

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

REV. XIU HUI “JOSEPH” JIANG,)
)
Plaintiffs,)
)
v.)
)
)
TONYA LEVETTE PORTER,)
JAIMIE D. PITTERLE,)
CITY OF ST. LOUIS, MISSOURI,)
A.M., N.M., SURVIVORS NETWORK)
OF THOSE ABUSED BY PRIESTS,)
DAVID CLOHESSY, and)
BARBARA DORRIS,)
)
Defendants.)

Case No. 4:15-cv-01008

JURY TRIAL DEMANDED

**DEFENDANT SNAP, CLOHESSY AND DORRIS’ ANSWER, AFFIRMATIVE
DEFENSES, AND COUNTER CLAIM**

COMES NOW the Defendants David Clohessy, Barbara Dorris, and Survivor’s Network of those Abused by Priests (“SNAP”), and for their Answer, Affirmative Defenses, and Counter claim state as follows:

NATURE OF ACTION

1. The SNAP Defendants deny the allegations of paragraph 1.
2. The SNAP Defendants deny the allegations of paragraph 2.
3. Paragraph 3 is a statement of law to which no response is required. To the extent a response is required, the SNAP Defendants deny the allegations of paragraph 3.

PARTIES

4. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 and, therefore, deny the same.

5. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 and, therefore, deny the same.

6. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 and, therefore, deny the same.

7. Paragraph 7 is a statement of law to which no response is required.

8. Paragraph 8 is a statement of law to which no response is required. To the extent a response is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 and, therefore, deny the same.

9. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 and, therefore, deny the same.

10. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 and, therefore, deny the same.

11. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 and, therefore, deny the same.

12. The SNAP Defendants admit the allegations of paragraph 12.

13. The SNAP Defendants admit the allegations of paragraph 13.

14. The SNAP Defendants admit the allegations of paragraph 14.

15. Paragraph 15 is a statement of law to which no response is required.

JURISDICTION AND VENUE

16. Paragraph 16 is a statement of law to which no response is required. To the extent a response is required, the SNAP Defendants acknowledge that in addition to other claims, plaintiff has attempted to allege claims pursuant to 28 U.S.C. § 1343. The SNAP Defendants deny the remaining allegations of paragraph 16.

17. Paragraph 17 is a statement of law to which no response is required. To the extent a response is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17 and, therefore, deny the same.

18. Paragraph 18 is a statement of law to which no response is required. To the extent a response is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18 and, therefore, deny the same.

19. Paragraph 19 is a statement of law to which no response is required. To the extent a response is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 19 and, therefore, deny the same.

COMMON ALLEGATIONS

20. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 20 and, therefore, deny the same.

21. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21 and, therefore, deny the same.

22. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 22 and, therefore, deny the same.

23. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 23 and, therefore, deny the same.

24. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 24 and, therefore, deny the same.

25. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 25 and, therefore, deny the same.

26. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 26 and, therefore, deny the same.

27. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 27 and, therefore, deny the same.

28. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 28 and, therefore, deny the same.

29. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 29 and, therefore, deny the same.

30. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30 and, therefore, deny the same.

31. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 31 and, therefore, deny the same.

32. The SNAP Defendants deny the allegations of paragraph 32.

33. The SNAP Defendants deny the allegations of paragraph 33.

34. The SNAP Defendants admit that there is justified public outrage about sexual abuse by Catholic priests. The SNAP Defendants deny that the allegations were false. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 34 and, therefore, deny the same.

35. The SNAP Defendants deny that the allegations were false. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 35 and, therefore, deny the same.

36. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 36 and, therefore, deny the same.

37. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 37 and, therefore, deny the same.

38. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 38 and, therefore, deny the same.

39. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 39 and, therefore, deny the same.

40. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 40 and, therefore, deny the same.

41. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 41 and, therefore, deny the same.

42. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42 and, therefore, deny the same.

43. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 43 and, therefore, deny the same.

44. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 44 and, therefore, deny the same.

45. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45 and, therefore, deny the same.

46. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 46 and, therefore, deny the same.

47. The SNAP Defendants are without knowledge or information sufficient to form a

belief as to the truth of the allegations in paragraph 47 and, therefore, deny the same.

48. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 48 and, therefore, deny the same.

49. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 49 and, therefore, deny the same.

50. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 50 and, therefore, deny the same.

51. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 51 and, therefore, deny the same.

52. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 52 and, therefore, deny the same.

53. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 53 and, therefore, deny the same.

54. The SNAP Defendants deny that the allegations were false. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 54 and, therefore, deny the same, including subparts a. – h. thereof.

55. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 55 and, therefore, deny the same.

56. The SNAP Defendants deny that the allegations were false. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 56 and, therefore, deny the same.

57. The SNAP Defendants deny that the allegations were false. The SNAP

Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 57 and, therefore, deny the same, including subparts a. – n. thereof.

58. The SNAP Defendants deny that the allegations were false. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 58 and, therefore, deny the same.

59. The SNAP Defendants deny that the allegations were false. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 59 and, therefore, deny the same.

60. The SNAP Defendants deny that the allegations were false. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 60 and, therefore, deny the same.

61. The SNAP Defendants deny that the allegations were false. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 61 and, therefore, deny the same.

62. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 62 and, therefore, deny the same.

63. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 63 and, therefore, deny the same.

64. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 64 and, therefore, deny the same.

65. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 65 and, therefore, deny the same.

66. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 66 and, therefore, deny the same.

67. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 67 and, therefore, deny the same.

68. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 68 and, therefore, deny the same.

69. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 69 and, therefore, deny the same.

70. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 70 and, therefore, deny the same.

71. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 71 and, therefore, deny the same.

72. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 72 and, therefore, deny the same.

73. The SNAP Defendants deny that the allegations were false. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 73 and, therefore, deny the same, including subparts a. –f. thereof.

74. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 74 and, therefore, deny the same.

75. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 72 and, therefore, deny the same.

76. The SNAP Defendants deny the allegations of paragraph 76.

77. The SNAP Defendants deny the allegations of paragraph 77.

78. The SNAP Defendants deny the allegations of paragraph 78.

79. Without more specific information regarding the statements to which this paragraph refers, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 79 and, therefore, deny the same.

80. The SNAP Defendants deny the allegations of paragraph 80.

81. The statements contained in paragraph 81 are documents and videos, which speak for themselves. The SNAP Defendants deny that these excerpts are complete, in context, or fairly portray the statements made by the alleged declarants. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 81 and, therefore, deny the same, including subparts a. – j. thereof.

82. The SNAP Defendants deny the allegations of paragraph 82.

83. The SNAP Defendants deny the allegations of paragraph 83.

84. The SNAP Defendants deny the allegations of paragraph 84.

85. The SNAP Defendants deny the allegations of paragraph 85.

86. The SNAP Defendants deny that plaintiff has had any damages as a result of any wrongful conduct on the part of the SNAP Defendants. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 86 and, therefore, deny the same.

87. The SNAP Defendants deny that plaintiff has had any damages as a result of any wrongful conduct on the part of the SNAP Defendants. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 87 and, therefore, deny the same.

88. The SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 88 and, therefore, deny the same.

89. The SNAP Defendants deny the allegations of paragraph 89.

90. The SNAP Defendants deny the allegations of paragraph 90.

COUNT ONE
42 U.S.C. § 1983 – Religious Discrimination
Against Defendants Porter and Pitterle

The allegations of Count One, Paragraphs 91-95 are not directed to the SNAP Defendants, and, therefore no answer is required. To the extent an answer is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 91-95, and therefore, deny the same.

COUNT TWO
42 U.S.C. § 1983 – Selective Enforcement Based on Religion
Against Defendants Porter and Pitterle

The allegations of Count Two, Paragraphs 96-101 are not directed to the SNAP Defendants, and, therefore no answer is required. To the extent an answer is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 96-101, and therefore, deny the same.

COUNT THREE
42 U.S.C. § 1983 – Selective Prosecution Based on Religion
Against Defendants Porter and Pitterle

The allegations of Count Three, Paragraphs 102-107 are not directed to the SNAP Defendants, and, therefore no answer is required. To the extent an answer is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 102-107, and therefore, deny the same.

