the juvenile detention center, JOHN was sent to Dodge Memorial Hospital where he received psychological counseling.

21. At Dodge Memorial JOHN met FATHER ALVARO GUICHARD (“GUICHARD”). One day JOHN ran away from Dodge Memorial and called GUICHARD. GUICHARD picked JOHN up and brought him to his rectory at the Church of the Little Flower. Once at the Rectory GUICHARD sexually abused JOHN including forcing JOHN to sodomize GUICHARD. The next morning GUICHARD brought JOHN back to Dodge Memorial where he gave him One Hundred Dollars and told him to keep quiet.

22. GUICHARD continued to sexually abuse JOHN for a substantial period of time at various locations.

23. GUICHARD introduced JOHN to FATHER HECTOR GONZALEZ-ABREU (“GONZALEZ-ABREU”), who was a Priest formerly from Cuba. GONZALEZ-ABREU and JOHN became friends.

24. GONZALEZ-ABREU introduced JOHN to FATHER RICARDO CASTELLANOS who was a Priest at Visitation Church in North Miami.

25. One Day, GONZALEZ-ABREU, CASTELLANOS and JOHN went to dinner. Following dinner CASTELLANOS said he would take JOHN home, which at that point was a foster home. Instead of taking JOHN home, CASTELLANOS brought JOHN back to his rectory. Once in the rectory CASTELLANOS turned his stereo on and engaged JOHN in an conversation about his prior abuse, life in Cuba and other matters. CASTELLANOS started touching JOHN and then went

in to the bathroom where he removed his clothes and walked out only with a towel on. JOHN stated he wanted to go home. CASTELLANOS declined his request and took out a hundred dollar bill which he gave to JOHN. CASTELLANOS told JOHN that he would take care of him, that JOHN would be his little boy and that he would never need anything in this country and to trust him. Next, CASTELLANOS began to sexually abuse JOHN by touching and fondling JOHN. CASTELLANOS had JOHN sodomize him.

26. JOHN reported the abuse to GONZALEZ-ABREU. CASTELLANOS continued to abuse JOHN at various locations for a substantial period of time.

27. One day JOHN was taken to Our Lady of Divine Providence to meet other refugee boys who were staying at the Church. At the Our Lady of Divine Providence JOHN met FATHER ERNESTO GARCIA-RUBIO ("GARCIA-RUBIO").

28. GARCIA-RUBIO took JOHN into his room at the rectory and raped him. JOHN told GONZALEZ-ABREU about the sexual abuse committed upon him by GARCIA-RUBIO.

29. In the early 1980's JOHN was invited to have Thanksgiving dinner at St. Mary's Cathedral with ARCHBISHOP EDWARD McCARTHY ("McCARTHY"), MONSIGNOR GERALD LACERRA ("LACERRA"), who was the CHANCELLOR, and GONZALEZ-ABREU. That evening GONZALEZ-ABREU reported to LACERRA that JOHN was abused by several Priests with the Archdiocese of Miami. Later that evening LACERRA walked JOHN to his room in order to discuss the abuse. JOHN told LACERRA about all the Priests who had abused him. LACERRA asked JOHN to show him how he was abused and then LACERRA began to touch JOHN and fondle him and sexually abuse JOHN.

30. On another occasion JOHN traveled to West Palm Beach for a mission with migrant workers. JOHN had been doing some work as a migrant worker. In West Palm Beach JOHN met FATHER MIGUEL FERNANDEZ (“FERNANDEZ”). FERNANDEZ brought JOHN to his room in the rectory and he sexually abused JOHN.

31. GONZALEZ-ABREU eventually tried to get JOHN out of the Miami area and assisted him in going to a Church in Atlanta, Georgia. JOHN went to Holy Cross in Atlanta where he met FATHER ALBERTO RODRIGUEZ (“RODRIGUEZ”).

32. Upon arriving at Holy Cross in Atlanta, RODRIGUEZ locked JOHN in the basement of the rectory for approximately three months. JOHN was drugged and sexually abused by RODRIGUEZ for approximately three months until he finally let him go free.

