

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

J.H., L.B., and D.P.

vs

CORPORATION OF THE CATHOLIC
ARCHBISHOP OF SEATTLE, a sole corporation, et
al.

Plaintiff(s)

Defendant(s)

NO. 10-2-30752-4 SEA

Order Setting Civil Case Schedule (*ORSCS)

ASSIGNED JUDGE Heavey 20

FILE DATE: 08/26/2010

TRIAL DATE: 02/13/2012

A civil case has been filed in the King County Superior Court and will be managed by the Case Schedule on Page 3 as ordered by the King County Superior Court Presiding Judge.

I. NOTICES

NOTICE TO PLAINTIFF: The Plaintiff may serve a copy of this **Order Setting Case Schedule (Schedule)** on the Defendant(s) along with the **Summons and Complaint/Petition**. Otherwise, the Plaintiff shall serve the *Schedule* on the Defendant(s) within 10 days after the later of: (1) the filing of the **Summons and Complaint/Petition** or (2) service of the Defendant's first response to the **Complaint/Petition**, whether that response is a **Notice of Appearance**, a response, or a Civil Rule 12 (CR 12) motion. The **Schedule** may be served by regular mail, with proof of mailing to be filed promptly in the form required by Civil Rule 5 (CR 5).

"I understand that I am required to give a copy of these documents to all parties in this case."

Print Name

Sign Name

I. NOTICES (continued)

NOTICE TO ALL PARTIES:

All attorneys and parties should make themselves familiar with the King County Local Rules [KCLR] -- especially those referred to in this **Schedule**. In order to comply with the **Schedule**, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the case is filed. For example, discovery must be undertaken promptly in order to comply with the deadlines for joining additional parties, claims, and defenses, for disclosing possible witnesses [See KCLCR 26], and for meeting the discovery cutoff date [See KCLCR 37(g)].

CROSSCLAIMS, COUNTERCLAIMS AND THIRD PARTY COMPLAINTS:

A filing fee of **\$230** must be paid when any answer that includes additional claims is filed in an existing case.

KCLCR 4.2(a)(2)

A Confirmation of Joinder, Claims and Defenses or a Statement of Arbitrability must be filed by the deadline in the schedule. The court will review the confirmation of joinder document to determine if a hearing is required. If a Show Cause order is issued, all parties cited in the order must appear before their Chief Civil Judge.

PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE:

When a final decree, judgment, or order of dismissal of all parties and claims is filed with the Superior Court Clerk's Office, and a courtesy copy delivered to the assigned judge, all pending due dates in this **Schedule** are automatically canceled, including the scheduled Trial Date. It is the responsibility of the parties to 1) file such dispositive documents within 45 days of the resolution of the case, and 2) strike any pending motions by notifying the bailiff to the assigned judge.

Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLCR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all parties and claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

If you miss your scheduled Trial Date, the Superior Court Clerk is authorized by KCLCR 41(b)(2)(A) to present an *Order of Dismissal*, without notice, for failure to appear at the scheduled Trial Date.

NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES:

All parties to this action must keep the court informed of their addresses. When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

ARBITRATION FILING AND TRIAL DE NOVO POST ARBITRATION FEE:

A Statement of Arbitrability must be filed by the deadline on the schedule **if the case is subject to mandatory arbitration** and service of the original complaint and all answers to claims, counterclaims and cross-claims have been filed. If mandatory arbitration is required after the deadline, parties must obtain an order from the assigned judge transferring the case to arbitration. **Any party filing a Statement must pay a \$220 arbitration fee.** If a party seeks a trial de novo when an arbitration award is appealed, a fee of \$250 and the request for trial de novo must be filed with the Clerk's Office Cashiers.

NOTICE OF NON-COMPLIANCE FEES:

All parties will be assessed a fee authorized by King County Code 4.71.050 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements and/or Local Civil Rule 41.

King County Local Rules are available for viewing at www.kingcounty.gov/courts/clerk.

