

61-cv-16044

Court File No.:

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

RICHARD NADEAU, CLAUDE ARSENAULT,
RONALD LEMELIN and BRIAN BOYCE

Plaintiffs

- and -

LES CLERCS ST. VIATEUR and THE ROMAN CATHOLIC EPISCOPAL
CORPORATION FOR THE DIOCESE OF ALEXANDRIA-CORNWALL, IN
ONTARIO, CANADA

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiffs' lawyer, or where the Plaintiffs do not have a lawyer, serve it on the Plaintiffs, and file it, with proof of service, in this Court Office, WITHIN TWENTY DAYS after this Statement of Claim is served upon you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.



Date: January 9, 2001

Issued by H.B. Fowler
Local Registrar

Address of Court Office:

161 Elgin Street,
Ottawa, Ontario
K2P 2K1

TO: Les Clercs St. Viateur
450, rue Querbes
Outremont QC H2V 3W5

AND TO: Roman Catholic Episcopal
Corporation for the Diocese
of Alexandria-Cornwall
220 Montreal Road
Cornwall ON K6H 5V4

CLAIM

1. Each Plaintiff claims as against the Defendants, jointly and severally, as follows:
 - (a) General damages for pain and suffering, mental anguish and loss of enjoyment and amenities of life in the amount of TWO HUNDRED THOUSAND dollars (\$200,000);
 - (b) General damages for economic loss, including loss of future income after the date of trial of this action, diminished future income or loss of future economic opportunity in an amount presently unknown to the Plaintiffs, full particulars of which shall be provided to the Defendants prior to trial;
 - (c) General damages for past and future physical and mental care in an amount presently unknown to the Plaintiffs, full particulars of which shall be provided to the Defendants prior to trial;
 - (d) Special damages for loss of income, diminished income or loss of economic opportunity to the date of trial in this action, and for the out-of-pocket expenses in an amount presently unknown to the Plaintiffs, full particulars of which shall be provided to the Defendants prior to trial;
 - (e) Punitive, aggravated and/or exemplary damages in the amount of TWO HUNDRED THOUSAND dollars (\$200,000);
 - (f) Pre-judgment and post-judgment interest pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
 - (g) Costs of this action on a solicitor-client basis; and
 - (h) Such further and other relief as this Honourable Court may deem just.

THE DEFENDANTS

2. The Defendant Les Clercs St. Viateur ("Les Clercs") is a Roman Catholic teaching order. At all material times Les Clercs operated Collège de Cornwall (the "College") with the assistance, co-operation, permission, and direction of the Defendant The

Roman Catholic Episcopal Corporation for the Diocese of Alexandria-Cornwall, in Ontario, Canada (the "Diocese").

3. The College was a private Roman Catholic school for boys located in Cornwall, Ontario. It is no longer in operation.
4. At all material times, the Plaintiffs were students at the College.
5. At all material times, the Defendants employed Father Jean Primeau, Father Edouard Bérubé, Father Fernand Brazeau, Father Henri Legault and Father Hector Côté, as teachers at the College. They are all deceased.
6. At various times between approximately 1952 and 1964 the Plaintiffs, who were minors at the time, were sexually and/or physically assaulted by Fathers Primeau, Bérubé, Brazeau, Legault and/or Côté. The sexual and physical assaults took place in or near the College.

THE PLAINTIFFS

7. The Plaintiffs in this action are as follows:

- (a) Richard Nadeau ("Richard"), born on January 26, 1940; abused by Father Côté;
- (b) Clause Arsenault ("Claude"), born on November 20, 1944; abused by Father Primeau;
- (c) Ronald Lemelin ("Ronald"), born on February 11, 1942; abused by Fathers Primeau, Bérubé and Brazeau;
- (d) Brian Boyce ("Brian") born on April 10, 1949; abused by Father Legault and Father Bérubé.

THE INCIDENTS OF SEXUAL AND PHYSICAL ABUSE

The Plaintiff Richard Nadeau

8. Richard attended the College from approximately 1952 to 1956. During that time he developed a close mentor relationship with Father Côté.
9. In approximately 1954, when Richard was 14 years of age, he was sexually assaulted by Father Côté. Father Côté forced Richard to share a bed with him, fondled his genitals, masturbated himself against Richard's body and attempted to sodomize Richard.
10. Once a promising student, after the assault Richard's grades fell and he was eventually expelled from the College.

The Plaintiff Claude Arsenault

11. Claude attended the College from approximately 1958 to 1959.
12. In approximately 1958, when Claude was 14 years of age, he was sexually assaulted by Father Jean Primeau. Father Primeau fondled Claude and attempted to sodomize him.
13. Claude was expelled from the College in 1959.

