
TROY J. MERRYFIELD, and
TODD D. MERRYFIELD,

FILE NO.
Case Code: 30107

Plaintiffs,

vs.

COMPLAINT

DIOCESE OF GREEN BAY
1919 South Webster Avenue
Green Bay, WI 54304,

Defendant.

PARTIES

1. Plaintiff Troy J. Merryfield is an adult male resident of the state of Virginia. Plaintiff was approximately 12 years old at the time of the sexual abuse alleged herein.
2. Plaintiff Todd D. Merryfield is an adult male resident of the state of Wisconsin. Plaintiff was approximately 14 years old at the time of the sexual abuse alleged herein.
3. At all times material to the Complaint, defendant Diocese of Green Bay was and continues to be a non-profit religious corporation, authorized to conduct business and conducting business under the laws of the state of Wisconsin, with its principal base of business at 1919 South Webster Avenue, Green Bay, Wisconsin 54304.
4. At all times material, John Patrick Feeney ("Feeney") was a Roman Catholic priest ordained and remaining under the employ and control of Defendant the Diocese of Green Bay. From approximately June of 1976 through January of 1979, Feeney was under the employ and control of defendant Diocese of Green Bay and was working as a priest with an assignment at St. Nicholas

Parish in Freedom, Outagamie County, Wisconsin.

FACTS

5. John Patrick Feeney was ordained a Roman Catholic priest by the defendant Diocese of Green Bay (“Diocese”) and remained under Diocese direct supervision, employ and control during all times material to this Complaint.

6. During Feeney’s tenure as a priest, defendant Diocese transferred Feeney to serve in several parishes and assignments in northeast Wisconsin. These parishes and assignments included the following:

- a. June 20, 1952, assigned as Assistant Pastor at St. Joseph’s in Green Bay, WI.
- b. January 9, 1954, Pastor at Kewaunee, WI.
- c. September 28, 1954, Assistant Pastor at St. Joe’s, Sturgeon Bay, WI.
- d. June 16, 1955, Pastor at St. Joe’s, Clintonville, WI.
- e. 1956, Pastor at Oshkosh, WI.
- f. September 5, 1958, Assistant Pastor at Holy Redeemer, Two Rivers, WI.
- g. September 5, 1961, Assistant Pastor at St. Therese’s, Appleton, WI.
- h. September 6, 1963, Assistant Pastor at St. Mary’s, Chilton, WI.
- i. September 8, 1965, Temp. Assistant Pastor at Clark Mills, WI.
- j. October 25, 1965, Assistant Pastor at St. Edward’s Isadore, Flintville, WI.
- k. January 11, 1966, Temp Assistant Pastor at St. Ann’s Francis Creek/Algoma,
WI.
- l. April 15, 1966, Assistant Pastor at Holy Name Parish, Maplewood, WI.
- m. June 30, 1966, Temp. Assistant Pastor at St. Joe’s, Wautoma, WI.

- n. August 3, 1966, Admin. Pastor at Holy Family Parish, Elcho, WI, and St. Mary's, Pickerel, WI.
- o. June 14, 1969, Pastor at St. Francis of Xavier, De Pere, WI.
- p. June 20, 1973, Temp. Pastor at St. Bernadette's, Suamico, WI.
- q. June 21, 1976, Pastor at St. Nicholas, Freedom, WI.
- r. January 31, 1979, Temp. Pastor at St. Mary's Church, Stockbridge, WI.
- s. November 9, 1983, left St. Mary's Church.

7. On information and belief, Feeney engaged in sexual contact with minor male individuals during the 1960's and 1970's.

8. On information and belief, the Green Bay Diocese required Feeney to get counseling with Dr. Thomas J. Kelley regarding his sexual issues. In a July 18, 1974 letter, Dr. Kelley indicated that he had mental health counseling sessions with Feeney and stated the following: "As I indicated, our evaluation conclusion is that under stress your usual controls over sexual impulses may fail and cause some indiscretions in this aspect of your functioning." (Attached as Exhibit A.)

