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Case No. SC98307

IN THE SUPREME COURT OF MISSOURI

JOHN DOE 122

Plaintiff/Appellant,

vs.

MARIANIST PROVINCE OF THE UNITED STATES, and CHAMINADE COLLEGE PREPARATORY, INC.

Defendants/Respondents.

BRIEF OF AMICI CURIAE MISSOURI COALITION AGAINST DOMESTIC AND SEXUAL VIOLENCE AND SNAP FOR PLAINTIFF/APPELLANT

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INTEREST OF AMICI CURIAE

The Missouri Coalition Against Domestic and Sexual Violence (MCADSV). MCADSV's mission is to unite Missourians with a shared value that rape and abuse must end, and advances this through education, alliance, research, and public policy. For more than 35 years, MCADSV has worked with lawmakers at the federal and state level to develop public policies necessary to protect the health and safety of victims of domestic and sexual violence. MCADSV is currently Missouri's sole provider of domestic and sexual violence technical assistance and education. MCADSV has an interest in signing on to this brief because our organization supports sexual assault survivors in redressing the abuse they suffered, and one way they should be able to do this is through the justice system.

Missouri KidsFirst is the statewide network of Child Advocacy Centers and the Missouri Chapter of Prevent Child Abuse America. Missouri KidsFirst's mission is to empower adults to protect children from abuse. We are the state's leading voice for child protection and through our programs and policy efforts we educate parents, teachers, physicians, lawmakers, and other community members so they have the tools they need to stand up for children who experience or are at risk of experiencing abuse or neglect. Missouri KidsFirst has an interest in signing on to this brief because our network is committed to ensuring that victims of child sexual abuse have access to services that help them achieve justice and healing, including access to the courts.

SNAP is an independent, peer network of survivors of institutional sexual abuse and their supporters who work to prevent future cases of abuse and ensure that survivors today have access to support resources that can help them heal. We have been providing support and advocacy to victims of sexual abuse in institutional settings for 30 years and today we count more than 25,000 survivors and supporters in our global network. Our mission is to "protect the vulnerable, heal the wounded, and prevent the abuse" and we accomplish that

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mission through public education and private support provided by the tireless efforts of volunteer leaders worldwide.

INTRODUCTION AND SUMMARY OF ARGUMENT

The statistics are overwhelming. "One in four girls and one in six boys will be sexually abused before they turn 18 years old." *Get Statistics*, NAT'L SEXUAL VIOLENCE RES. CTR., https://www.nsvrc.org/node/4737 (last visited Jan. 24, 2020). "A person is abused in the United States every 9 seconds." *Statistics*, THE CTR. FOR FAMILY JUSTICE, https://centerforfamilyjustice.org/community-education/statistics/ (last visited Jan. 24, 2020) (citing BUREAU OF JUSTICE STATISTICS, https://www.bjs.gov/ (last visited Jan. 24, 2020)). "A report of child abuse is made every 10 seconds." *Id.* (citing AM. SOC'Y FOR THE POSITIVE CARE OF CHILDREN, https://americanspcc.org/ (last visited Jan. 24, 2020)). "There are more than 42 million survivors of sexual abuse in America. (National Association of Adult Survivors of Child Abuse)." *Facts and Stats*, LAUREN'S KIDS, https://laurenskids.org/awareness/about-faqs/facts-and-stats/ (last visited Jan. 24, 2020). "Child sexual abuse exploits and degrades children and can cause serious damage to cognitive, social, and emotional development of a child." *Preventing Child Sexual Abuse*, PREVENT CHILD ABUSE AM., https://preventchildabuse.org/resource/preventing-child-sexual-abuse/ (last visited Jan. 24, 2020).

Advocates for children have taught us "child sexual abuse is both *everyone's problem and responsibility*. The goal of such public education efforts is to eliminate any tolerance for sexual abuse or confusion over what society condones as appropriate interactions between adults and children." *Id.* (emphasis added).

