

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

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|---------------------------------------|---|---------------------------|
| JOHN DOE XX | § | C.A. NO. 3:11-cv-00651 |
| | § | |
| VS. | § | |
| | § | |
| HOLY SEE (State of the Vatican City), | § | |
| THE REDEMPTORISTS/NEW ORLEANS | § | |
| VICE PROVINCE, VERY REVEREND HARRY | § | |
| GRILE, C.S.R., HIS PREDECESSORS AND | § | |
| SUCCESSORS, AS PROVINCIAL SUPERIOR | § | |
| OF THE REDEMPTORISTS/DENVER | § | JUDGE JAMES J. BRADY |
| PROVINCE, ROMAN CATHOLIC CHURCH | § | |
| OF THE DIOCESE OF BATON ROUGE, | § | |
| MOST REVEREND ROBERT W. | § | |
| MUENCH, HIS PREDECESSORS AND | § | |
| SUCCESSORS, AS BISHOP OF THE | § | |
| ROMAN CATHOLIC CHURCH OF THE | § | |
| DIOCESE OF BATON ROUGE, | § | |
| CHRISTOPHER JOSEPH SPRINGER, AND | § | |
| FIREMAN’S FUND INSURANCE COMPANY | § | MAG. JUDGE DOCIA L. DALBY |

**MEMORANDUM IN OPPOSITION TO PLAINTIFF’S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS AND RESPONSE TO PLAINTIFF’S ALTERNATIVE
REQUEST FOR IN CAMERA INSPECTION OF DOCUMENTS**

NOW INTO COURT, through undersigned counsel, come **ROMAN CATHOLIC CHURCH OF THE DIOCESE OF BATON ROUGE, MOST REVEREND ROBERT W. MUENCH, HIS PREDECESSORS AND SUCCESSORS, AS BISHOP OF THE ROMAN CATHOLIC CHURCH OF THE DIOCESE OF BATON ROUGE and FIREMAN’S FUND INSURANCE COMPANY** (hereinafter “Defendants”), who respectfully request that this Honorable Court deny Plaintiff’s Motion to Compel Production of Documents for the reasons set forth below. Defendants submit that a discovery conference with the Magistrate would be the most efficient way to resolve this discovery dispute allowing the Court to evaluate

the relevance of the documents requested and protect the privacy of individuals who are not parties to these proceedings and/or who have not had the opportunity to assert their objections and privileges to some of the documents sought by the Plaintiff in this matter. At this discovery conference, the court would also be able to determine if an in camera inspection of some or all of the documents sought by Plaintiff would be beneficial.

In separate sealed state court proceedings involving similar allegations against Christopher Joseph Springer and similar discovery requests by counsel for Plaintiff herein, Defendants provided similar responses to Plaintiff's discovery requests. Defendants' discovery responses in this matter are consistent with the discovery responses and rulings in the state court cases. For those reasons, Defendants believe a discovery conference with the Magistrate will be the most efficient method of resolving the issues raised by the Plaintiff's Motion, especially as it relates to the prior state court rulings.

Defendants had previously prepared privilege indexes to the files of persons other than Springer accused of sexual misconduct regarding minors, and submitted them to the state court in-camera to assist in resolving the discovery issues. Should this Court wish to review those indexes in an effort to evaluate the broad document request of the Plaintiff and evaluate the relevance and balance the privacy and privileges of individuals who are not parties to this lawsuit, Defendants would suggest those indexes should only be reviewed in-camera.