The Plaintiff Ronald Lemelin

14. Ronald attended the College from approximately 1955 to 1959.
15. From approximately 1955 to 1959, starting when Ronald was 13 years of age, he was sexually assaulted on a regular basis by Father Primeau. The sexual assaults involved Father Primeau fondling Ronald's genitals.
16. In addition to the sexual assaults, Father Primeau, Father Bérubé and Father Brazeau physically assaulted Ronald on a regular basis. The assaults involved vicious strappings to the point where Ronald would suffer contusions and lacerations.

17. Ronald's grades fell continuously and he was ultimately expelled from the College.

The Plaintiff Brian Boyce

18. Brian attended the College from approximately 1963-1964.

19. In approximately 1963, when Brian was 14 years of age, he was sexually assaulted by Father Legault. This sexual assault involved Father Legault attempting to sodomize Brian and culminated with Father Legault ejaculating on Brian's body. Father Legault also kissed Brian on his chest and neck and fondled him.

20. Subsequent to the incident of sexual assault involving Father Legault, Brian was caught sneaking a girl into the dorm at the college by Father Bérubé. Father Bérubé ordered Brian to take the girl off the College property and to come to his office. At Father Bérubé's office Father Bérubé ordered Brian to "stand like a post" for an extended period of time. When Brian could no longer stand straight as requested and shifted his weight, Father Bérubé viciously punched him with a closed fist in his face.

LIABILITY OF THE DEFENDANTS

21. The Plaintiffs state that the acts described above constitute assault and battery, both sexual and physical.

22. The Plaintiffs plead that as teachers and spiritual mentors the said priests owed fiduciary duties to the Plaintiffs, and by sexually and physically assaulting the Plaintiffs in the manner described above, they breached those duties.

23. The Plaintiffs plead that the Defendants, as employers and supervisors of the priests, are vicariously responsible for the tortious acts and breaches of fiduciary duties committed by the priests.

24. The Plaintiffs further plead that the Defendants were negligent in that:

- (a) they knew or ought to have known that the priests were homosexual pedophiles;
- (b) they knew or ought to have known that the priests were physically abusive;
- (c) they ought to have ensured that the priests did not have unsupervised access to young boys;
- (d) they ought to have ensured that the priests received appropriate treatment to address their sexual predilections; and
- (e) they failed to properly supervise and/or train the priests.

25. The Plaintiffs further plead that the Defendants, as religious institutions responsible for the education, control and spiritual well-being of minors, owed fiduciary duties to the Plaintiffs, and by failing to protect the Plaintiffs they breached those duties.

DAMAGES

26. As a result of the aforesaid tortious acts and breaches of fiduciary duties the Plaintiffs have suffered, and will continue to suffer, from the following:

- (a) severe mental and emotional distress and humiliation;
- (b) loss of healthy adolescent development;
- (c) difficulty in developing and maintaining meaningful and healthy relationships;
- (d) inability to trust other individuals;
- (e) loss of faith in God and the Catholic church;
- (f) low self-esteem;

- (g) life-long depression;
- (h) repressed anger;
- (i) nightmares, flashbacks and night terrors;
- (j) difficulty sleeping;
- (k) suicidal tendencies;
- (l) substance abuse;
- (m) isolation; and
- (n) physical pain and suffering.

27. Furthermore, all Plaintiffs experienced a sharp decline in their scholastic achievements following the abuse. As a result, all Plaintiffs were unable to pursue their educational and career aspirations to their fullest potential and have thereby suffered, and will continue to suffer, losses of past and future income and loss of economic opportunity.

28. The Plaintiffs plead and rely upon the presumption that as victims of childhood sexual abuse, they only discovered the necessary connection between their injuries and the wrongs done to them by the Defendants in the late 1990's while they were receiving therapy in connection with those injuries and/or discovered the opportunity for redress by learning of police investigations aimed at some of the aforesaid priests.

29. The Plaintiffs have also incurred out-of-pocket expenses as a direct result of the aforesaid tortious acts and breaches of fiduciary duties. Full particulars of these expenses will be produced before trial.

30. The Plaintiffs claim that the aforesaid tortious acts and breaches of fiduciary duty by the Defendants and/or their employees were of such a high-handed, criminal and/or

reckless nature that an award of punitive, aggravated and/or exemplary damages is merited.

31. In serving this Statement of Claim on Les Clercs outside of Ontario, the Plaintiffs plead and rely upon Rules 17.02(g) and (h) of the *Ontario Rules of Civil Procedure*, as the torts were committed in Ontario and the Plaintiffs have suffered damages in Ontario.

32. The Plaintiffs propose that the trial of this action take place in Ottawa.

January 9, 2001

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