Amici organizations are devoted to ending the sexual abuse of children and receiving justice for all abused victims. We have fought sexual abuse in the workplace, in public and private schools, and in nonreligious organizations and churches. The abuse is the same, wherever it occurs. Our path has often been difficult because, in the past, courts

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frequently protected such abuse, believing that abuse-related decisions were protected by privacy or by religious liberty. The courts, correctly, rarely wanted to interfere with the free practice of religion, as this Court has demonstrated in its own decisions. However, freedom of religion does not, nor was it meant to, protect sexual abuse. As one court stated, "The First Amendment is not a safe haven for a sexual predator and his enabler." *Doe v. Roman Catholic Bishop of Orange*, No. SACV1701424CJCJCGX, 2018 WL 6118442, at *1 (C.D. Cal. Feb. 12, 2018).

The disgusting and pervasive facts of sexual abuse across the country have changed the law's perspective on the reach of religious freedom. They have clarified that sexual abuse, and the protection of abusers from courts and law enforcement, are always against "neutral principles of law" and can be handled justly by state and federal courts without imposing on religious freedom. Allowing survivors of abuse into court is one of the best ways to ensure the bedrock principle of justice for all.

This Court recognized that essential point in *Gibson v. Brewer* by reversing the lower court's dismissal of an intentional failure to supervise claim against the Diocese. 952 S.W.2d 239, 250 (Mo. banc 1997). The experience of the past has occasionally kept courts from seeing how illegal conduct must be recognized and punished, instead of protected. This Court now has the opportunity to set a precedent that child abuse, by anyone, is not to be tolerated.

We understand the horrible abuse, its legacy, and the cover-up better today than we did when the country first started to recognize sexual abuse. We ask this Court to now clarify that the sexual abuse of children is not protected generally by state or federal law and not specifically by *Gibson*. This Court should allow victim John Doe 122 his day in court, so that *his* freedom is fully protected.

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ARGUMENT

I. *Gibson* Allows This Lawsuit to Proceed.

Gibson v. Brewer involved a lawsuit by Catholic Michael Gibson against the Catholic Diocese of Kansas City-St. Joseph for sexual contact imposed upon him by Father Michael Brewer. *Id.* at 243. In *Gibson*, this Court did not block a breach of fiduciary duty claim, concluding merely that the facts of that tort had not been established *in that particular case*. *Id*. at 245. Therefore, *Gibson* gives the Court no reason to reject a breach of fiduciary duty claim against a Diocese, as long as the elements are met.

This Court also ruled that the trial court in *Gibson* erred in *dismissing* an intentional failure to supervise clergy claim. *Id.* at 248. It also dismissed an intentional infliction of emotional distress claim (IIED) *on the facts*, arguing that *in that particular case*, the conduct was not outrageous enough for IIED. *Id.* at 249. *Gibson* thus left claims for intentional failure to supervise clergy and IIED open for future litigation, as occurred in this case.

On four other torts, however, *Gibson* ruled that allowing courts to hear such cases would entangle the courts too frequently in *religious* disputes that the courts could not handle without infringing on religious freedom. *Id.* at 246–47. These torts were negligent hiring/ordination/retention of clergy, negligent failure to supervise clergy, negligent infliction of emotional distress, and the Diocese's independent negligence. *Id.* at 246–50. This Court recognized that "[r]eligious organizations are *not* immune from civil liability for the acts of their clergy." *Id.* at 246 (emphasis added). Citing Supreme Court cases, this Court clearly stated that if "neutral principles of law can be applied without determining questions of religious doctrine, polity, and practice, then a court may impose liability." *Id.* (citing *Presbyterian Church v. Mary Eliz. Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 449 (1969); *Jones v. Wolf*, 443 U.S. 595, 603 (1979); *Presbytery of Elijah Par. Lovejoy v. Jaeggi*, 682 S.W.2d 465, 467–68 (Mo. banc 1984)).

Recent decisions in courts around the country confirm there are numerous sexual abuse cases where Dioceses and other religious administrators can be held liable due to their clear violation of "neutral principles of law." *See*, *e.g.*, *Bandstra v. Covenant Reformed Church*, 913 N.W.2d 19, 37 (Iowa 2018); *Doe v. Norwich Roman Catholic Diocesan Corp*., No. KNLCV175015369, 2018 WL 650376, at *2 (Conn. Super. Ct. Jan. 5, 2018); *Doe v. Norwich Roman Catholic Diocesan Corp.*, No. KNLCV175015307, 2018 WL 650358, at *2 (Conn. Super. Ct. Jan. 5, 2018). The trend is toward opening the courts to protect the abused. *Gibson* left open the possibility that in circumstances where neutral principles apply, a lawsuit should proceed. Therefore, the circuit and appellate courts should have applied those lessons here and allowed John Doe 122's lawsuit to continue.