Furthermore, to the extent that the Court may order additional production, the redaction of any potential identifying information of individuals who are not parties to this lawsuit would be necessary to protect the rights and privileges of those individuals. Defendants further submit that any additional production ordered in this case should be subject to a Protective Order

limiting the use and public disclosure of the document or the information solely for the purposes of this litigation.¹

FACTUAL AND PROCEDURAL BACKGROUND

The present suit has been brought by one plaintiff against the Redemptorist/New Orleans Vice Province, Very Rev. Harry Grile, C.Ss.R., his Predecessors and Successors, as Provincial Superior of the Redemptorist/Denver Province, Roman Catholic Church of the Diocese of Baton Rouge, Most Reverend Robert W. Muench, his predecessors and successors, as bishop of the Roman Catholic Church of the Diocese of Baton Rouge, and Fireman's Fund Insurance Company (hereinafter "Defendants"). Plaintiff alleges to have been sexually abused by Christopher Springer, a former priest employed by the Diocese of Baton Rouge. Defendants have been advised by counsel for Plaintiff that the allegations involve a single incident that is alleged to have occurred in 1974. In conjunction with that allegation, Plaintiff issued Requests for Production of Documents on the Roman Catholic Church of the Diocese of Baton Rouge (the "Diocese") seeking the production of various records, including the Diocese's files of Christopher Springer, as well as the Diocese's files on all other priests, employees or clerics who have been accused of sexual misconduct with minors.

In response to these requests and consistent with what had been ordered produced and redacted in prior sealed state court litigation involving allegations of misconduct by Springer, the Diocese produced certain portions of its files related to Springer consistent with the

¹ The documents that have already been produced by Defendants in response to Plaintiff's discovery requests are subject to a Protective Order that has been agreed to by all parties.

recognition of various privileges and protecting the privacy rights of both Springer and of individuals who are not parties to the litigation.

In addition to the documents related to Springer, Plaintiff seeks documents related to other priests, employees or clerics accused of sexual misconduct with minors. For the reasons set forth below and consistent with prior state court rulings, the Diocese submits that allegations of misconduct unrelated to Springer and unrelated to this Plaintiff are irrelevant to the issues of this litigation. In addition, because of the various privileges and rights of privacy, individuals who are not parties to this lawsuit are entitled to protection from the disclosure of the private information sought by the Plaintiff which are unrelated to and irrelevant to the allegations that Springer sexually abused this particular Plaintiff on one occasion in 1974.

LAW AND ARGUMENT

I. General Statutory Limitations On The Discoverability Of Materials In The Possession Of The Diocese.

Federal Rule 26(b)(1) outlines the limits of discovery and provides that "[p]arties may obtain discovery regarding any non-privileged matter, that is relevant to any party's claim or defense." Fed.R.Civ.P. 26. A party may move to compel the disclosure of any materials or discovery response requested so long as such discovery is relevant and otherwise discoverable. *See* Fed.R.Civ.P. 37. According to this rule, Plaintiff can only obtain the requested documents if: (a) the documents are relevant; (b) the documents are otherwise discoverable, i.e. not privileged.

Defendants have already produced copies of any non-privileged records, but have withheld certain privileged and confidential documents, as described on the 16 privilege logs submitted in connection with the production. The privilege logs are very generic in order to

avoid identification of individuals not involved in this litigation, but disclose the existence of the documents and files. The documents produced are consistent with prior state court rulings on essentially the same discovery requests. Plaintiff is not entitled to the withheld documents because the documents sought are subject to various privileges, including the patient-provider privilege contained in La. C.E. art. 510, Louisiana Revised Statutes 37:2363, 13:3715.1, and 40:1299.96; the clergyman privilege contained in La. C.E. art. 511; and the work product rule codified in Fed. R. Civ. Proc. 26(b)(3). Moreover, the records contain numerous documents protected under the clergymen privilege, and the Diocese's investigative files were prepared in the anticipation of this very type of litigation, which are protected by the attorney-client and/or work product privileges. The scope of these privileges are discussed more fully below.

Furthermore, plaintiff is not entitled to the requested documents because there is absolutely nothing to suggest that the requests, which either date back to the year that Springer became affiliated with the Diocese, or which request the production of "all documents" without even a start date, bear the slightest relevance to a single allegation of sexual misconduct by Springer in 1974. Whatever attenuated connection that the records responsive to these broad requests may have to the incident at issue is clearly outweighed by the potential harm that such production may cause to those non-party victims whose identities may be revealed by such production, as well as the rights of the accused, who have not had an opportunity to assert the objections based on privileges to which they are entitled by law.