9. Each exhibit attached hereto is incorporated as if it was fully set forth within the complaint.

10. In 1974, after Feeney was in counseling dealing with his sexual impulses, Feeney wrote to the Bishop of Green Bay and stated in part "Father Canavera was here today, as you know, and I was sorry to learn that you have received more complaints about me." (Attached as Exhibit B.)

11. On information and belief, in September of 1978, the Bishop of Green Bay wrote a letter to Feeney which warned him about being more prudent in the hearing of confessions, especially with young people. (Attached as Exhibit D.)

12. A document from the Catholic Diocese of Green Bay listed "BRIEFING AND RESUME" that describes the Diocese's knowledge of sexual activity by Feeney. In the memorandum, it states in part:

In the recent past assignments, there have been accusations of improprieties of sexual or quasi-sexual nature in each assignment. These have been the cause of scandal and widespread rumor.

* * *

The accusations and the record of allegations date back years and include assignments at Chilton, Appleton, Freedom, Suamico, De Pere and, most recently, Stockbridge.

Attempts were made to have Father Feeney undergo counseling. He has been in either counseling or psychological testing with Father Martin Pable, Dr. Thomas Kelley and, most recently, with Father John Van Deuren.

(Attached as Exhibit C.)

13. The earliest of the assignments listed in the Briefing and Resume (Ex. C.) was Appleton, Wisconsin. Feeney began working there in 1961.

14. In another memorandum, written in 1983 it states that there were "widespread accusations, allegations and rumors regarding sexual improprieties on the part of Father Feeney from previous parish assignments: St. Therese, Appleton; Freedom; Suamico; De Pere; Chilton, etc."

(Attached as Exhibit E.)

15. On or about June 21, 1976, defendant Diocese assigned Father John Patrick Feeney to be pastor at St. Nicholas Church in Freedom, Outagamie County, Wisconsin.

16. On information and belief, the defendant Diocese never reported to local law enforcement that Feeney had a prior history of sexual abuse toward male juveniles.

17. On information and belief, Defendant Diocese allowed Feeney to have unsupervised and unlimited access to altar boys and children at St. Nicholas Church.

18. On information and belief, Defendant Diocese did not tell any of the parishioners, children, or parents at St. Nicholas, including Plaintiffs and their family, that Feeney had a long history of sexually molesting children, that the Diocese knew that Feeney had a long history of molesting children, and that it had information that Feeney had a pattern of grooming and molesting boys.

19. By placing Feeney at St. Nicholas' Church in Freedom, the Diocese affirmatively represented to minor children and their families at the parish, including Plaintiffs and their family, that Feeney did not have a history of molesting children, that Defendant Diocese did not know that Feeney had a history of molesting children and that Diocese did not know that Feeney was a danger to children.

20. Defendant Diocese was in a specialized position where it had knowledge that Plaintiffs did not. Defendant Diocese was in a position to have this knowledge because it was Feeney's employer and because the Diocese was responsible for Feeney. Plaintiffs on the other hand were minor children. As children, each was not in a position to have information about the Diocese's knowledge or Feeney's past sexual history.

21. Particularly, Defendant Diocese knew that Feeney had sexually molested numerous children and that Feeney was a danger to children before Feeney molested either Plaintiff.

22. Because Defendants were in positions of the superiority and influence over them, each

Plaintiff believed and relied upon these misrepresentations.

23. While relying on the misrepresentations, in approximately 1978, while Feeney was Pastor of St. Nicholas Church, he met with plaintiff, Troy J. Merryfield at St. Nicholas Church for a face-to-face confession. During the confession, defendant Feeney was sitting in a chair across from the minor boy. Feeney proceeded to ask the minor if a girl had ever touched him "here" and at that time Feeney placed his hand on Troy's crotch and grabbed Troy's crotch and penis. Feeney then proceeded to ask Troy questions about his penis.

24. Also while relying on the misrepresentations, Feeney engaged in two other acts of sexual contact with Troy J. Merryfield, a minor, while at the boy's home in approximately 1978.

25. While relying on the misrepresentations, in approximately 1978, defendant Feeney sexually touched Todd Merryfield, a minor, while at the boy's home in Freedom, Wisconsin.