In this case, Appellant Doe filed a lawsuit for sexual abuse or battery, negligent supervision, intentional failure to supervise clergy, negligent failure to supervise children, intentional infliction of emotional distress, and breach of fiduciary duty. *Doe 122 v. Marianist Province of U. S.*, No. ED 107767, 2019 WL 7341484, at *7 (Mo. Ct. App. Dec. 31, 2019). Respondents successfully argued, in the circuit and the appeals courts, that *Gibson* bars those claims. *Id*. at *2. The circuit court ruled that the negligence claims were barred by *Gibson*, and that there was no proof of intent for the intentional failure to supervise clergy claim. *Id*. at *4–5. The circuit court also granted summary judgment on the issues of sexual abuse or battery, negligent supervision, intentional failure to supervise clergy, negligent failure to supervise children, intentional infliction of emotional distress, and breach of fiduciary duty. *Id*. Appellant chose to appeal only the rulings on negligent supervision, intentional failure to supervise clergy, and negligent failure to supervise children. *Id*. at *1, n.2. In ruling against him on these claims, the court of appeals relied on *Gibson*, stating that "because Appellant's negligent supervision and negligent failure to supervise children claims would require interpretation of religion doctrine, policy, and administration amounting to an excessive entanglement between church and state, the trial court did not err in granting summary judgment in favor of Respondents." *Id*. at *4.

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Because the facts of *Gibson* were insufficient to support the tort claims in that particular case, we argue that *Gibson* does not bar the three remaining claims on appeal. The facts of this case support an application of neutral principles of the law; therefore, Appellant Doe 122's claims of negligent supervision, intentional failure to supervise clergy, and negligent failure to supervise children should proceed.

II. Appellants' Negligent Supervision and Negligent Failure to Supervise Children Lawsuits Can Be Litigated According to Neutral Principles of Law.

A California district court recently reminded us that the First Amendment does not offer a "safe haven" to sexual abusers:

> Plaintiff's Complaint states a claim for negligent hiring, retention, and supervision and for intentional infliction of emotional distress. Every employer, including one with religious affiliation, has a duty to protect its employees from an individual known to sexually abuse and harass them. *The First Amendment is not a safe haven for a sexual predator and his enabler.*

Doe v. Roman Catholic Bishop of Orange, No. SACV1701424CJCJCGX, 2018 WL 6118442, at *1 (C.D. Cal. Feb. 12, 2018) (emphasis added). Because religious freedom does not protect sexual abuse, Appellant Doe's negligent supervision and negligent failure to supervise children claims should proceed.

In *Roman Catholic Bishop of Orange*, Father Kim, a Catholic pastor, rubbed his genitals on his employee, Jane Doe, and frequently "forcibly kissed, groped, and fondled her." *Id.* at *1. Despite her repeated protests, Kim would not stop the abuse. *Id.* at *1–2. In court, Jane Doe alleged that the Diocese of Orange had known of Kim's history of sexual predation and done nothing to stop it or protect her. *Id.* at *2. The court ruled that the Diocese's power could not be used "to shut the courthouse door on Plaintiff's claims," and that her lawsuit for negligent hiring, retention and supervision, and intentional infliction of emotional distress, did not intrude on the defendant's religious freedom. *Id.* at *3. The court emphasized "the Diocese of Orange offers no religious justification for the sexual misconduct Plaintiff alleges," and therefore no religious intrusion on their activities

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occurred. *Id*. at *4. Similarly, as in this Doe 122's case, the lower courts did not proffer a religious explanation for the alleged sexual abuse.

Moreover, the California court demonstrated that a negligence suit against a religious diocese can proceed on secular grounds:

> The primary factual inquiries of Plaintiff's cause of action are whether the Diocese of Orange negligently placed her under Father Kim's supervision, when it knew that Father Kim had a history of sexual misconduct against women, and whether the Diocese of Orange took any action to investigate, supervise, or monitor Father Kim to ensure the safety of women in the parish. The legal inquiry at the heart of Plaintiff's cause of action is whether the specific danger that ultimately manifested itself, sexual harassment and battery, reasonably could have been foreseen.