II. CASE SCHEDULE

| CASE EVENT | DEADLINE or EVENT DATE | Filing Needed |
|--|------------------------------|------------------|
| Case Filed and Schedule Issued. | Thu 08/26/2010 | * |
| Last Day for Filing Statement of Arbitrability without a Showing of Good Cause for Late Filing [See <i>KCLMAR 2.1(a) and Notices on Page 2</i>]. \$220 arbitration fee must be paid | Thu 02/03/2011 | * |
| DEADLINE to file Confirmation of Joinder if not subject to Arbitration. [See <i>KCLCR 4.2(a) and Notices on Page 2</i>]. | Thu 02/03/2011 | * |
| DEADLINE for Hearing Motions to Change Case Assignment Area. [See <i>KCLCR 82(e)</i>] | Thu 02/17/2011 | |
| DEADLINE for Disclosure of Possible Primary Witnesses [See <i>KCLCR 26(b)</i>]. | Mon 09/12/2011 | |
| DEADLINE for Disclosure of Possible Additional Witnesses [See <i>KCLCR 26(b)</i>]. | Mon 10/24/2011 | |
| DEADLINE for Jury Demand [See <i>KCLCR 38(b)(2)</i>]. | Mon 11/07/2011 | * |
| DEADLINE for Setting Motion for a Change in Trial Date [See <i>KCLCR 40(d)(2)</i>]. | Mon 11/07/2011 | * |
| DEADLINE for Discovery Cutoff [See <i>KCLCR 37(g)</i>]. | Tue 12/27/2011 | |
| DEADLINE for Engaging in Alternative Dispute Resolution [See <i>KCLCR 16(b)</i>]. | Tue 01/17/2012 | |
| DEADLINE for Exchange Witness & Exhibit Lists & Documentary Exhibits [See <i>KCLCR 4(j)</i>]. | Mon 01/23/2012 | |
| DEADLINE to file Joint Confirmation of Trial Readiness [See <i>KCLCR 16</i>]. | Mon 01/23/2012 | * |
| DEADLINE for Hearing Dispositive Pretrial Motions [See <i>KCLCR 56; CR 56</i>]. | Mon 01/30/2012 | |
| Joint Statement of Evidence [See <i>KCLCR (4)(k)</i>]. | Mon 02/06/2012 | * |
| DEADLINE for filing Trial Briefs, Proposed Findings of Fact and Conclusions of Law and Jury Instructions (Do not file Proposed Findings of Fact and Conclusions of Law with the Clerk) | Mon 02/06/2012 | * |
| Trial Date [See <i>KCLCR 40</i>]. | Mon 02/13/2012 | |

III. ORDER

Pursuant to King County Local Civil Rule 4 [KCLCR 4], IT IS ORDERED that the parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in Local Civil Rule 4(g) and Rule 37 of the Superior Court Civil Rules, may be imposed for non-compliance. It is FURTHER ORDERED that the party filing this action **must** serve this *Order Setting Civil Case Schedule* and attachment on all other parties.

DATED: 08/26/2010



PRESIDING JUDGE

IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE

READ THIS ORDER BEFORE CONTACTING YOUR ASSIGNED JUDGE

This case is assigned to the Superior Court Judge whose name appears in the caption of this case schedule. The assigned Superior Court Judge will preside over and manage this case for all pretrial matters.

COMPLEX LITIGATION: If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

APPLICABLE RULES: Except as specifically modified below, all the provisions of King County Local Civil Rules 4 through 26 shall apply to the processing of civil cases before Superior Court Judges. The local civil rules can be found at <http://www.kingcounty.gov/courts/superiorcourt/civil.aspx>.

CASE SCHEDULE AND REQUIREMENTS

Deadlines are set by the case schedule, issued pursuant to Local Civil Rule 4.

THE PARTIES ARE RESPONSIBLE FOR KNOWING AND COMPLYING WITH ALL DEADLINES IMPOSED BY THE COURT'S LOCAL CIVIL RULES.

A. Joint Confirmation regarding Trial Readiness Report:

No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g. interpreters, equipment, etc.).

The form is available at <http://www.kingcounty.gov/courts/superiorcourt.aspx>. If parties wish to request a CR 16 conference, they must contact the assigned court. Plaintiff's/petitioner's counsel is responsible for contacting the other parties regarding said report.

B. Settlement/Mediation/ADR

a. Forty five (45) days before the trial date, counsel for plaintiff/petitioner shall submit a written settlement demand. Ten (10) days after receiving plaintiff's/petitioner's written demand, counsel for defendant/respondent shall respond (with a counter offer, if appropriate).

b. Twenty eight (28) days before the trial date, a Settlement/Mediation/ADR conference shall have been held. **FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.**

C. Trial: Trial is scheduled for 9:00 a.m. on the date on the case schedule or as soon thereafter as convened by the court. The Friday before trial, the parties should access the King County Superior Court website <http://www.kingcounty.gov/courts/superiorcourt.aspx> to confirm trial judge assignment. Information can also be obtained by calling (206) 205-5984.