26. Had Plaintiffs or their family known what Defendant Diocese knew - that Feeney had sexually molested numerous children before Plaintiffs and that Feeney was a danger to children, neither Plaintiff would not have been sexually molested.

27. On or about February of 2004, the plaintiffs participated in a jury trial in Outagamie County criminal court case 2002 CF 779. In case 2002 CF 779, defendant Feeney was convicted of sexually assaulting minors Troy J. Merryfield and Todd D. Merryfield. After the criminal court proceedings, the plaintiffs eventually learned that Father John Patrick Feeney had engaged in sexual abuse of several other male juveniles during the 1960's and 1970's

28. Plaintiffs did not discover that each had been defrauded or have any reason to believe that Defendant Diocese had defrauded them until 2004 after the completion of the criminal court case.

29. Plaintiffs did not discover nor in the exercise of reasonable diligence, should have discovered that each was injured or that the cause of his injuries was Defendant until recently because of the profound psychological damage that occurred as a result of the abuse and Defendant's actions, including but not limited to Defendant's efforts to conceal itself as a cause of Feeney sexually molesting children.

30. As a direct and proximate result of defendant's misrepresentations, fraud and actions, both plaintiffs now realize that they have suffered and continue to suffer great pain of mind and body, shock, emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life. Further, the plaintiffs now realize that they have been prevented and will continue to be prevented from performing their normal daily activities and obtaining the full enjoyment of life, have sustained loss of earning capacity and have incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling. The amount of the plaintiffs' damages will be fully ascertained at a jury trial

FIRST CAUSE OF ACTION
TODD MERRYFIELD - FRAUD AGAINST DEFENDANT DIOCESE

31. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

32. Defendant Diocese affirmatively represented to Plaintiff Todd Merryfield and his family that Feeney did not have a history of molesting children, that Defendant Diocese did not know that Feeney had a history of molesting children and that Defendant Diocese did not know that Feeney was a danger to children.

33. Feeney did have a history of sexually molesting children. Defendant Diocese knew

that Feeney had a history of sexually molesting children and that he was a danger to children.

34. Plaintiff Todd Merryfield justifiably relied upon Defendant Diocese's misrepresentations which caused him to be sexually molested by Feeney and suffer the other damages described herein.

35. Defendant Diocese knew that its misrepresentations were false or at least were reckless without care of whether these representations were true or false.

36. Defendant Diocese made the misrepresentation with the intent to deceive Plaintiff and to induce him to act on the misrepresentations to his detriment.

WHEREFORE, Plaintiff demands judgment against Defendant Diocese in an amount to be determined at trial, plus costs, disbursements, reasonable attorneys fees, interest, and such other relief that the Court deems just and equitable.

SECOND CAUSE OF ACTION
TODD MERRYFIELD - FRAUD (INTENTIONAL
NON-DISCLOSURE) AGAINST DEFENDANT DIOCESE

37. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

38. Defendant Diocese knew that Feeney had a history of sexually molesting children before Plaintiff.

39. Whether or not Feeney had a history of sexual abuse was a material fact to plaintiff.

40. Plaintiff relied on this non-disclosure.

41. Defendant Diocese intentionally did not disclose this fact to the then minor Plaintiff in order to induce him to act on the misrepresentations to his detriment.

42. Plaintiff relied upon this intentional non-disclosure, which caused him to be sexually

molested by Feeney and suffer the other damages described herein.

WHEREFORE, Plaintiff demands judgment against Defendant Diocese in an amount to be determined at trial, plus costs, disbursements, reasonable attorneys fees, interest, and such other relief that the Court deems just and equitable.

THIRD CAUSE OF ACTION
TODD MERRYFIELD - NEGLIGENCE AGAINST
DEFENDANT DIOCESE

43. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

44. Defendant Diocese knew or should reasonably have known of Feeney's dangerous and exploitative propensities as a child sexual exploiter and/or as an unfit agent and despite such knowledge, Defendant Diocese negligently retained and failed to provide reasonable supervision of Feeney.

45. Defendant Diocese also negligently failed to provide adequate warning to Plaintiff of Feeney's dangerous and exploitive propensities.