II. Privileges Held By Christopher Springer.

A. Confidential medical records of Christopher Springer are privileged and non-discoverable unless released by Springer.

Defendants first object to the production of the medical records of Christopher Springer contained in the Diocese's files, including Springer's personnel file. These items are not discoverable as they are protected by both state and federal laws discussed below. Shortly after allegations of abuse against Springer were raised, the Diocese of Baton Rouge encouraged Springer to seek psychological and spiritual analysis and treatment. Springer attended an in-patient facility which maintained records of this treatment and therapy during this stay. Since Springer is not making a claim, these records are protected by various medical privileges and should remain confidential.

1. *The materials are protected under no less than four different state statutes.*

Federal Rules of Evidence Rule 501 provides that in a civil case, state law governs privilege regarding a claim or defense for which state law supplies the rule of decision. This court must therefore look to Louisiana law with respect to privileges. Similar to and consistent with other states, Louisiana law contains at least four separate statutes dealing with a patient's privilege over communications to a health-care provider or a patient's medical records, including the following:

- Louisiana Code of Evidence article 510 provides a healthcare provider-patient privilege in civil and criminal proceedings and includes both physicians and psychotherapists.

- Louisiana Revised Statute 37:2363 provides an additional and separate privilege in civil proceedings for communication made by a patient to a psychologist for the purpose of diagnosis, evaluation, or treatment of any mental or emotional condition or disorder.
- Louisiana Revised Statute 13:3715.1 provides protections and the exclusive and limited methods by which privileged medical records of a patient can be obtained or disclosed.
- Louisiana Revised Statute 40:1299.96 provides protections over a patient's medical records even if requested by the patient himself.

Medical records are thus privileged under state and federal law and cannot be disclosed without Springer's consent pursuant to La. R.S. 13:3715.1.

2. *Springer's medical records are protected under the Health Insurance Portability and Accountability Act (HIPAA).*

In addition to the numerous state law protections, Springer's medical records are protected under the Health Insurance Portability and Accountability Act ("HIPAA") including the stringent protections set forth in 45 C.F.R. § 164.500, *et seq.* 45 C.F.R. § 164.502 provides a general protection for a patient's medical records and requires the patient sign a valid authorization under 45 C.F.R. § 164.506 to waive the privilege.

3. *Materials are stamped confidential.*

Not only has Springer not waived his privilege, the medical records themselves reflect a desire to keep the materials privileged. Many of the documents contain the following stamp:

Confidential Information

This information has been disclosed to you from records whose confidentiality is protected by Federal Law. Federal Regulations (42 CFR, Part II) prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is not sufficient for this purpose.

This language evidences that Springer had an expectation that any medical records compiled by his medical providers are protected under federal law as privileged and confidential, and should not be further disclosed. Including such language with the documents demonstrates that any previous release to the Diocese was for a limited purpose and that Springer's expectation of confidentiality and privilege went with the records. Thus, Springer has not waived the privileges afforded by the above Louisiana Statutes, and the Diocese therefore objects to the production of Springer's medical records to the extent that the requested information contains private and confidential information.

B. Records relating to Springer's priestly duties are protected by the clergyman privilege.

Defendants further object to the production of Springer's personnel file to the extent that the documents in question contain communications to and from other members of the clergy, which are protected by the clergyman privilege. Under the Louisiana Code of Evidence, communications made to clergy seeking spiritual direction, advice, and consolation are privileged.

During his priesthood, in the early 1980s, Springer was confronted with various allegations of sexual abuse of minors. In connection with these allegations, Springer sought medical treatment, spiritual guidance from other members of the Diocese of Baton Rouge, and,

eventually, a dispensation of his priestly vows. Any communications by Springer with fellow clergy and superiors were for the purpose of seeking spiritual guidance, direction, solace and prayer – placing these communications squarely within the protection of the clergyman privilege contained in Louisiana Code of Evidence 511. Consistent with prior state court rulings on the same issues, this Court should deny the production of these materials as it would violate Springer's clergyman privilege.