MOTIONS PROCEDURES

A. Noting of Motions

Dispositive Motions: All summary judgment or other dispositive motions will be heard with oral argument before the assigned judge. The moving party must arrange with the hearing judge a date and time for the hearing, consistent with the court rules. Local Civil Rule 7 and Local Civil Rule 56 govern procedures for summary judgment or other motions that dispose of the case in whole or in part. The local civil rules can be found at <http://www.kingcounty.gov/courts/superiorcourt/civil.aspx>.

Nondispositive Motions: These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is requested; this date must likewise conform to the applicable notice requirements. Rather than noting a time of day, the Note for Motion should state "Without Oral Argument." Local Civil Rule 7 governs these motions, which include discovery motions. The local civil rules can be found at <http://www.kingcounty.gov/courts/superiorcourt/civil.aspx>.

Motions in Family Law Cases not involving children: Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions calendar. Local Civil Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at <http://www.kingcounty.gov/courts/superiorcourt/civil.aspx>.

Emergency Motions: Under the court's local civil rules, emergency motions will be allowed only upon entry of an Order Shortening Time. However, emergency discovery disputes may be addressed by telephone call and without written motion, if the judge approves.

B. Original Documents/Working Copies/ Filing of Documents

All original documents must be filed with the Clerk's Office. Please see information on the Clerk's Office website at www.kingcounty.gov/courts/clerk regarding the new requirement outlined in LGR 30 that attorneys must e-file documents in King County Superior Court. The exceptions to the e-filing requirement are also available on the Clerk's Office website.

The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge. The assigned judge's working copies must be delivered to his/her courtroom or the Judges' mailroom. Working copies of motions to be heard on the Family Law Motions Calendar should be filed with the Family Law Motions Coordinator. On June 1, 2009 you will be able to submit working copies through the Clerk's office E-Filing application at www.kingcounty.gov/courts/clerk.

Service of documents. E-filed documents may be electronically served on parties who opt in to E-Service within the E-Filing application. The filer must still serve any others who are entitled to service but who have not opted in. E-Service generates a record of service document that can be e-filed. Please see information on the Clerk's office website at www.kingcounty.gov/courts/clerk regarding E-Service.

Original Proposed Order: Each of the parties must include an original proposed order granting requested relief with the working copy materials submitted on any motion. Do not file the original of the proposed order with the Clerk of the Court. Should any party desire a copy of the order as signed and filed by the judge, a pre-addressed, stamped envelope shall accompany the proposed order.

Presentation of Orders: All orders, agreed or otherwise, must be presented to the assigned judge. If that judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the assigned judge or in the Ex Parte Department. Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. **If final order and/or formal proof are entered in the Ex Parte Department, counsel is responsible for providing the assigned judge with a copy.**

C. Form

Memoranda/briefs for matters heard by the assigned judge may not exceed twenty four (24) pages for dispositive motions and twelve (12) pages for nondispositive motions, unless the assigned judge permits over-length memoranda/briefs in advance of filing. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PEITITONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.



PRESIDING JUDGE

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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

J.H., L.B., and D.P.,

Plaintiffs,

v.

CORPORATION OF THE CATHOLIC
ARCHBISHOP OF SEATTLE, a sole
corporation; CONGREGATION OF THE
BROTHERS OF THE CHRISTIAN SCHOOLS
OF IRELAND; CONGREGATION OF
CHRISTIAN BROTHERS; CONGREGATION
OF CHRISTIAN BROTHERS OF IRELAND;
CONGREGATION OF CHRISTIAN
BROTHERS-NORTH AMERICAN
PROVINCE a/k/a WESTERN PROVINCE;
CHRISTIAN BROTHERS INSTITUTE, a New
York corporation; and, THE CHRISTIAN
BROTHERS OF IRELAND, INC., an Illinois
corporation,

Defendants.

NO.

COMPLAINT FOR DAMAGES

Plaintiffs J.H., L.B., and D.P., by and through their attorneys, Michael T. Pfau, Darrell
L. Cochran, Jason P. Amala, and Pfau Cochran Vertetis Kosnoff, PLLC, hereby state and
allege as follows:

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I. INTRODUCTION

1.1. Plaintiffs J.H., L.B., and D.P. were sexually abused while they were students at Briscoe Memorial School (“Briscoe”) in King County, Washington, and while they were under the care, control, and supervision of the Christian Brothers and the Seattle Archdiocese.

