

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

JOHN DOE B.P.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1016-CV-29995
)	
FATHER MICHAEL TIERNEY, et al.,)	Division 7
)	
Defendants.)	

MOTION TO MODIFY THE COURT’S APRIL 23, 2012 ORDER

COMES NOW the Survivors Network of those Abused by Priests (“SNAP”) and David Clohessy, by and through their undersigned counsel, and hereby moves this Court to modify its Order dated April 23, 2012. In support of its Motion, SNAP states as follows:

1. This Court entered an Order on April 23, 2012 requiring SNAP to produce documents pursuant to a subpoena issued by Defendant Father Tierney (“Tierney”) in October 2011.
2. More specifically, the April 23, 2012 Order requires SNAP to produce documents in the following categories:
 - a. Any documents or correspondence, including but not limited to electronic mail, that mention or refer to Tierney or the Diocese of Kansas City-St. Joseph;
 - b. Any press releases or drafts of press releases that mention Tierney or the Diocese of Kansas City-St. Joseph;
 - c. Any correspondence to or from members of the press that mentions or refers to Tierney or the Diocese of Kansas City-St. Joseph;

d. Any correspondence to or from Rebecca Randles that mentions or refers to Tierney or the Diocese of Kansas City-St. Joseph;

e. Any correspondence, including but not limited to electronic mail, to or from members of the public (including plaintiffs in any litigation), that mentions or refers to Tierney or the Diocese of Kansas City-St. Joseph;

f. Any documents or correspondence, including but not limited to electronic mail, that mention or refer to any priest currently or formerly associated with the Diocese of Kansas City-St. Joseph;

g. Any correspondence, including but not limited to electronic mail, to or from John Doe B.P. of Kansas City, Missouri;

h. Any correspondence, including but not limited to electronic mail, to or from members of the public that discuss or relates to repressed memory.

3. This Court's April 23, 2012 Order was premised in part at least on the Court's finding that the allegations contained in Plaintiff's Third Amended Petition directed against Defendant Diocese of Kansas City/St. Joseph (the "Diocese") allowed Defendants to discover information not only relating to allegations against Defendant Tierney but allegations concerning priests within the Diocese in general.

4. Specifically, the allegations directed at the Diocese in Plaintiff's Third Amended Petition included claims that Defendant Diocese actively concealed its knowledge not only of the abused perpetrators by Defendant Tierney but also the abused perpetrators by other priests within the Diocese.

5. This Court entered an Order on July 20, 2012 granting Defendant Diocese Motion to Dismiss the claims against it contained in Plaintiff's Third Amended Petition.

6. A matter is discoverable under Rule 56.01(b) provided it is “relevant to the subject matter in the pending action”.

7. Further, a matter is relevant for purposes of Rule 56.01(b)(1) if its discovery is reasonably calculated to lead to the discovery of admissible evidence. *State ex rel. Human Society of Missouri v. Beetem*, 317 S.W.3d 669, 672 (Mo. Ct. App. 2010).

8. The proponent of the discovery bears the burden of establishing that the matter it seeks to discover is relevant and within the scope of Rule 56.01(b)(1). *Id.*

9. SNAP has continually maintained that the only discussion that may have had with the Plaintiff himself were relevant to the issues in dispute as framed in the pleadings. SNAP continues to maintain that position and nothing contained in this motion waives that position.

10. However, now that this Court has dismissed the claims against the Defendant Diocese, the categories of information contained in the April 23, 2012 Order relating to information or communications involving the Diocese or allegations against any and all priests of the Diocese are entirely unrelated to the remaining claims contained in the Plaintiff’s Third Amended Petition against Defendant Tierney only.

11. Thus, the discovery of such information is not reasonably calculated to lead to the discovery of admissible evidence with respect to Plaintiff’s claims against Defendant Tierney only and is, therefore, not within the scope of Rule 56.01(b)(1).

WHEREFORE, having filed its Motion to Modify the Court’s April 23, 2012 Order, SNAP hereby respectfully requests that this Court modify its April 23, 2012 Order so that only information and documents concerning allegations against Defendant Tierney should be subject to discovery and for such other and further relief as this Court deems just and proper.

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CERTIFICATE OF SERVICE

I certify that on August 17, 2012, a true and correct copy of the foregoing was sent via U.S. Mail, postage prepaid, to:

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