Id. at *4. Such a negligence suit, the court continued, does not require an "inquir[y] into the Diocese of Orange's broad reasons for choosing [the defendant] as a priest, or returning [the defendant] to ministry after treating him at a facility for sexually deviant clergy, or making him pastor of [another church]." *Id.* Instead, the focus of the inquiry should be on whether the "sexual misconduct against Plaintiff could have reasonably been foreseen and prevented"; the fact that the alleged abuser is a religious diocese should not impact the tort analysis. *Id.* The Diocese's "failure to protect Plaintiff from [the defendant] and his sexual misconduct" is "expressly prohibited by the Diocese of Orange's own policies and by law." *Id.* The court's language here is reminiscent of some older cases that held religious organizations liable for their sexual abuse: "[W]hether [a church] reasonably should have foreseen the risk of harm to third parties . . . is a neutral principle of tort law." *Malicki v. Doe*, 814 So.2d 347, 364 (Fla. 2002).

Connecticut took a similar approach in the cases of Tyron Doe and Jessie Doe. Both Does alleged negligent hiring and supervision claims against the Norwich Roman Catholic Diocese because its employee, Brother Paul, abused them. *See Doe v. Norwich Roman Catholic Diocesan Corp.*, No. KNLCV175015307, 2018 WL 650358 (Conn. Super. Ct. Jan. 5, 2018); *Doe v. Norwich Roman Catholic Diocesan Corp.,* No. KNLCV175015369, 2018 WL 650376 (Conn. Super. Ct. Jan. 5, 2018). The two opinions clarified that a

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negligence suit against the Diocese could proceed on secular terms and "not entangle the court with religious doctrine." 2018 WL 650358, at *5; 2018 WL 650376, at *4. In the court's words:

> The common-law doctrine of negligence does not intrude upon the free exercise of religion, as it does not discriminate against [a] religious belief or regulate or prohibit conduct because it is undertaken for religious reasons . . . The court's determination of an action against the defendants based upon their alleged negligent supervision of [a priest] would not prejudice or impose upon any of the religious tenets or practices of Catholicism. Rather, such a determination would involve an examination of the defendants' possible role in allowing one of its employees to engage in conduct which they, as employers, as well as society in general, expressly prohibit. Since the Supreme Court has consistently failed to allow the Free Exercise Clause to relieve [an] individual from obedience to a general law not aimed at the promotion or restriction of religious beliefs, the defendants [cannot] appropriately implicate the First Amendment as a defense to their alleged negligent conduct.

2018 WL 650358, at *3 (quoting *Noll v. Hartford Roman Catholic Diocesan Corp.*, No. X04–CV–02–4034702–S, 2008 Conn. Super. LEXIS 2661 (Super. Ct. Oct. 20, 2008)); 2018 WL 650376, at *3 (citation omitted). Of relevance to this case, the court also made the point that whether Brother Paul was a brother or a priest would not have affected the justiciability of the case because the allegations were not about "theological perceptions" but instead focused on "his criminal conduct and/or propensity for the same." 2018 WL 650358, at *5. Like the cases of Tyron Doe and Jessie Doe, John Doe 122's case focuses on the negligent conduct of the defendants, not on any theological perceptions or ideas.

Other courts, like this Court, continue to regulate the difference between secular and religious lawsuits. A Massachusetts lawsuit against a Catholic bishop, Daniel Cronin, for negligent supervision proceeded, but one for negligent hiring did not. *Andrews v. Cronin*, No. 1581CV03980, 2018 WL 2050171, at *10–12 (Mass. Super. Ct. Mar. 5, 2018). The decision was influenced by the elements of the case, as it should be in this case. "Negligent retention [and/or supervision] occurs when, during the course of employment, the employer becomes aware or should have become aware of problems with an employee that indicated

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his unfitness, and the employer fails to take further action such as investigating, discharge or reassignment." *Id.* at *1. The Massachusetts court stated that liability is present if the bishop "should have known" about the abuser's activities and could reasonably have foreseen harm to a plaintiff. *Id.* at *3. Therefore, the relevant inquiry was whether, if Bishop Cronin had known about the time the wrongdoer was spending with the plaintiffs, further investigation would have been appropriate given the reasonable foreseeability of sexual misconduct under those circumstances. *Id.*