1.2. J.H., L.B., and D.P. were sexually abused by various Christian Brothers and others who taught, administered, resided, or otherwise served at Briscoe.

1.3. When J.H., L.B., and D.P. were sexually abused at Briscoe, the school was owned by defendant Corporation of the Catholic Archbishop of Seattle (“Seattle Archdiocese”) and was jointly operated by the Seattle Archdiocese and defendants Congregation of the Brothers of the Christian Schools of Ireland, Congregation of Christian Brothers, Congregation of Christian Brothers of Ireland, Congregation of Christian Brothers – North American Province, also known as the Western Province, Christian Brothers Institute, and The Christian Brothers of Ireland, Inc. (hereinafter collectively referred to as the “Christian Brothers”).

1.4. By the time J.H., L.B., and D.P. were physically and sexually abused at Briscoe, the defendants knew, or should have known, that the school was a dumping ground for Christian Brothers and others who sexually and physically abused children, but they failed to take reasonable steps to protect J.H., L.B. and D.P. from being abused.

II. PARTIES

2.1. Plaintiff J.H. resides in Washington. While he was a minor, J.H. attended Briscoe Memorial School in King County, Washington, where he was physically and sexually abused. In the interests of privacy, this complaint identifies plaintiff J.H. only by his initials.

1 2.2. Plaintiff L.B. resides in Washington. While he was a minor, L.B. attended
2 Briscoe Memorial School in King County, Washington, where he was physically and sexually
3 abused. In the interests of privacy, this complaint identifies plaintiff L.B. only by his initials.

4 2.3. Plaintiff D.P. resides in Washington. While he was a minor, J.H. attended
5 Briscoe Memorial School in King County, Washington, where he was physically and sexually
6 abused. In the interests of privacy, this complaint identifies plaintiff J.H. only by his initials.

7 2.4. Between 1955 until the school closed, defendant Seattle Archdiocese was a
8 Washington sole corporation that owned, operated, managed and controlled Briscoe Memorial
9 School, including the Christian Brothers, priests, and others who taught, administered,
10 resided, or otherwise served at the school. At that time, as now, the Seattle Archdiocese's
11 headquarters and its principal place of business were located in Seattle, King County,
12 Washington.

13 2.5. From 1955 until the school closed, defendant Congregation of the Brothers of
14 the Christian Schools of Ireland operated Briscoe and supervised the Christian Brothers,
15 priests, and others who taught, administered, resided, or otherwise served at the school.

16 2.6. From 1955 until the school closed, defendant Congregation of Christian
17 Brothers operated Briscoe and supervised the Christian Brothers, priests, and others who
18 taught, administered, resided, or otherwise served at the school.

19 2.7. From 1955 until the school closed, defendant Congregation of Christian
20 Brothers of Ireland operated Briscoe and supervised the Christian Brothers, priests, and others
21 who taught, administered, resided, or otherwise served at the school.

22 2.8. From 1955 until the school closed, defendant Congregation of Christian
23 Brothers – North American Province, also known as the “Western Province,” operated
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1 Briscoe and supervised the Christian Brothers, priests, and others who taught, administered,
2 resided, or otherwise served at the school.

3 2.9. From 1955 until the school closed, defendant Christian Brothers Institute, a
4 New York corporation, operated Briscoe and supervised the Christian Brothers, priests, and
5 others who taught, administered, resided, or otherwise served at the school.
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7 2.10. From 1955 until the school closed, defendant Christian Brothers Institute, a
8 New York corporation, received compensation for the Christian Brothers who served at
9 Briscoe.

10 2.11. From 1955 until the school closed, defendant The Christian Brothers of
11 Ireland, Inc., an Illinois corporation, operated Briscoe and supervised the Christian Brothers,
12 priests, and others who taught, administered, resided, or otherwise served at the school.
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14 2.12. From 1955 until the school closed, defendant The Christian Brothers of
15 Ireland, Inc., an Illinois corporation, received compensation for the Christian Brothers who
16 served at Briscoe.

