

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA *ex rel.*  
PATRICK MORRISEY,  
ATTORNEY GENERAL,

Plaintiff,

v.

Civil Action No. \_\_\_\_\_  
Judge \_\_\_\_\_

DIOCESE OF WHEELING-  
CHARLESTON and MICHAEL  
J. BRANSFIELD in his capacity  
as former Bishop of the Diocese of  
Wheeling-Charleston,

Defendants.

**COMPLAINT**

The State of West Virginia, by and through its duly elected Attorney General, Patrick Morrissey (hereinafter "the State"), brings this action pursuant to the provisions of the West Virginia Consumer Credit and Protection Act, West Virginia Code § 46A-1-101, *et seq.*, to redress the above-named Defendants' violations of the Consumer Credit and Protection Act.

**PARTIES**

1. The State, by and through the Attorney General, is authorized to bring this action pursuant to the Consumer Credit and Protection Act, W. Va. Code § 46A-1-101, *et seq.*

2. Defendant Diocese of Wheeling-Charleston (hereinafter "Diocese") is a non-profit organization operating and doing business at 1322 Eoff Street, Wheeling, West Virginia. The

entire state of West Virginia lies within the Diocese's territory. The Diocese is a subdivision of the Archdiocese of Baltimore, Maryland, and also of the Roman Catholic Church, which is headed worldwide by Pope Francis.

3. Defendant Michael J. Bransfield is an individual who was Bishop of the Diocese from early 2005 through September 2018, and is sued in his capacity as Bishop of the Diocese during this time period. Title to diocesan property is held in the name of the Bishop.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction to hear this matter pursuant to Article VIII, Section 6 of the West Virginia Constitution, W. Va. Code § 51-2-2, and W. Va. Code § 53-5-3.

5. Venue is proper in this Court pursuant to W. Va. Code § 46A-7-114 and W. Va. Code § 56-1-1(a)(6).

### **I.** **FACTS COMMON TO ALL COUNTS**

#### **A. Procedural Facts**

6. A Statewide Grand Jury Report issued by the State of Pennsylvania on August 14, 2018 identified hundreds of Roman Catholic Church priests who had abused one thousand or more children in six dioceses in Pennsylvania. One or more of the identified priests had also been employed in the Diocese.

7. The State commenced an investigation in the fall of 2018 to determine if other Catholic priests who were active or had been employed in West Virginia had been accused of sexually abusing children. The preliminary investigation of the Attorney General disclosed that

priests other than the ones identified in the Pennsylvania Grand Jury Report had worked in West Virginia and had been accused of sexual abuse of children.

8. The Diocese currently operates six high schools and 19 elementary schools in West Virginia, but has operated more in the past. Some parishes also operate pre-kindergarten day care facilities.

9. Based upon the foregoing, the Attorney General issued two formal investigative subpoenas (“Subpoenas”) to the Diocese on October 12, 2018, and February 14, 2019, as authorized by the West Virginia Consumer Credit and Protection Act, W. Va. Code § 46A-7-104(1). The Diocese responded to the Subpoenas in part and withheld documents based upon objections.

10. Although the State has not fully completed its investigation, due, in part, to the lack of cooperation from the Diocese, the facts learned and the documents disclosed allege the Diocese has engaged in unfair or deceptive acts or practices by failing to disclose to consumers of its educational and recreational services that it employed priests and laity who have sexually abused children, including an admitted abuser who the Diocese nevertheless allowed to work in a Catholic elementary school, in violation of the West Virginia Consumer Credit and Protection Act. W. Va. Code § 46A-1-101 *et seq.* (the “WVCCPA”).

## **B. Background Facts**

11. The Diocese is comprised of parishes, educational schools, camps and other entities located within the state of West Virginia.

12. The Diocese sells and supplies educational services to parents of children in kindergarten through high school. This includes pre-kindergarten daycare and preschool educational services.

13. The Diocese sometimes provides scholarships and arranges for financing for the parents paying for tuition for their school-age children. Yearly fees for grade school education can top \$6,000 per year and more than \$8,000 for high school.

14. The Diocese currently operates six high schools and 19 elementary schools in West Virginia, serving more than 5,100 children in 12 West Virginia counties. It claims to be the eighth largest school system in West Virginia by number of schools operated and 16th largest by number of enrolled students.

15. The Diocese, including its school system, is normally overseen by a Bishop who is a member of the United States Council of Catholic Bishops.

16. The Diocese's most recent Bishop, Michael J. Bransfield, retired in September 2018. The Pope of the Catholic Church accepted the retirement letter and ordered an investigation into allegations that Bransfield had sexually abused adults while he was Bishop.