COUNT FOUR

**42 U.S.C. § 1983 – Selective Enforcement Based on Race and National Origin
Against Defendants Porter and Pitterle**

The allegations of Count Four, Paragraphs 108-113 are not directed to the SNAP Defendants, and, therefore no answer is required. To the extent an answer is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 108-113, and therefore, deny the same.

COUNT FIVE

**42 U.S.C. § 1983 – Selective Prosecution Based on Race and National Origin
Against Defendants Porter and Pitterle**

The allegations of Count Five, Paragraphs 114-119 are not directed to the SNAP Defendants, and, therefore no answer is required. To the extent an answer is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 114-119, and therefore, deny the same.

COUNT SIX

**42 U.S.C. § 1983 – Substantive Due Process – Conduct Shocking the Conscience
Against Defendants Porter and Pitterle**

The allegations of Count Six, Paragraphs 120-126 are not directed to the SNAP Defendants, and, therefore no answer is required. To the extent an answer is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 120-126, and therefore, deny the same.

COUNT SEVEN

**42 U.S.C. § 1985 – Conspiracy to Violate Civil Rights
Against the Police Defendants, A.M., N.M., and the SNAP Defendants**

127. For their response to paragraph 127, the SNAP Defendants incorporate by reference their answers to Paragraphs 1-126 above.

128. The SNAP Defendants deny the allegations of paragraph 128.

129. The SNAP Defendants deny the allegations of paragraph 129.

130. The SNAP Defendants deny the allegations of paragraph 130.

COUNT EIGHT
Willful, Malicious, and Reckless Official Acts in Violation of Missouri Law
Against Defendants Porter and Pitterle

The allegations of Count Eight, Paragraphs 131-136 are not directed to the SNAP Defendants, and, therefore no answer is required. To the extent an answer is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 131-136, and therefore, deny the same.

COUNT NINE
Vicarious Liability
Against the City of St. Louis

The allegations of Count Nine, Paragraphs 137-140 are not directed to the SNAP Defendants, and, therefore no answer is required. To the extent an answer is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 137-140, and therefore, deny the same.

COUNT TEN
42 U.S.C. § 1983 – Monell Claim – Unconstitutional Policy and Practice
Against the City of St. Louis

The allegations of Count Ten Paragraphs 141-145 are not directed to the SNAP Defendants, and, therefore no answer is required. To the extent an answer is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 141-145, and therefore, deny the same.

COUNT ELEVEN
42 U.S.C. § 1983 – Monell Claim – Failure to Train and Supervise
Against the City of St. Louis

The allegations of Count Eleven Paragraphs 146-151 are not directed to the SNAP

Defendants, and, therefore no answer is required. To the extent an answer is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 146-151, and therefore, deny the same.

COUNT TWELVE
Abuse of Process
Against the Police Defendants, A.M., and N.M.

The allegations of Count Twelve Paragraphs 152-155 are not directed to the SNAP Defendants, and, therefore no answer is required. To the extent an answer is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 152-155, and therefore, deny the same.

COUNT THIRTEEN
Intentional Infliction of Emotional Distress
Against the Police Defendants, A.M., N.M., and the SNAP Defendants

156. For their response to paragraph 156, the SNAP Defendants incorporate by reference their answers to Paragraphs 1-155 above.

157. The SNAP Defendants deny the allegations of paragraph 157.

158. The SNAP Defendants deny the allegations of paragraph 158.

159. The SNAP Defendants deny the allegations of paragraph 159.

COUNT FOURTEEN
Defamation
Against A.M. and N.M.

The allegations of Count Fourteen Paragraphs 160-168 are not directed to the SNAP Defendants, and, therefore no answer is required. To the extent an answer is required, the SNAP Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 160-168, and therefore, deny the same.

COUNT FIFTEEN
Defamation

Against the SNAP Defendants

169. For their response to paragraph 169, the SNAP Defendants incorporate by reference their answers to Paragraphs 1-168 above.