17 **III. JURISDICTION & VENUE**

18 3.1. As discussed more fully herein, many of the acts and omissions giving rise to
19 this action occurred in King County, Washington. Moreover, the principal place of business
20 of defendant Seattle Archdiocese was, and is, Seattle, King County, Washington, and at the
21 time this cause of action arose, the Seattle Archdiocese transacted business in Seattle, King
22 County, Washington. Similarly, at the time this cause of action arose, the Christian Brothers
23 defendants transacted business in Seattle, King County, Washington.
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1 3.2. As such, this Court has jurisdiction over this matter pursuant to RCW
2 2.08.010, and venue is proper in this Court pursuant to RCW 4.12.020.

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4 **IV. STATEMENT OF FACTS**

5 4.1. Briscoe Memorial School (“Briscoe”) was opened and established by the
6 Corporation of the Catholic Bishop of Nisqually in the Territory of Washington in
7 approximately 1908 to care for needy and troubled orphans.

8 4.2. The Corporation of the Catholic Bishop of Nisqually in the Territory of
9 Washington would eventually become the Corporation of the Catholic Archbishop of Seattle
10 (“Seattle Archdiocese” or “Archdiocese”).

11 4.3. In approximately 1914, the Corporation of the Catholic Bishop of Nisqually in
12 the Territory of Washington entered into a contract with the Christian Brothers regarding the
13 day-to-day operations of Briscoe. While the Christian Brothers were charged with the day-to-
14 day operations of Briscoe, the Archdiocese maintained full control over the school:
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16 2. Possession of said property is hereby delivered to second party as a
17 Foundation for second party for the undertaking and management of benevolence
18 and charities, and particularly for taking and having the care, custody, control and
19 education of orphan and needy boys, the furnishing of homes for such boys, the
20 education and training of youth, and the promotion of the physical, moral and
21 educational and religious interests of orphan and needy boys, the same to be
22 conducted by the religious order of the Catholic Church known as the Christian
23 Brothers of Ireland. ...

24 3. The title and ownership of all of said real property shall remain as it now
25 exists, namely, in the Corporation of the Catholic Bishop of Nisqually in the
26 Territory of Washington

 6. Second party agrees to conduct the Foundation aforesaid in matters
temporal and spiritual in accordance with the canon laws of the Catholic Church,
and shall always provide a sufficient number of the members of said order and
employees to care for the inmates of the orphanage and schools. ...

1 15. In case second party shall fail at any time to conduct and maintain on said
2 premises a charitable school for orphan and needy boys in accordance with the true
3 intent of this agreement, this agreement shall become void, and all rights of second
4 party shall there-upon terminate, and first parties may re-enter said premises and
5 rescue possession thereof, and this agreement shall be at an end.

6 4.4. As a result of its joint operation of Briscoe with the Christian Brothers, the
7 Archdiocese collected taxes and fees from Briscoe and its students; financed the school's
8 operations; maintained academic files on its students; included Briscoe in its annual reports of
9 Archdiocesan schools; supervised and monitored Briscoe's operations; dictated textbooks to
10 be used at the school; monitored health testing of the students; issued Briscoe report cards on
11 Archdiocesan stationary; established policies for the school, including the requirement that
12 the teachers be certified; appointed chaplains for Briscoe who lived at the school; provided
13 Briscoe's students with social workers and caseworkers, including such services through the
14 Archdiocese's Catholic Charities program; obtained insurance for Briscoe, including policies
15 that listed both Briscoe and the Archdiocese as insureds; and owned the the Briscoe buildings
16 and property. As reflected in its contract with the Christian Brothers, the Archdiocese also
17 retained ultimate authority to appoint and remove teachers and to enforce good morals in the
18 school.