1. Privilege over communications made by Springer to priests and bishops for the purpose of spiritual guidance.

Louisiana Code of Evidence 511 states the following:

Art.511. Communications to clergymen.

A. Definitions. As used in this Article:

- (1) A clergyman is a minister, priest, rabbi, Christian Science practitioner, or other similar functionary of a religious organization, or an Individual reasonably believed so to be by the person consulting him.
- (2) A communication is confidential if it is made privately and not intended for further disclosure except to other persons in furtherance of the purpose of the communication,

B. General rule of privilege. A person has a privilege to refuse to disclose and to prevent another person from disclosing a confidential communication by the person to a clergyman in his professional character as spiritual adviser.

C. Who may claim the privilege. The privilege may be claimed by the person or by his legal representative. The clergyman's presumed to have authority to claim the privilege on behalf of the person or deceased person.

While there has been little case law interpreting the above article in civil cases, the text of the article is clear; any communication made to Springer's "spiritual advisors" are confidential. Springer, as a Diocesan priest, would both fully understand and expect that any communication he made to his Bishop or other priest regarding any issues concerning his priesthood would remain confidential. The confidentiality of such communications is exactly what the clergymen privilege was enacted to protect.

2. The Free Exercise Clause of the U.S. Constitution extends the clergyman privilege to intra-church communications.

In addition to the codal protections, courts have held that the Free Exercise Clause of the First Amendment of the United States Constitution provides protections over clergyman communications. These protections include both communication made by the penitent, as well as any intra-church communications regarding the investigations necessary for Church discipline.

In *Scott v. Hammock*, 133 F.R.D. 610 (D. Utah 1990), plaintiff filed an abuse action against her adoptive father. The father was a member of the Church of Jesus Christ of Latter-Day Saints. Plaintiff sought documents from the church relating to the excommunication of the father and documents reflecting any communications containing any references regarding allegations of abuse. The Church claimed the documents were privileged under the Free Exercise Clause of the First Amendment of the United States Constitution, the Constitution of the State of Utah, and Utah's clergymen privilege, and contended that the intra-church transmittal of the information was within the clergymen privilege. The Court agreed, finding the Free Exercise Clause required an interpretation of the evidentiary privilege to include communications made by one clergyman to another. It stated the following:

It is appreciated that the communication in this case is different than one that involves a declaration by the church member to an assemblage of church officials. In this case, the communication was passed vertically from one religious authority up to another within the church hierarchy. Such communication was necessary as a part of the church sanction process and in carrying out church discipline. The need for the privilege to follow the communication in such circumstances is obvious and appropriate. Otherwise, the privilege would be destroyed and the confidence abridged. Therefore, the repeating of the defendant's statement and its communication to superior religious authorities must be deemed cloaked with confidentiality and privileged from forced disclosure. *Id.* at 619.

Accordingly, the Louisiana Code of Evidence provides that any communications made by Springer to his Bishop or fellow priests are privileged. The Free Exercise Clause of the First Amendment extends this privilege to any confidential communications between Springer and his superiors. This same rule of law applies to Church investigations as discussed below.

C. Springer's Expectation of privacy is protected under the Louisiana Constitution.

Springer has an expectation of privacy under Article I, Section 5 of the Louisiana Constitution, which provides an express right of privacy to individuals. This right encompasses a person's subjective expectation of privacy; however, it must also be an expectation that society at large is prepared to recognize as reasonable. In all of Springer's communications with other priests, including his superiors and health care providers, he had a subjective expectation that the contents of the communications would remain confidential and private. Similarly, some of the documents in Springer's personnel file contain the names and other identifying information of non-parties who certainly had a subjective expectation of privacy at the time the information was collected. The information is extremely personal and was given to clergy or its representatives, including its attorneys, with the understanding that it remain confidential. Society recognizes

these expectations of privacy as reasonable. In general, society expects that communications to doctors, priests, attorneys, and others regarding private and personal matters are confidential.