Similarly, the Illinois Supreme Court allowed Jane Doe, who was sexually assaulted by a youth pastor at her church, to sue the church's pastor and the church for negligently hiring, supervising, and retaining the youth pastor. *Doe v. Coe*, 135 N.E.3d 1, 20 (Ill. 2019). The court reminded readers that a direct lawsuit can be brought against the employer if an employee was acting outside the scope of his employment. *Id.* at 12. "Negligent hiring, negligent supervision, and negligent retention are all direct causes of action against the employer for the employer's misconduct in failing to reasonably hire, supervise, or retain the employee." *Id.* According to *Doe v. Coe,* the elements of negligent supervision are "(1) the defendant had a duty to supervise the harming party, (2) the defendant negligently supervised the harming party, and (3) such negligence proximately caused the plaintiff's injuries." *Id*. at 15 (citations omitted). The plaintiffs in that case could meet those elements, just as plaintiff John Doe 122 can here.

In *Coe,* the facts showed the youth pastor had used his accessible pseudonymous identity to access pornographic activity online. *Id.* at 8. The court addressed the reasons why a lawsuit should proceed:

> Certainly it is foreseeable and likely that a youth group member could be harmed by a failure to act reasonably in hiring, supervising, and retaining a director of youth ministries. The magnitude of the burden of guarding against the harm alleged here is small, as reasonably hiring, supervising, and retaining employees are duties that benefit the employer even apart from preventing potential harm to third parties. The burden seems even smaller when compared with the magnitude of the harm to be prevented. Finally, the consequences of placing the burden on the defendant are small; employers

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> typically already strive to perform these duties in a reasonable manner. To the extent that plaintiffs have pled and can prove that FCCD, James, or both hired, supervised, and retained Coe, we find that they had a duty to plaintiffs to do so reasonably.

Id. at 13.

In Iowa, the state supreme court allowed one negligent supervision claim to proceed against a church. *Bandstra v. Covenant Reformed Church*, 913 N.W.2d 19, 46 (Iowa 2018) (the other negligent supervision claim brought by another victim was barred by the statute of limitations). That court, too, explained why certain lawsuits could be brought according to neutral principles of the law:

> While the decision whether to invite certain speakers, or use certain rhetoric, is protected religious decision-making, reasonable supervision of an employee is a principle of tort law that applies neutrally to all employers. Further, the Church confirmed during oral argument that the Church's supervision, or lack thereof, was not grounded in any religious doctrine or teachings. *Although the elders and Edouard were both religious figures*, working pursuant to their deeply held faiths, *this status does not "excuse [them] from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate."* [(citation omitted).] Indeed, any burden that may result from imposing a secular duty to inquire into the whereabouts and potential misconduct of a pastor is no more than an "incidental effect of a generally applicable" tort principle, which does not offend the First Amendment.

Id. at 42–43 (emphasis added) (citation omitted). The Iowa court also dismissed any argument that suing churches violated the Establishment Clause:

> Moreover, the resolution of questions of foreseeability and reasonableness will not implicate any Establishment Clause concerns. To discern whether it was foreseeable that Edouard was engaging in criminal conduct, a court must determine what the elders knew or should have known. In turn, a court must decide whether the supervision of Edouard, in light of the foreseeable risks, was reasonable. A court need not interpret any doctrine, nor otherwise impermissibly entangle itself with religion, in order to conclude the elders owed a duty to its parishioners to supervise Edouard. Indeed, *failing to hold religious employers accountable for their failure to supervise their employees would grant immunity to religious figures, which the state may not do*.

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Id. at 13 (emphasis added). Though the defendant is a religious figure, as all the defendants were in the previously cited cases, he is not immune from punishment for violation of valid neutral laws. John Doe 122's lawsuit should continue because it is based on solid legal principles, as in these other *Doe* cases.

III. The Dissenting Judge is Correct that the Intentional Failure to Supervise Clergy Claim Should Proceed.

One factual part of *Gibson* is significant. When Gibson and his parents complained of authentic sexual abuse, the church officials told them that Brewer's conduct "happens to young men all the time" and was nothing but "an *innocent pat on the butt*." *Gibson v. Brewer*, 952 S.W.2d 239, 248 (Mo. banc 1997) (emphasis added). These comments reflect a pattern of behavior that the courts have seen repeatedly; a pattern of sexual abuse that is met with cover-ups, apathy, and even flimsy excuses.