19 4.5. Regrettably, unfit Christian Brothers and other school personnel were not
20 removed. The defendants were careless, at least in part, because of a shortage of Christian
21 Brothers, priests, and other Catholic personnel. Yet they also concealed the sexual and
22 physical abusers at Briscoe in order to protect state and community funding for the school and
23 presumably to avoid a scandal that would hurt their image and their continuing efforts to raise
24 money for other Archdiocese and Christian Brothers endeavors.
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1 4.6. Numerous complaints by parents and students of physical and sexual abuse
2 were ignored by the Archdiocese and the Christian Brothers. For example, in approximately
3 the spring of 1944, a young boy ran away from Briscoe and went to the local Chancery, where
4 he informed his caseworker and representatives of the Archdiocese that he was being abused
5 at Briscoe. In the late 1940s, a boy was repeatedly molested by the Archdiocesan priest at
6 Briscoe, Father Toner. Despite being ridiculed by the Christian Brothers for the abuse, they
7 did nothing to prevent it. In the early 1950s, a boy told another Archdiocesan priest at
8 Briscoe that he was sexually abused by Christian Brother D.P. Ryan, but nothing was done to
9 prevent Ryan from abusing more children. In the mid-1950s, a boy told the Christian Brother
10 supervisors at the school that he was being sexually abused by the cook; instead of helping
11 him, they physically beat him. Around the same time, numerous other boys told other
12 Christian Brothers and the school nurse that they were being sexually abused, but nothing was
13 done. In the late 1950s and early 1960s, a boy informed Father Edmund Boyle, the
14 Archdiocese's assistant pastor of St. James Cathedral, and other priests that he had been
15 sexually abused at Briscoe, but nothing was done. In the early and mid-1960s, other boys told
16 various school employees that they were being sexually abused, including the school nurse
17 and an Archdiocesan caseworker, but nothing was done.

21 4.7. The personal accounts of dozens of boys who were sexually abused at Briscoe
22 is not the only direct evidence of the abuse and notice to the defendants. For example, in the
23 late 1940s and early 1950s, two of the eight Christian Brothers who were assigned to Briscoe
24 were removed after admitting to molesting children at the school. In 1950, the General
25 Superior of the Christian Brothers, who was responsible for its worldwide operations, wrote to
26 his subordinate in the United States regarding one of those two Brothers, acknowledged the

1 danger of pedophilia, and chastised his subordinate for failing to do more to admonish the
2 Brother and protect the children.

3 4.8. A few years later, in 1954, another Christian Brother was allowed to remain at
4 Briscoe despite a letter stating “he definitely should not be sent here . . . The man certainly
5 does not belong in a boarding school.” Nevertheless, ten years down the road, the same
6 Brother was still a problem for the Briscoe superior: “Under no condition should Brother be
7 permitted to return . . . [He] keeps certain boys with himself. These are the very ones who
8 should not be kept apart. If we are to help these boys, we cannot afford a period when our
9 work will be undone . . . Another reason is his inability to control his temper when with the
10 boys . . .”

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12 4.9. Similarly, after a boy was severely abused in 1958 or 1959, the head of Briscoe
13 wrote to his regional superior and noted that “nearly all of them [students] are delinquent,
14 criminal, and disturbed to a degree. You can see why Briscoe is no place for a Brother who is
15 a problem. The blind can hardly lead the blind.”

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17 4.10. The defendants were well aware of Briscoe’s abusive environment and the
18 emotional impact that environment had on its students. For example, in approximately 1950,
19 a “Briscoe Study” was conducted for the express purpose of “appraising the needs of the
20 children now being served at Briscoe.” The issues addressed by the Briscoe Study were: (1)
21 the reasons for the placement of the child at Briscoe; (2) the child’s adjustment and the
22 effectiveness of the placement; and, (3) recommendations regarding the type of care needed
23 by the boys. Not surprisingly, the study revealed that the boys at Briscoe were suffering
24 severely with unexplained – yet explainable – emotional disturbances, and mandated that the
25 boys receive immediate psychological counseling and care. The mandate was ignored.
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1 4.11. A decade later, the problems remained and were still being documented by the
2 defendants. For example, in the early 1960s, the Christian Brother responsible for Briscoe
3 reported that the children were “emotionally, physically, and socially mistreated, mistrusted,
4 and mishandled. Their needs are not only unmet but definite injury and harm are being done
5 to them. . . . Parents are often taken to Court for the very same neglect and abuse for which
6 this school and the American Province have been guilty.”
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8 4.12. Plaintiff J.H., L.B., and D.P. were among the many victims of physical and
9 sexually abuse at Briscoe.

10 4.13. Plaintiff J.H. was placed at Briscoe in approximately 1955, when he was about
11 nine years old. While at Briscoe, Christian Brother Casale would get J.H. out of bed at night
12 and eventually persuaded J.H. to perform oral sex on him, partly through Casale telling J.H.
13 that he could become a priest if he did so. Plaintiff J.H. was also made to perform oral sex on
14 others, including Brother Croke, as a result of being groomed and sexually abused by Casale.
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16 4.14. Plaintiff L.B. was placed at Briscoe in approximately 1962, when he was about
17 ten years old. In his second and third years at Briscoe, Christian Brother O’Sullivan would
18 get L.B. out of his bed at night, take him downstairs, and sexually abuse him in O’Sullivan’s
19 room at Briscoe. The sexual abuse happened a number of times and escalated over time,
20 starting with fondling and masturbation and leading to attempted oral sex and anal sex. L.B.
21 was also sexually abused by Brother Croke while at Briscoe.
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23 4.15. L.B. told Brother C.P. Ryan and his caseworker about the sexual abuse he
24 endured at Briscoe, but nothing was done.