III. Documents Protected By Privileges Held By The Diocese Of Baton Rouge

A. Diocesan investigative materials from after the abuse were prepared in anticipation of litigation and are protected work product.

Springer's file contains certain investigative documents prepared by the Diocese during an investigation of several allegations of abuse made by various claimants against Springer in the early 1980s. The Diocese first received allegations of possible misconduct by Springer in February of 1981. After receiving that information, the Diocese, in cooperation with and under the direction of the Diocese's attorneys, conducted an investigation into possible abuse by Springer. The purpose of that investigation included preparing for any potential litigation that could arise from those allegations. Thus, much of the Diocese's file on Springer contains materials prepared in anticipation of litigation, which are not only protected from disclosure under the Free Exercise Clause as shown in the preceding section, but also under Fed. R. Civ. Proc. 26(b)(3).

B. Documents reflecting communications between the Diocese and its attorneys are protected by the attorney client privilege.

As stated above, Federal Rules of Evidence Rule 501 provides that in a civil case, state law governs privilege regarding a claim or defense for which state law supplies the rule of decision. This court must therefore look to Louisiana law with respect to privileges. As a result, several of the documents are protected under Louisiana Code of Evidence article 506, which expressly protects any communications between the church and its attorneys from discovery.

IV. The Personnel Files of Employees Other than Springer are Protected and Not Discoverable.

Plaintiff has not limited his discovery requests simply to the personnel file of Christopher Springer. Rather, Plaintiff seeks the personnel files of any cleric accused – either validly or falsely – of abusing non-parties to this litigation. While Defendants have already produced numerous documents in response to Plaintiff’s requests, Defendants have withheld several documents on the ground that their production would violate the privileges and constitutional protections held by non-parties to this litigation. This production already made by Defendants is consistent with prior state court rulings in sealed state court records relating to Springer’s alleged abuse of minors.

A. The production of the personnel/investigative files of employees other than Springer violates their constitutionally protected right to privacy.

Article I, Section 5 of the Louisiana State Constitution of 1974 provides an express right of privacy to individuals:

Every person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy. No warrant shall be issued without probable cause supported by oath or affirmation, and particularly describing the place to be searched, the persons or things to be seized, and the lawful purpose or reason for the search. Any person adversely affected by a search or seizure conducted in violation of this Section shall have standing to raise the illegality in the appropriate court.

The Louisiana Constitution thus expressly assures that "[e]very person shall be secure in his person, property, communications, houses) papers, and effects against unreasonable searches, seizures, or invasions of privacy." While the Fourth Amendment of the United States Constitution also implicitly protects a citizen's right to privacy, Louisiana's "constitutional declaration of right is not simply a duplicate of the Fourth Amendment or merely co extensive

with it; it is one of the most conspicuous instances in which our citizens have chosen a higher standard of individual liberty than that afforded by the jurisprudence interpreting the federal constitution.” *State v. Hernandez*, 410 So. 2d 1381 (La. 1982).

Although this provision is more commonly invoked in criminal proceedings, it is also applied to discovery matters in civil proceedings. *See, Orfanello v. Laurente*, 93-1963 (La. App. 4 Cir. 1993), 626 So. 2d 417. The test for determining whether an individual has a reasonable expectation of privacy is not only whether the person had an actual or subjective expectation of privacy, but also whether that expectation is a type which society at large is prepared to recognize as reasonable. *Angelo Iafrate Const., L.L.C. v. State ex rel. Dept. of Transp. and Dev.*, 2003-0892 (La. App. 1 Cir. 5/14/04), 879 So. 2d 250 *writ denied sub nom. Angelo Iafrate Const., L.L.C. v. State ex rel. Dept. of Transp. and Dev.*, 882 So. 2d 1131 (La. 2004); *Capital City Press v. Metro Council*, 96-1979 (La.7/1/97), 696 So. 2d 562, 566. One of the ways a plaintiff may recover under Louisiana law for invasion of his right to privacy is by proving that the defendant unreasonably disclosed embarrassing private facts about him. *Edwards v. State Farm Ins. Co.*, 833 F.2d 535, 540-41 (5th Cir. 1987) citing *Jaubert v. Crowley Post-Signal, Inc.*, 375 So.2d 1386, 1388 (La.1979).