17. Although the Archdiocese of Baltimore has completed its internal investigation of Bransfield, it has not released a report of its findings.

18. Upon information and belief, Bransfield, as Bishop of the Diocese, as well as prior Bishops Joseph Hodges and Bernard Schmitt, was ultimately responsible for and controlled all activities of the Diocese including the operation of the Diocese's schools, camps and other recreational facilities.

19. Former Bishops Hodges and Schmitt knew of sexual abuse complaints against priests of the Diocese, but, did not disclose the conduct to criminal law authorities or to parents paying for educational or recreational services.

20. Following a conference of Catholic bishops in Dallas, Texas in 2002, the Diocese adopted a “Safe Environment Program” and fully implemented it in 2005.

21. The Safe Environment Program is meant to protect children and young people from being abused by religious and lay employees of the Diocese, as well as volunteers.

22. The Safe Environment Program is comprised of three components: i) background checks, ii) policy relating to sexual abuse of children and iii) awareness training for adults. All three components are required by the Diocese for adults seeking employment or to volunteer.

23. The Diocese states on its website, “Providing a safe learning environment is inherent in the mission of our Catholic schools. School employees and volunteers must pass a national background check, be fingerprinted and trained according to the Diocesan Safe Environment Policy (VIRTUS). Each school has an Emergency Response Plan for emergencies that is put into practice on a regular basis. Safety measures are in place at all of our schools.” <https://wvcatholicschools.org/why-catholic-schools>. (Frequently Asked Questions – How Safe Are Catholic Schools?).

24. Safety, however, has not always been inherent in West Virginia’s Catholic schools. On November 29, 2018, the Diocese published a list of 18 of its priests who the Diocese deemed to have been credibly accused of sexual abuse of children within the Diocese beginning around 1950 to the summer of 2018. Also published was a list of 13 priests who were employed by the Diocese within that timeframe and were credibly accused of sexual abuse in another state,

but no complaints of abuse had been reported in West Virginia. A number of the 31 priests listed had been employed in Catholic schools or at camps or retreats owned by the Diocese. <https://dwc.org/diocese-of-wheeling-charleston-releases-list-of-priests-credibly-accused-of-abuse-against-minors/>.

- **Bishops and Diocese Knowingly Employed Admitted Sexual Abusers**

25. The Diocese and its Bishops chose to cover up, and conceal arguably criminal behavior of admitted child sex abusers.

26. Father Patrick Condrón was employed by the Diocese at St. Joseph Preparatory Seminary High School in Vienna, West Virginia from 1980-1987.

27. While working at St. Joseph, Condrón became close to one student in particular and “groomed” him for a number of years. According to allegations made by the student years later, in 1995, Condrón groomed him “beginning with long embraces, passing through kissing and culminating in an attempt at genital sexual intercourse.”

28. Grooming can involve special attention being given to a target of abuse. The predator may provide the target or his family with gifts of cash or goods, take the target to dinner, movies, sporting events, offer assistance with tasks around the home or at school, and otherwise attempt to appear nice, kind and trustworthy.

29. Condrón admitted the allegations when confronted by Diocese leadership. Condrón was placed on administrative leave by Bishop Bernard Schmitt, the Bishop of the Diocese at the time. Condrón was sent for evaluation and treatment at two different facilities, one in Jemez Springs, New Mexico, and the other, St. Michael’s Community in St. Louis, Missouri, for substance abuse and psychotherapy.

30. After several years, Bishop Schmitt returned Condron to active ministry, first at a parish in Wheeling, and later at Wheeling Catholic Elementary School, from 1998- 2001.

31. Upon information and belief, the Diocese did not advise parents of children at Wheeling Catholic Elementary School that it was employing a pedophile during the time that Condron was employed there.

- **Diocese Hired Priests Without Adequate Background Checks**

32. The Diocese does not staff all its parishes, schools and camps with priests ordained by the Diocese. It sometimes hires priests from other dioceses or religious orders such as the Jesuits.

33. Bishop Schmitt hired a priest who was part of a religious order, but had been working in another diocese. This priest had worked in the Diocese in the past, as well as in Maryland and Virginia.

34. Upon information and belief, before hiring the priest, the Diocese failed to conduct an adequate background check

35. The priest admitted on his 2002 application for employment in the Diocese that he had been accused of sexual abuse of a child in 1979. The Diocese had the opportunity to thoroughly vet this priest after being put on notice to do so, yet, it failed to adequately investigate this priest's background before hiring him.