Discomfort with sexual abuse frequently leaves church members using vague, less threatening language in their conversations to hide the awful things that happened. In *John Doe 1 v. Archdiocese of Philadelphia & St. Charles Borromeo Seminary*, for example, a victim reported abuse to his pastor, Father Griffin. No. L-000950-16, 2019 WL 7496606, at *2 (N.J. Super. Ct. Law Div. Mar. 20, 2019). Instead of helping the victim or offering him comfort, Father Griffin allegedly told plaintiff, "[T]hese things [do] not happen and . . . *people should not speak of these types of matters*." *Id.* (emphasis added).

Father Thomas Doyle, who has served a long and heroic life protecting victims of sexual abuse, testified about this system of cover-ups in his deposition in this case. Doyle explained that "'[i]n the documentation that is habitually used by religious superiors and bishops and other clerics that [he has] reviewed over three decades, [he has] never seen sexual abuse of minors directly referred to with the proper direct language,' as it is 'always referred to in some form of coded or euphemistic language.'" *Doe 122*, 2019 WL 7341484, at *7. "Reported sexual abuse of children was not referenced in Bro. Woulfe's records even when the respondents admit having knowledge of alleged abuse." *Id.* at *14.

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This system of cover-ups should not be tolerated any longer. We encourage this Court to bring this abuse out into the open by allowing the lawsuit against Marianist Province and Chaminade to proceed, which is consistent with the core principles of *Gibson* and the testimony of Father Thomas Doyle.

The dissent noted that Father Doyle's testimony was relevant evidence to the intentional failure to supervise clergy claim and that the testimony was not "merely speculative," as the majority argued. *Id.* at *12 (Quigless, J., dissenting). She believed the issue should go to the jury: "[T]he jury should be allowed to consider, weigh, and determine the meaning of . . . [Father Doyle's] evidence." *Id.* at *13. Without admitting the evidence, the dissent argued, "no plaintiff would ever be able to prove that a defendant had the requisite knowledge of wrongdoing unless the defendant admits to having such knowledge, which is unlikely." *Id.*

Father Thomas Doyle is a respected researcher and expert on these types of cases. He has testified in other cases mentioned in this brief. The summary judgment record in *Andrews v. Cronin*, No. 1581CV03980, 2018 WL 2050171, at *2–3 (Mass. Super. Ct. Mar. 5, 2018), for example, includes a Doyle report. In that case, Doyle testified that the predator's excessive travel time with boys was "highly unusual" and "should have triggered inquiries from" the bishop. *Id.* at *2. Father Doyle's testimony was persuasive enough to convince the Massachusetts court the decision about negligence should have gone to the jury. *See also Rice v. Diocese of Altoona-Johnstown*, 212 A.3d 1055, 1076 (Pa. Super. Ct. 2019), *reh'g denied*, No. 97 WDA 2018, 2019 Pa. Super. LEXIS 800 (Super. Ct. Aug. 14, 2019) ("When . . . a plaintiff alleges a fiduciary relationship with a religious institution or its leadership . . . this creates a jury question.").

Because Father Doyle's testimony needs to be weighed by a jury, John Doe 122's case should proceed.

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CONCLUSION

Across the country, the Does—like Jane, Tyron, Jessie, Jane, and John 122—have suffered terrible injury from the wrongdoing of abusers and their employers, who protect the abusers and their institutions' image rather than allowing victims to receive justice. We have learned that numerous courts around the country have been able to pursue negligence lawsuits according to "neutral principles of law," as *Gibson* requires. We ask you to let John Doe 122 join the other Does and have his day in court.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This is to certify that the foregoing Amicus Brief for Appellant complies with the limitations contained in Supreme Court Rule 84.06(b) and contains approximately 4569 words as determined by MS Word. The foregoing Brief also complies with Supreme Court Rule 55.03. The font is Times New Roman 13 point type.

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The undersigned hereby certifies that a true and correct copy of Amicus Brief was filed electronically with X and served by operation of the Court' s electronic filing system this 10th day of February, 2020 on Mr. Gerard T. Noce, gtn@heplerbroom.com; Mr. Justin L. Assouad, jla@heplerbroom.com; Ms. Alexandra S. Haar, ash@heplerbroom.com, *Attorneys for Appellee*, all at HeplerBroom, LLC, One Metropolitan Square, 211 North Broadway, Suite 2700, St. Louis, MO 63102.

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