Plaintiff has not limited his discovery request simply to the personnel file of Christopher Springer, but seeks also the production of the personnel files of any clerics accused sexual misconduct. While, given the nature of the allegations made against them, it is easy for Plaintiff to dismiss the Constitutional protections guaranteed to these employees, the rights exist nonetheless.

It is well recognized in Louisiana that employees of private entities have reasonable expectations of privacy over their employment records, which the public at large is prepared to recognize as being reasonable. *See, e.g., Angelo Iafrate Const., L.L.C. v. State ex rel. Dept. of Transp. and Dev.*, 879 So. 2d at 259-260. In fact, this constitutionally protected right of privacy over a private employee's records has only been disturbed in cases involving records submitted to public agencies, in which case the employee's right to privacy is balanced with the public's right to access public records under the Louisiana Public Records Act. *Id.*; LSA-R.S. 44:1, *et seq.* *See also Local 100, Serv. Employees' Intern. Union v. Forrest*, 95-1954 (La. App. 1 Cir. 5110/96), 675 So.2d 1153, 1156, *writ denied*, 96-1499 (La. 9/20/96), 679 So. 2d 441. Otherwise, the only other interest which may affect the right to privacy is "plaintiffs' right to develop information which may be necessary for [their] proper preparation for trial." *Sutton v. Lafont*, 376 So. 2d 628 (La. App. 4 Cir. 1979). As shown below, nothing contained in other employees' records will advance Plaintiffs' case thereby warranting a violation of non-parties constitutional right to privacy.

Employees of the Diocese of Baton Rouge have a reasonable expectation of privacy that their employment records would not be disclosed to third parties. As such, Article I, Section 5 guarantees these employee's privacy rights over those materials. Since the Diocese of Baton Rouge is a private employer, there is no competing public right to the disclosure of these records.

It is difficult to imagine a scenario in which any information contained in the records of a Diocesan employee accused of unrelated misconduct would be so germane to Plaintiff's claim of an isolated incident of alleged misconduct in 1974, so as to justify the violation of that employee's constitutional protections. Any information contained in the files of employees other

than Springer would be completely unrelated to the elements of Plaintiff's claim against Springer and thus, violating the affected employees' constitutional rights on that basis would be inexcusable.

Additionally, the production of the employment or investigative records of every Diocesan employee accused of unrelated misconduct presents a significant probability of violating the constitutional right to privacy of the non-parties. The benefits of production, as stated above, cannot outweigh the possible effects of the unauthorized disclosure of the identities of these individuals concerning allegations unrelated to this litigation.

B. The personnel files of employees other than Springer are irrelevant to the current proceedings and are not likely to lead to discoverable information.

Plaintiff cannot show how the personnel files of non-party priests accused of sexual misconduct by other non-parties are relevant and/or likely to lead to admissible evidence the trial of the present case, which involves allegations made by a single plaintiff on an isolated incident of alleged abuse sometime during 1974. Not only does the immateriality of the information make a violation of third parties' constitutional rights to privacy unwarranted, but also shields the irrelevant materials from the scope of discovery under the Federal Rules of Civil Procedure. Federal Rule 26(b)(1) outlines the limits of discovery and provides that "[p]arties may obtain discovery regarding any non-privileged matter, that is relevant to any party's claim or defense." Fed.R.Civ.P. 26. A party may move to compel the disclosure of any materials or discovery response requested so long as such discovery is relevant and otherwise discoverable. *See* Fed.R.Civ.P. 37. Materials and information are discoverable only if they are "relevant to any party's claim or defense," and "[r]elevant information need not be admissible at the trial if the