46. As a direct result of Defendant Diocese's negligent conduct, Plaintiff has suffered the injuries and damages described herein.

WHEREFORE, Plaintiff demands judgment against Defendant Diocese in an amount to be determined at trial, plus costs, disbursements, reasonable attorneys fees, interest, and such other relief that the Court deems just and equitable.

FOURTH CAUSE OF ACTION
TROY MERRYFIELD - FRAUD AGAINST DEFENDANT DIOCESE

47. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this

count.

48. Defendant Diocese affirmatively represented to Plaintiff Troy Merryfield and his family that Feeney did not have a history of molesting children, that Defendant Diocese did not know that Feeney had a history of molesting children and that Defendant Diocese did not know that Feeney was a danger to children.

49. Feeney did have a history of sexually molesting children. Defendant Diocese knew that Feeney had a history of sexually molesting children and that he was a danger to children.

50. Plaintiff Troy Merryfield justifiably relied upon Defendant Diocese's misrepresentations which caused him to be sexually molested by Feeney and suffer the other damages described herein.

51. Defendant Diocese knew that its misrepresentations were false or at least were reckless without care of whether these representations were true or false.

52. Defendant Diocese made the misrepresentation with the intent to deceive Plaintiff and to induce him to act on the misrepresentations to his detriment.

WHEREFORE, Plaintiff demands judgment against Defendant Diocese in an amount to be determined at trial, plus costs, disbursements, reasonable attorneys fees, interest, and such other relief that the Court deems just and equitable.

FIFTH CAUSE OF ACTION
TROY MERRYFIELD - FRAUD (INTENTIONAL
NON-DISCLOSURE) AGAINST DEFENDANT DIOCESE

53. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

54. Defendant Diocese knew that Feeney had a history of sexually molesting children

before Plaintiff.

55. Whether or not Feeney had a history of sexual abuse was a material fact to plaintiff.

56. Plaintiff relied on this non-disclosure.

57. Defendant Diocese intentionally did not disclose this fact to the then minor Plaintiff in order to induce him to act on the misrepresentations to his detriment.

58. Plaintiff relied upon this intentional non-disclosure, which caused him to be sexually molested by Feeney and suffer the other damages described herein.

WHEREFORE, Plaintiff demands judgment against Defendant Diocese in an amount to be determined at trial, plus costs, disbursements, reasonable attorneys fees, interest, and such other relief that the Court deems just and equitable.

SIXTH CAUSE OF ACTION
TROY MERRYFIELD - NEGLIGENCE AGAINST
DEFENDANT DIOCESE

59. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

60. Defendant Diocese knew or should reasonably have known of Feeney's dangerous and exploitative propensities as a child sexual exploiter and/or as an unfit agent and despite such knowledge, Defendant Diocese negligently retained and failed to provide reasonable supervision of Feeney.

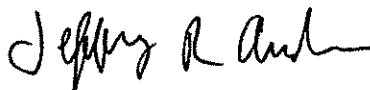
61. Defendant Diocese also negligently failed to provide adequate warning to Plaintiff of Feeney's dangerous and exploitive propensities.

62. As a direct result of Defendant Diocese's negligent conduct, Plaintiff has suffered the injuries and damages described herein.

WHEREFORE, Plaintiff demands judgment against Defendant Diocese in an amount to be determined at trial, plus costs, disbursements, reasonable attorneys fees, interest, and such other relief that the Court deems just and equitable.

Dated: 1/2/08

JEFF ANDERSON AND ASSOCIATES, P.A.



By: Jeffrey R. Anderson, #1019358
E-1000 First National Bank Bldg.
332 Minnesota Street
St. Paul, Minnesota 55101
(651) 227-9990
ATTORNEY FOR PLAINTIFFS

**DEMAND IS HEREBY MADE FOR A TRIAL
BY JURY TO A TWELVE-PERSON JURY**

July 18, 1974

Rev. John Feeney
St. Benedict Parish
Suamico, Wisconsin 54173

Dear Fr. Feeney:

This is the written summary from our recent sessions. To comply with informed consent, it is sent to you for forwarding to the Bishop.