25 4.16. Plaintiff D.P. was placed at Briscoe in approximately 1966, when he was about
26 eleven years old.

1 5.6 The conduct described above shows that the Christian Brothers and the Seattle
2 Archdiocese engaged in egregious conduct that reflects their intent to harm, and plaintiffs
3 J.H., L.B., and D.P. were severely damaged as a result.

4 5.7 At the very least, the Christian Brothers and the Seattle Archdiocese were
5 recklessly indifferent to injury that would likely result from their acts and omissions. They
6 knew Briscoe was a dumping ground for serial sexual predators, they knew those predators
7 would continue to molest children at Briscoe if given access to do so, and they knew that
8 those children would suffer severe damage from being sexually abused. J.H., L.B., and D.P.
9 were the victims of their reckless indifference and their willful and wanton misconduct.

10 **C. Negligence and Breach of Fiduciary Duty**

11 5.8 Plaintiffs J.H., L.B., and D.P. re-allege the paragraphs set forth above and
12 below.

13 5.9 Even if one gave the Archdiocese and the Christian Brothers every possible
14 benefit of the doubt, they failed to exercise the reasonable care one would expect from school
15 owners and operators – they negligently and grossly negligently hired, retained, supervised,
16 and monitored the Christian Brothers and others who were given access to plaintiffs and the
17 other children at Briscoe.

18 5.10 More specifically, the Christian Brothers and the Seattle Archdiocese enabled
19 the physical and sexual abuse of J.H., L.B., and D.P. through a number of wrongful acts and
20 omissions, including:

- 21 (a) failing to conduct proper background checks to ascertain whether their abusers
22 were suitable to be a school teacher, school administrator, or otherwise have
23 access to plaintiffs and the other children at Briscoe;
24 (b) failing to timely adopt policies and procedures to identify potential and actual
25 sexual offenders and abusers, and to prevent their placement at Briscoe;
26

- 1 (c) failing to properly supervise their abusers by providing them with access to
2 students at Briscoe, failing to take any meaningful steps to prevent their
3 abusers from physically and sexually abusing plaintiffs and the other students
4 at Briscoe, and failing to report the sexual misconduct of their abusers at
5 Briscoe and other schools to the authorities;
- 6 (d) failing to warn parents, students, or others at Briscoe of the danger that their
7 abusers posed to students; and,
- 8 (e) concealing the abuse of children at Briscoe.
- 9

10 5.11 The Christian Brothers and the Seattle Archdiocese knew, or certainly should
11 have known, that certain individuals possess an uncontrollable urge to sexually molest young
12 boys and that there existed in the mental health community ample knowledge that the
13 treatment of that condition included at the very least two essential elements (1) keeping them
14 away from young boys, and (2) telling those who needed to know about their condition.
15 Defendants did neither.

16 5.12 As a direct and proximate result of the negligent and grossly negligent acts and
17 omissions of the Christian Brothers and the Seattle Archdiocese, plaintiffs J.H., L.B., and D.P.
18 were physically, psychologically and emotionally damaged.

19 5.13 The Seattle Archdiocese and the Christian Brothers also knew or should have
20 known that their attempts to cover-up the sexual abuse of children at Briscoe would, if
21 discovered, likely cause increased emotional suffering to his victims and their families.

22 5.14 Notwithstanding that knowledge, the Christian Brothers and the Seattle
23 Archdiocese hid the nature and the extent of the sexual abuse at Briscoe from the victims,
24 their families, and other parish or school members. Those attempts were successful, and not
25
26

1 discovered until many years later, thereby causing increased emotional suffering to his
2 victims and their families, including J.H., L.B., and D.P.

3 **D. Respondeat Superior and Ratification**
4

5 5.15 Plaintiffs J.H., L.B., and D.P. re-allege the paragraphs set forth above and
6 below.