170. The SNAP Defendants deny the allegations of paragraph 170.

171. The SNAP Defendants deny the allegations of paragraph 171.

172. The SNAP Defendants deny the allegations of paragraph 172.

173. The SNAP Defendants deny the allegations of paragraph 173.

174. The SNAP Defendants deny the allegations of paragraph 174.

175. The SNAP Defendants deny the allegations of paragraph 175.

176. The SNAP Defendants deny the allegations of paragraph 176.

177. The SNAP Defendants deny the allegations of paragraph 177.

PRAYER FOR RELIEF

The Pray for Relief is a statement of law to which no response is required. To the extent a response is required, the SNAP Defendants deny that plaintiff is entitled to any relief.

The SNAP Defendants further deny any remaining allegations not specifically referenced above, including but not limited to all headings.

AFFIRMATIVE DEFENSES

1. This case may be barred by the applicable statutes of limitation.
2. Plaintiff may have failed to identify one or more indispensable parties to this action.
3. Plaintiff failed to state a claim against the SNAP Defendants upon which relief may be granted.
4. Any statements made by the SNAP Defendants regarding plaintiff were

substantially true, and therefore are immune from liability.

5. Plaintiff's claims are barred by the doctrine of consent, in that plaintiff submitted to an investigation knowing the results thereof would be published.

6. Plaintiff's claims are barred by the protections afforded by the First Amendment of the United States Constitution.

7. Plaintiff's claims are barred because plaintiff's conduct and the news reports regarding it has made him "libel proof," in that his reputation cannot be further damaged by any defamatory statements.

8. Plaintiff's claims are barred pursuant to Missouri's Anti-SLAPP statute.

9. Plaintiff's claims are barred in that the alleged statements are privileged because they were made in connection with a judicial or quasi-judicial meeting or public hearing.

10. Plaintiff's claims are barred by the fair reports privilege, in that the alleged statements were the publication of a matter concerning another in a report of an official action or proceeding or of a meeting open to the public that deals with a matter of public concern, and the report was accurate and complete or a fair abridgment of the occurrence reported.

11. Plaintiff's claims are barred by the neutral reportage privilege, in that the alleged statements were republication of a newsworthy accusation or statement, which was made by a prominent or responsible person, which is about a public figure, and which was reported in a neutral and unbiased fashion.

12. Plaintiff's claims are barred by the wire service defense, in that the alleged statements were republished from reputable and properly regarded as reliable news services, and the matters were of public significance.

13. Plaintiff's claims are barred by the fair comment privilege, in that the alleged

statements were commentary upon facts that were matters of public concern, and were statements about inferences and conclusions about those facts.

14. Plaintiff's claims are barred by the privilege of opinion, in that the alleged statements expressed a protected opinion of the declarant.

15. Plaintiff's conspiracy claim is barred because the activities of the public officers and officials involved are barred by qualified immunity as set forth in the motions to dismiss filed by the City Defendants in this case.

16. Plaintiff may have failed to mitigate his damages.

17. Any judgment entered in favor of Plaintiff should be reduced by the amount of any settlement, release, covenant not to sue or covenant not to enforce a judgment or the amount of consideration paid by any person or entity liable to Plaintiff for the damages alleged in the Petition.

18. Plaintiff's should not be afforded the right to a jury trial on his claim for punitive damages because the vague jury instructions and standards employed in punitive damage cases results in extremely disparate results among similar defendants accused of similar conduct and is in violation of the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution and comparable provisions of the Missouri Constitution.

19. Plaintiff is not entitled to recover exemplary or punitive damages because the standards and procedures for determining and reviewing such awards under applicable law do not sufficiently ensure a meaningful individualized assessment of appropriate deterrence and retribution.

20. Plaintiff is not entitled to recover exemplary or punitive damages because exemplary or punitive damages in this case would result in a violation of the due process clause

of the Fourteenth Amendment of the United States Constitution and the comparable provisions of the Missouri Constitution as set forth in *State Farm Mutual Automobile Insurance Co. v. Campbell*, 123 S.Ct. 1513 (2003).

21. Plaintiff is not entitled to recover exemplary or punitive damages because exemplary or punitive damages in this case would result in a violation of the SNAP Defendants' constitutional protection and the prohibitions against double jeopardy set forth in the Fifth Amendment and the due process clause of the Fourteenth Amendment of the United States Constitution and comparable provisions of the Missouri Constitution.