36. Upon information and belief, the Diocese only checked on this priest's background by calling the Archdiocese of Baltimore to see if it had any complaints against the priest.

37. The Diocese had concerns about employing this priest as memorialized in a note from the Episcopal Vicar for the Diocese, that stated “Trial 1 Year,” yet, it failed to conduct a thorough background check.

38. Nevertheless, under Bishop Schmitt’s leadership, and then Bransfield’s, the priest was employed by the Diocese for about four years at a parish that operates an elementary school.

39. The priest agreed to leave the assignment after discussing “the situation” with his Provincial superior and agreeing to terminate his employment in West Virginia in early 2007.

- **The Diocese Hired Priests Credibly Accused of Sexual Abuse of Children**

40. Victor Frobias, a priest ordained by the Diocese, was employed by the Diocese from 1965 through 1983. Upon information and belief, when employed by the Diocese, Frobias had been credibly accused of sexually abusing a child in 1962, before he came to the Diocese. According to the Diocese, the complaint was made to the Philadelphia, Pennsylvania Diocese in 1964.

41. Upon information and belief, the Diocese knew of Frobias’s background, and the credible allegation, and allowed him to come to West Virginia. In fact, Frobias had been asked to leave the Philadelphia seminary system because of the complaint. The Bishop of the Diocese at that time, Joseph Hodges, chose to give Frobias a second chance in the Diocese.

42. Upon information and belief, Frobias was moved from one Diocese job to the next. Upon further information and belief, Frobias was moved frequently due to suspicions of and sometimes allegations of sexual abuse of children.



43. Frobias became the chaplain of the Catholic Committee on Scouting in 1969, and later became the Diocesan Director of Scouting in 1971.

44. Frobias became the Director of Camp Tygart in 1972 and remained there through January 1976. Camp Tygart is a summer youth camp owned by the Diocese, and it is now known as Camp Bosco.

45. When Frobias was removed as director of Camp Tygart, he took a leave of absence. He spent the next several months at House of Affirmation, Inc., in Whitinsville, Massachusetts.

46. Upon information and belief, Frobias had been accused of sexually abusing children while director of Camp Tygart.

47. Upon information and belief, the House of Affirmation was known for treating priests engaged in pedophilia and other psychological disorders. The House of Affirmation was closed in 1990 after allegations of financial misappropriations and sexual abuse.

48. After Frobias's treatment at House of Affirmation, Bishop Hodges returned Frobias to work as a chaplain in Wheeling in 1976 and then as the chaplain at Wheeling Central Catholic High School in 1977.

49. Upon information and belief, the Diocese allowed Frobias to take another leave of absence following allegations of abuse in 1978. Frobias returned from his leave of absence and worked within the Diocese from 1980-1983. Then, in 1983, Frobias took another leave of absence and did not return to work in the Diocese. The Diocese finally suspended Frobias in 1987. During part of his leave of absence, Frobias spent time at Foundation House, a psychotherapy and counseling facility for Catholic priests, in Jemez Springs, New Mexico.

50. While Frobias was on leave after 1983, he found work in St. Louis with a Catholic Franciscan community. However, Frobias again engaged in sexual abuse of children. In 1987, Frobias was indicted in St. Louis for inappropriate contact with two minors. He pled guilty and agreed to a five year prison term, of which he served about two years. Frobias died in 1993.

51. Upon information and belief, during his assignments in West Virginia, the Diocese did not disclose to parents that Frobias had been accused of sexual abuse of children stemming from his time in Philadelphia and continuing through his work at Camp Tygart and Wheeling Central Catholic High School.

- **The Diocese Hired Lay Employees Without Adequate Background Checks**

52. The Diocese also employed non-religious teachers in its schools without adequately investigating the background of its hires.

53. One such teacher, Ronald Cooper, was hired by the Diocese in April 2011 to teach at Madonna High School in Weirton.

54. Upon information and belief, Cooper failed to disclose on his 2011 employment application that he had been convicted of Third-Degree Statutory Rape in the state of Washington in 1985, and also that he had pled guilty to First Degree Robbery. However, Cooper did provide a signed release that specifically authorized the Diocese to investigate his criminal record.

55. Upon information and belief, the Diocese failed to conduct a criminal background investigation. Cooper's criminal conduct was not discovered by the Diocese until December 2013, after Cooper had been teaching at Madonna High School for more than two years.

56. The Diocese terminated Cooper in December 2013 after it conducted a background check that disclosed the criminal conduct.

57. Upon information and belief, the Diocese did not disclose to the parents of children attending Madonna High School that it had employed a person convicted of sexual abuse of a child.