7 5.16 At all relevant times, the Christian Brothers and the Seattle Archdiocese
8 maintained complete authority and control over those who taught and served at Briscoe,
9 including the Christian Brothers, priests, and caseworkers who provided services to its
10 students. As such, the Seattle Archdiocese and the Christian Brothers were empowered with
11 an obligation to prevent the abuses that were occurring at Briscoe.

12 5.17 The Christian Brothers, by and through their operation of Briscoe as an
13 Archdiocesan school, were the actual and apparent agents of the Seattle Archdiocese during
14 the times relevant to the allegations contained herein.

15 5.18 The abuse of minors by priests and Christian Brothers within the Seattle
16 Archdiocese was so pervasive that it cannot be said that such conduct by the priests and
17 Christian Brothers was unforeseen or so far outside their predictable behavior to prevent the
18 Seattle Archdiocese and the Christian Brothers from being vicariously liable for such conduct.
19 The Seattle Archdiocese and the Christian Brothers are therefore vicariously liable on the
20 basis of *respondeat superior* for the conduct of those who perpetrated the abuse and allowed it
21 to occur. This is particularly true where the Christian Brothers and the Seattle Archdiocese
22 ratified this misconduct over many, many years, reaping the benefits of their cheap labor
23 while later trying to repudiate its consequences. Despite knowledge that abuses at Briscoe
24 were rampant, they did nothing. The Christian Brothers and the Seattle Archdiocese
25 maintained a rich financial motive for doing so: for one, they profited by keeping abusers and
26 enablers quiet and moving them away from potential lawsuits; and two, they profited from the

1 cheap labor the abusers and enablers provided under the “vow of poverty.” Given these
2 circumstances, the Christian Brothers and the Seattle Archdiocese should be held vicariously
3 liable for their acts and omissions.
4

5 **E. Violation of RCW 9.68A: Sexual Exploitation of Children**

6 5.19 Plaintiffs J.H., L.B., and D.P. re-allege the paragraphs set forth above and
7 below.

8 5.20 The sexually assaults and exploitation that J.H., L.B., and D.P. suffered at
9 Briscoe violated Chapter 9.68A RCW, the Sexual Exploitation of Children Act, including
10 RCW 9.68A.040, 9.68A.070, and 9.68A.090.

11 5.21 These violations of Chapter 9.68A RCW were done with the knowledge and
12 the acquiescence of the Seattle Archdiocese and the Christian Brothers, and the claims of J.H.,
13 L.B., and D.P. against the Seattle Archdiocese and the Christian Brothers arise from those
14 violations. Therefore, J.H., L.B., and D.P. are entitled to an award of attorney’s fees and costs
15 against the Seattle Archdiocese and the Christian Brothers pursuant to RCW 9.68A.130.
16

17 **F. Equitable Estoppel, Fraudulent Concealment, and Civil Conspiracy**

18 5.22 Plaintiffs J.H., L.B., and D.P. re-allege the paragraphs set forth above and
19 below.

20 5.23 The Seattle Archdiocese and the Christian Brothers engaged in a plan or
21 conspiracy to cover-up incidents of sexual and physical abuse of minors at Briscoe, efforts
22 intended to prevent disclosure, prosecution, and/or civil litigation related to that abuse of
23 children. Their efforts included, but were not limited to: failure to report incidents of abuse
24 to law enforcement or child protection agencies; denial of abuse when it was brought to their
25 attention; transfer of abusive personnel; failure to seek out and redress the injuries of victims;
26

1 destruction of documents related to complaints of abuse; and, a refusal to fully document
2 complaints of abuse.

3 5.24 Based on these actions, the Christian Brothers and the Seattle Archdiocese
4 engaged in fraudulent concealment and are equitably estopped from asserting the defense of
5 statute of limitations or laches. They are also liable for civil conspiracy.

6 **VI. PRAYER FOR RELIEF**

7 6.1. WHEREFORE, Plaintiffs J.H., L.B., and D.P. pray for judgment against the
8 defendants for general and special damages in an amount to be proven at the time of trial, for
9 their reasonable attorneys' fees and costs, for statutory interest, prejudgment interest, punitive
10 damages, exemplary damages as allowed by RCW 9.68A.130, and for such other and further
11 relief as the Court deems just and equitable.

12 6.2. Plaintiffs J.H., L.B., and D.P. specifically reserve the right to pursue additional
13 causes of action, other than those specifically outlined above, that are supported by the facts
14 pleaded herein or that may be supported by other facts that emerge during discovery.

15 DATED this 26th day of August, 2010.

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