As I indicated, our evaluation conclusion is that under stress your usual controls over ~~your responses~~ may fail and cause some indiscretions in this aspect of your functioning. Our data would suggest some arrestation in the psychosexual sphere of development not altogether uncommon in persons reared in rigid sexually inhibiting environments.

Psychotherapy is indicated to understand the mental mechanisms in operation in order to diminish tension, minimize acting out, and influence heterosexual growth.

If you are agreeable, I would be pleased to recommend a psychiatrist.

Sincerely yours,

Thomas J. Kelley, M.D.
Thomas J. Kelley, M.D. *smn*
Educational and Mental
Health Director

TJK/smn

Ex. A

ST. BENEDICT CONGREGATION

SUNSET BEACH ROAD

414-494-6850

September 10, 1974

SUAMIGO, WISCONSIN 5417

cc Fr. Chh... 9/20/74
Fr. John Feeney

Most Reverend Bishop:

Enclosed is a carbon of the written evaluation sent to me by Dr. Kelly. I accept his recommendation of psychotherapy and have been trying to act upon it. I started this letter some weeks ago but deferred it hoping to be able to give you a name (since Dr. Kelly is not able to see me on a continuing basis). I prefer if possible to consult with a priest psychiatrist but as yet I have not been able to confirm any arrangement. I will keep you informed.

Bishop, Dr. Kelly told me two things that were very welcome and which I am sure he will affirm upon request...namely, that I am not homosexual and that as far as he could judge, I could continue as a pastor.

Father Canavera was here today, as you know, and I was sorry to learn that you have received more complaints about me. I knew of some (eg. a petition and the comment made to you on the radio) but I had hoped they would not be many or significant. I can only say that I am certain I have not given any cause for this since our last conversation in May, that the Parish Council sent you a statement of unanimous support last Month and that I dearly wish to remain here.

I am willing to do whatever you wish and I am trying to appreciate the pressures on you, but I plead with you to allow me to remain here. My vicar, Fr. Al Heitpas, supports me in this desire. Today I suggested to Fr. Canavera that he meet with the parish council to explore ways to heal whatever rift there is in the parish.

Bishop, I can only state again how I regret this situation and fervently pray that it can be resolved. I am at your disposal and do not anticipate being away except for Retreat next week.

I much need your prayers, your blessing and your understanding.

Yours in Christ,

John Feeney
(Fr.) John Feeney

Please pardon the typing errors.
It's the best I could do.

Ex. B



CATHOLIC DIOCESE OF GREEN BAY

BOX 66

GREEN BAY, WISCONSIN 54305

CONFIDENTIAL

BRIEFING AND RESUME

Father Feeney has been at the Stockbridge parish for almost five years. During this time, there has been a continuous stream of calls from the parish in regard to his absences and his improper, erratic and disruptive behavior.

He was transferred from the pastorate of Freedom under the cloud of a charge of sexual assault involving two young boys. The District Attorney had already been approached and was pursuing the matter. The charges were dropped by the parents of the boys on assurance by the Diocese that Father Feeney was going to be removed and would be given counseling.

Father was transferred to the position of Administrator at Stockbridge with the warning that, if there was another repeat of such incidents, he would be removed.

In the recent past assignments, there have been accusations of improprieties of a sexual or quasi-sexual nature in each assignment. These have been the cause of scandal and widespread rumor.

Each time, there have been strong and vehement denials of any wrongdoing.

The accusations and the record of allegations date back years and include assignments at Chilton, Appleton, Freedom, Suamico, De Pere and, most recently, Stockbridge.

Attempts were made to have Father Feeney undergo counseling. He has been in either counseling or psychological testing with Father Martin Pable, Dr. Thomas Kelley and, most recently, with Father John Van Deuren.

These attempts were not successful since there has always been the strong denial and thus, no problem, as far as Father Feeney was concerned, to be worked out.

At this time, it would seem difficult for the Diocese to continue to transfer the problem or even to try to protect from any possible prosecution.