58. Years earlier, the Diocese hired a male to be the principal at a Catholic high school in West Virginia. Many years later, this individual became an ordained priest in the Diocese.

59. Upon information and belief, the Diocese conducted an inadequate background check on this individual before hiring him as the principal.

60. Upon information and belief, this priest “groomed” a teenager while he was the principal at this Catholic high school, even before he was employed as a priest by the Diocese.

61. In addition to the grooming, the victim claims he was sexually abused by this principal when he was a teenager at this Catholic high school.

62. Upon information and belief, the Diocese has deemed this complaint to be credible.

63. Upon information and belief, the Diocese was made aware of other inappropriate behavior of this priest during the 2004-2005 time period involving middle school and high school boys.

64. In 2005, the Diocese sent this priest to St. Luke Institute for psychiatric evaluation, but he left the program after less than two months. The Diocese suspended him from ministry in August 2005.

65. Upon information and belief, other priests and staff who were credibly accused of sexual abuse have been employed in Catholic schools or camps in West Virginia.

66. Upon information and belief, the Diocese has yet to adequately warn potential purchasers of its educational and recreational services that it has knowingly employed pedophiles in the past, and has failed to adequately investigate the background of employees that it has hired for its schools and camps.

**FIRST CAUSE OF ACTION**  
**(Advertised Services Not Delivered, W.Va. Code § 46A-6-104)**

67. The State restates and realleges the allegations contained in paragraphs 1 through 66 as if each were set forth herein in its entirety.

68. Under the leadership of the Bishop Bransfield and his predecessors, the Diocese advertises on its Internet website that “Providing a safe learning environment is inherent in the mission of our Catholic schools.”

69. The Diocese, however, has a long history of not providing a safe learning environment for students in its schools and children attending its recreational camps.

70. The Consumer Credit and Protection Act was enacted in and became effective in 1974. Although some of the conduct outlined in this complaint occurred prior to 1974, much of it occurred after the WVCCPA became effective.

71. The Bishops and the Diocese fail to clearly and conspicuously disclose that the learning environment it provides for children at its schools and camps is not as safe as advertised

in violation of W. Va. Code § 46A-6-104 as defined by W. Va. Code § 46A-6-102(7)(L) and (M).

72. The Bishops and the Diocese fail to safely deliver the educational and recreational services provided as advertised, in violation of W. Va. Code § 46A-6-104 as defined by W. Va. Code § 46A-6-102(7)(I) and (L).

**SECOND CAUSE OF ACTION**  
**(Failure to Warn of Dangerous Services, W.Va. Code § 46A-6-104)**

73. The State restates and realleges the allegations contained in paragraphs 1 through 66 as if each were set forth herein in its entirety.

74. The Bishops and Diocese knew the Diocese employed priests who had been credibly accused of sexually abusing children in schools and camps and intentionally failed to warn the purchasers of educational and recreational services, parents, of the danger of sending their children to those schools and camps.

75. The Diocese intended that the purchasers of educational and recreational services would rely on the Diocese's omissions and failures to warn of its employment of priests and teachers who had been credibly accused of sexually abusing children.

76. The Bishops' and the Diocese's intentional concealment and omissions of these material facts caused the purchasers of their educational and recreational services to buy inherently dangerous services for their children for many decades in violation of W. Va. Code § 46A-6-104 as defined by W. Va. Code § 46A-6-102(7)(L) and (M).

**PRAYER FOR RELIEF**

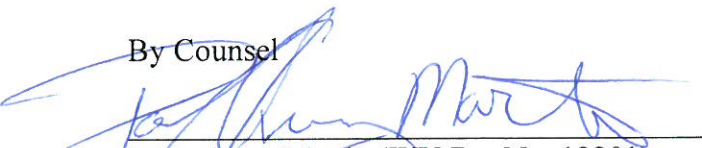
WHEREFORE, The State of West Virginia requests that this Court:

1. Enter an Order PERMANENTLY ENJOINING and RESTRAINING the Diocese from violating W. Va. Code § 46A-6-104 as defined by W.Va. Code § 46A-6-102(7)(I), (L) and (M); and
2. Enter an Order imposing all equitable relief available to the Court including, but not limited to injunctive relief, restitution and disgorgement; and
3. Enter judgment against Bishop Bransfield and the Diocese and Order each of them to pay civil penalties for each and every willful and repeated violation of chapter 46A of the West Virginia Code that it committed, as provided in W. Va. Code § 46A-7-111(2); and
4. Grant such other and further relief as the Court deems just and appropriate.

Respectfully submitted:

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By Counsel



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