33. During the 1980’s CASTELLANOS admitted to GONZALEZ-ABREU that he did sexually abuse JOHN.

34. On one occasion JOHN was in a hotel room at Disney World with CASTELLANOS and GONZALEZ-ABREU. There were two beds and a reclining chair in the room. GONZALEZ-ABREU told JOHN to take one bed and CASTELLANOS take the other and that he would sleep in the reclining chair. At some point in the night GONZALEZ-ABREU woke up and heard CASTELLANOS try to get JOHN to come into his bed. GONZALEZ-ABREU got very upset and yelled at CASTELLANOS to leave JOHN alone.

35. During the 1980’s GARCIA-RUBIO admitted to GONZALEZ-ABREU that he had sexually abused JOHN. GARCIA-RUBIO even bragged about it telling GONZALEZ-ABREU that he had f . . . d JOHN.

36. Also during the 1980's RODRIGUEZ admitted to GONZALEZ-ABREU that he had an inappropriate sexual relationship with JOHN.

37. GONZALEZ-ABREU told LACERRA, at least two times, that JOHN was being sexually abused and the Archdiocese of Miami took no action to protect JOHN.

38. At all times material hereto, FATHER ALVARO GUICHARD was a Catholic Priest employed by the ARCHDIOCESE.

39. At all times material hereto, FATHER RICARDO CASTELLANOS was a Catholic Priest employed by the ARCHDIOCESE.

40. At all times material hereto, FATHER GERALD LACERRA was a Catholic Priest employed by the ARCHDIOCESE.

41. At all times material hereto, FATHER ERNESTO GARCIA-RUBIO was a Catholic Priest employed by the ARCHDIOCESE.

42. At all times material hereto, ROLANDO GARCIA (employee and later an ordained Priest) was employed by the ARCHDIOCESE.

43. At all times material to the Complaint, CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ, used their position within the ARCHDIOCESE to establish a relationship of trust with JOHN.

44. Upon information and belief, CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ, sexually abused other boys before and during the time he abused JOHN. Upon information and belief, the ARCHDIOCESE knew or should have known that CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ.



were sexually abusing boys and it took no action to protect JOHN.

45. When CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ, threatened or coerced JOHN, they were acting on their own behalf and on behalf of the ARCHDIOCESE.

46. Upon information and belief, at all relevant times, the ARCHDIOCESE had knowledge of CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ, history of sexually perversity.

47. Upon information and belief, the ARCHDIOCESE concealed information that was pertinent and necessary for JOHN to bring civil claims in this matter. After finding out about the abuse, the ARCHDIOCESE actively took steps to conceal the abuse.

48. CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ, and JOHN, were in a fiduciary relationship. CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ, were in a position of trust and confidence with JOHN. JOHN looked to CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ, for counseling and guidance.

49. The ARCHDIOCESE was in a fiduciary relationship with JOHN. The ARCHDIOCESE was in a position of trust and confidence with JOHN. JOHN looked to the ARCHDIOCESE and its representatives for counseling and guidance. In addition, the ARCHDIOCESE knew that JOHN had a special and privileged relationship with CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ. The ARCHDIOCESE owed JOHN a fiduciary duty to:

- a) Investigate and warn JOHN of the potential for harm from CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ;
- b) Disclose its awareness of facts regarding CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ, that created a likely potential for harm;
- c) Disclose its own negligence with regard to hiring, supervision and retention of CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, RODRIGUEZ and FERNANDEZ;
- d) Provide a safe environment for JOHN where he would be free from abuse; and
- e) Protect JOHN from exposure to harmful individuals like CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ.

50. The ARCHDIOCESE breached its fiduciary duty to JOHN by failing to:

- a) Investigate and warn JOHN of the potential for harm from CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ;
- b) Disclose its awareness of facts regarding CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ, that created a likely potential for harm;
- c) Disclose its own negligence with regard to hiring, supervision and retention of CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-

RUBIO, and FERNANDEZ;

- d) Provide a safe environment for JOHN where he was free from abuse; and
- e) Protect JOHN from exposure to harmful individuals like CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ.