Ex. C



CATHOLIC DIOCESE OF GREEN BAY

BOX 66

GREEN BAY, WISCONSIN 54305

September 14, 1983

CONFIDENTIAL

ACCUSATIONS REGARDING REVEREND JOHN P. FEENEY

I. MORAL-SEXUAL

- a. Accusation of possible sexual assault (Wisconsin State Statutes, Fourth Degree) in the context of hearing the confession of a young girl. h
 - Father Feeney was given a warning by Bishop Wycislo in a September 8, 1978, letter to be more prudent in the hearing of confessions, especially of young people.
- b. Accusation of exposure on the part of Father Feeney by an appliance repair and installation person. This young man, a non-Catholic, stated in writing that Father Feeney exposed himself while he (i.e., the appliance person) was installing an air conditioner in Father's bedroom.

A second accusation involves taking showers at the high school locker room and being in locker room while boys were taking showers.

 - Again, this after a warning by the Bishop and a request by Bishop Wycislo to restrict recreational activities which involve youth.
- c. A third incident of exposure in the presence of young boys in the case of a canoeing outing with seventh - eighth graders from the parish. The incident involved being dunked by Father Feeney and then joining them in clothing change.
 - This after being advised by Bishop to stay away from young people altogether.

II. FINANCIAL

- a. Accusation that personal phone calls were being charged to the parish, especially phone calls to travel agencies, airports, family members, and others of a personal nature.
- b. Accusation of attempting to bilk money from the parish in connection with the appearance of his singer brother, Joe Feeney. The advertising and band were charged to the parish, even though the advertising was for other appearances in Northeastern Wisconsin.

(Over)

Ex. D

- e. Widespread accusations, allegations and rumors regarding sexual improprieties on the part of Father Feeney from previous parish assignments: St. Therese, Appleton; Freedom; Suamico; De Pere; Chilton, etc.
- f. Young people getting married in surrounding parishes, having children baptized in other parishes to avoid having Father Feeney baptize them.
- g. Rudeness to members of the parish.
- h. Refusal of trustees to serve because of inability to work with Father Feeney.
- i. Loss of respect among people of the parish.

VI. DISRUPTIVE CONDUCT AND INFLUENCE IN THE COMMUNITY

- a. Irresponsibility in attending to schedule for release time for students.
- b. Attempt to undermine the influence of school authorities.
- c. Trespassing in private lockers of students.
 - After incident, instruction has been put out that Father Feeney is not to be left alone in the public high school building.
- d. Repeated traffic violations: Shawano County, Kewaunee County, Outagamie County, Calumet County; harassing issuing officers.



CATHOLIC DIOCESE OF GREEN BAY

BOX 66

GREEN BAY, WISCONSIN 54305

POSSIBLE ALTERNATIVES FOR RECOMMENDATIONS TO THE ORDINARY

1. Leave Father Feeney at his present assignment as Administrator of Stockbridge, and allow the people involved to attempt prosecution on the sexual misconduct issue.

There will probably be an attempt to solicit people for testimony from previous parishes. The resulting publicity in this case will be damaging both for Father Feeney and for the Diocese.

The investigative reporter from Channel 11 has already inquired what action will be taken on Father Feeney. He is willing to follow through and expose the Diocese's inaction should there be no action taken regarding Father Feeney.

2. Father Feeney could be given another temporary assignment in the Diocese in an area in which his reputation is not well known.
3. Father Feeney could be removed from assignment in the Diocese, given a leave of absence for reasons of health and sent by the Ordinary to a place such as the House of Affirmation or the treatment place in New Mexico.
4. Following a period of treatment, Father Feeney could find another diocese willing to accept him.
5. Father Feeney could be removed from assignment and retired early.
6. ✓ Father Feeney could request, on his own, to be released from assignment in the Diocese and attempt to find a position in another diocese willing to take him. The Ordinary would give a recommendation to another bishop to accept him for assignment. This would be done quietly without any damage to Father Feeney. Father will be responsible for finding a willing Ordinary and diocese.
7. Father Feeney could be placed in assignment with another priest who would serve as either a mentor or supervisor, to whom he would be accountable. Father Feeney would seek out one of the priests of the Diocese who would be willing to work with him.

SUGGESTION: Of the above possibilities, the first and second

Ex. E