discovery appears reasonably calculated to lead to the discovery of admissible evidence.” Fed.R.Civ.P. 26(b)(1). In deciding whether the documents should be admissible, the court should conduct a balancing test under Federal Rules of Evidence Rule 403 to ensure that any unfairly prejudicial effect of the evidence does not substantially outweigh its probative value. *U.S. v. Caldwell*, 586 F.3d 338, 345 (5th Cir. 2009). The moving party bears the burden of showing that the materials and information sought are relevant to the action or will lead to the discovery of admissible evidence. *Export Worldwide, Ltd., v. Knight*, 241 F.R.D. 259, 263 (W.D.Tex.2006); *Abraham v. Alpha Chi Omega*, 271 F.R.D. 556, 559 (N.D. Tex. 2010). Once the moving party establishes that the request is within the scope of permissible discovery, the burden shifts to the party resisting discovery to show why the discovery is irrelevant, overly broad, or unduly burdensome or oppressive, and thus should not be permitted. *See Spiegelberg Mfg., Inc. v. Hancock*, No. 3–07–CV–01314–G, 2007 WL 4258246, at *1 (N.D.Tex. Dec. 3, 2007) (Kaplan, Mag. J.). *Abraham v. Alpha Chi Omega*, 271 F.R.D. at 559.

As already outlined above, production of the personnel files of any non-party employee ever accused of abuse will not lead to any evidence relevant to these proceedings or admissible at trial. Accordingly, Defendants respectfully request that this Honorable Court deny Plaintiff’s Motion to Compel the Diocese to produce the files of any employee not relevant to the allegations of this lawsuit.

V. The Files Of Other Diocesan Employees May Also Contain Records Protected From Disclosure Under The Medical, Clergyman, Work Product And Attorney Client Privileges.

In addition to the right to privacy held by each non-party over their entire personnel files, each particular file also contains similar records to those in Springer's file, which are protected by the medical and clergyman privileges, discussed above. Furthermore, as with Springer's investigative file, there are documents contained in the files of other employees and clergymen that the Diocese prepared in anticipation of litigation, or that represent communications with Diocesan attorneys.

VI. Any Additional Production Ordered By This Court Should Be Subject To A Protective Order.

For the reasons outlined above, to the extent that this Court may order additional production, the redaction of any potential identifying information of individuals who are not parties to this lawsuit may be necessary to protect the rights and privileges of these individuals. Defendants further submit that any additional production ordered by this Court must be subject to a protective order limiting the use and public disclosure of the information.

VII. Deposition Of The Most Reverend Robert W. Muench Given In A Prior John Doe Matter.

Although irrelevant because the scope of the deposition was limited to issues concerning jurisdiction, Defendants will voluntarily produce a redacted copy of a deposition given by the Most Reverend Robert W. Muench in an unrelated John Doe matter.

CONCLUSION

The right to discovery is not absolute. Both Louisiana and Federal law recognize various limitations on a party's right to discovery, including constitutional rights of privacy and

evidentiary privileges that society deems necessary and sacred. Defendants objected to the production of those documents which are subject to the various privileges discussed above, and the existing production is consistent with what Defendants have produced in related state court proceedings involving allegations of abuse against Springer. Defendants therefore respectfully request that this Honorable Court deny Plaintiff's Motion to Compel Production of Documents, and submit that a discovery conference and potentially an in-camera inspection of certain groups of documents may be in order as the most efficient way to resolve this discovery dispute. Furthermore, to the extent that this Court may order additional production, the redaction of any potential identifying information of individuals who are not parties to this lawsuit may be necessary to protect the rights and privileges of these individuals. Defendants further submit that any additional production ordered in this case should be subject to a Protective Order limiting the use and public disclosure of the document or the information solely for the purposes of this litigation.

Respectfully submitted,

DUPLASS, ZWAIN, BOURGEOIS,
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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of July, 2012, the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system.

/s/ C. Michael Pfister

C. MICHAEL PFISTER