51. The ARCHDIOCESE actively and fraudulently concealed information pertinent and relevant to claims relating to the sexual abuse in this matter for the purpose of protecting itself from civil liability and evading same.

### COUNT I

#### NEGLIGENCE

52. Plaintiff repeats and realleges Paragraphs 1 through 51 above.

53. At all material times, the ARCHDIOCESE owed a duty to Plaintiff to use reasonable care to insure the safety, care, well being and health of the minor JOHN while he was under the care, custody or in the presence of the ARCHDIOCESE. The ARCHDIOCESE's duties encompassed the hiring, retention and supervision of CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ, and otherwise providing a safe environment for JOHN to live.

54. The ARCHDIOCESE breached these duties by failing to protect the minor JOHN from sexual assault and lewd and lascivious acts committed by CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, and FERNANDEZ, an agent and employee of the ARCHDIOCESE.

55. At all relevant times, the ARCHDIOCESE knew or in the exercise of reasonable care

should have known that CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, RODRIGUEZ and FERNANDEZ, were unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and protection.

56. With such actual or constructive knowledge, the ARCHDIOCESE provided CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO, RODRIGUEZ and FERNANDEZ, unfettered access to JOHN and gave him unlimited and uncontrolled privacy.

57. At all relevant times, the ARCHDIOCESE created an environment which fostered child sexual abuse against children it had a duty to protect, including JOHN.

58. At all relevant times, the ARCHDIOCESE had inadequate policies and procedures to protect children it was entrusted to care for and protect, including JOHN.

59. As a direct and proximate result of the ARCHDIOCESE's negligence, JOHN suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

WHEREFORE, Plaintiff demands judgment against Defendant, the ARCHDIOCESE OF MIAMI, INC. for compensatory damages, costs and such other and further relief as this Court deems proper. Plaintiff intends to move to amend the Complaint in accordance with Florida Statutes to assert a claim for punitive damages.

## COUNT II

### RESPONDEAT SUPERIOR / VICARIOUS LIABILITY

60. Plaintiff repeats and realleges Paragraphs 1 through 51 above.

61. CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and

FERNANDEZ, were at all material times hereto the employees, appointees and agents of the ARCHDIOCESE.

62. CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ, were authorized to be alone with JOHN and other children, to bring JOHN to CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ's, bedroom, and to otherwise have unfettered and unsupervised access to young JOHN.

63. The acts described above occurred on the premises of land operated and/or controlled by the ARCHDIOCESE (or at a place authorized by the ARCHDIOCESE), occurred during working hours, and occurred in the course and scope of the performance of CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ's duties. CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ's initial contact and relationship with JOHN was in furtherance of the business of the ARCHDIOCESE. In addition, CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ, were authorized to touch JOHN and display affection in a manner consistent with providing care, spiritual guidance and leadership. CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ, extended and converted their authorized touching into the sexual abuse of JOHN as described above.

64. Upon information and belief, CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ, were authorized to touch JOHN in an improper manner.

65. The wrongful acts of CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ, were committed in the actual or apparent course and scope of

his employment or agency with the ARCHDIOCESE.

66. The wrongful acts were committed while CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ, were doing what their employment or agency contemplated.

67. CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ, acted with willful or reckless disregard for JOHN'S welfare.

68. CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ's, conduct was outrageous, going beyond all bounds of decency.

69. As a result of CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ's conduct, JOHN suffered severe emotional distress.

70. Under the doctrine of respondeat superior, the ARCHDIOCESE is responsible for the negligent, reckless and intentional actions of its servants, CASTELLANOS, GUICHARD, GARCIA, LACERRA, GARCIA-RUBIO and FERNANDEZ, committed in the actual or apparent scope of his duties.

WHEREFORE, Plaintiff demands judgment against Defendant, the ARCHDIOCESE OF MIAMI, INC. for compensatory damages, costs and such other and further relief as this Court deems just and proper. Plaintiff intends to move to amend the Complaint in accordance with Florida Statutes to assert a claim for punitive damages.

#### **DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial in this action.

DATED THIS 15<sup>TH</sup> day of February, 2005.

Respectfully submitted,

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