22. Plaintiff is not entitled to recover exemplary or punitive damages because exemplary or punitive damages in this case would result in an unconstitutionally excessive fine in violation of the Eighth Amendment and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and comparable provisions of the Missouri Constitution.

23. Plaintiff is not entitled to recover exemplary or punitive damages as determined by the jury or the Court because Plaintiff's claim for exemplary or punitive damages is in violation of the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution and comparable provisions of the Missouri Constitution because there are no realistic standards or limits imposed on the amount of punitive damages which may be awarded, and no required relationship between the actual damages sustained and the amount of punitive damages which may be awarded.

24. Plaintiff is not entitled to recover exemplary or punitive damages as determined by the jury or the Court because Plaintiff's claim for exemplary or punitive damages is in violation of the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution and comparable provisions of the Missouri Constitution because the vague

standards employed in punitive damage cases results in extremely disparate results among similar defendants accused of similar conduct.

25. Plaintiff is not entitled to recover exemplary or punitive damages because Plaintiff's claim for exemplary or punitive damages is in violation of the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution and comparable provisions of the Missouri Constitution because the purpose of punitive damages is punishment and deterrence, and there is not adequate procedural safeguards in place to protect the SNAP Defendants' right against self-incrimination, right to proof beyond a reasonable doubt, and right to be free from unreasonable searches and seizures in this case.

26. Plaintiff is not entitled to recover exemplary or punitive damages because Plaintiff's claim for exemplary or punitive damages is in violation of the First Amendment to the United States Constitution and comparable provisions of the Missouri Constitution.

27. Plaintiff is not entitled to recover exemplary or punitive damages because the standards and instructions regarding exemplary/punitive damages are inadequate, vague, and ambiguous, further violating the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the comparable provisions of the Missouri Constitution.

28. The SNAP Defendants aver that any award of punitive damages to the Plaintiff in this case will be violative of the procedural safeguards provided to defendants under the Sixth Amendment to the Constitution of the United States in that punitive damages are penal in nature and, consequently, Cottrell is entitled to the same procedural safeguards accorded to criminal defendants. The correct standard for submitting the burden of proof for exemplary and/or punitive damages should be "beyond a reasonable doubt" or at a minimum "clear and convincing" evidence. Any lesser standard is a violation of the Due Process Clause of the

Fourteenth Amendment of the United States Constitution and the comparable provisions of the Missouri Constitution.

29. Plaintiff is not entitled to recover exemplary or punitive damages because the imposition of exemplary or punitive damages in this case based upon evidence of wealth or financial status would violate the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution and comparable provisions of the Missouri Constitution.

42. Plaintiff has failed to allege all facts necessary to determine what substantive law will apply to the claims of the Plaintiff in this suit. As such, the SNAP Defendants reserve the right to amend and/or add to its affirmative defenses when Plaintiff's petition is made more definite and certain, or until such information is revealed through discovery.

43. The SNAP Defendants reserve the right to assert additional affirmative defenses upon completion of their investigation and the discovery in this case.

WHEREFORE, the SNAP Defendants pray that Plaintiff's Petition be dismissed, for its costs in defending this matter, and for such other relief as is just and appropriate.

COUNTERCLAIM

COMES NOW the SNAP Defendants, and for their counterclaim against Plaintiff Jiang state as follows:

1. Plaintiff's Complaint is the latest maneuver in a long campaign of intimidation against the only people who have the courage to provide counseling, support, and advocacy to the innocent children who have been abused in the most intimate and horrific ways imaginable by clergy such as the plaintiff. There is no proper purpose for this lawsuit. It is a thinly veiled attempt by plaintiff to prevent SNAP and its advocates from speaking out for those who have no voice. This lawsuit is taking them away from their efforts to help those in need.

A. The SNAP Defendants

2. SNAP, and defendants Clohessy and Dorris – each part of a solely non-profit effort -- have long dedicated themselves to protecting the interests of the most vulnerable members of our society.

3. Clohessy is Director of SNAP and a survivor of priest sexual abuse.

4. Dorris is a long-time advocate for SNAP and a survivor of priest sexual abuse.

5. SNAP is a non-profit corporation formed in 1989 to provide counseling, support and advocacy to men and women who have been sexually victimized by members of the clergy.

6. In its counseling, support, and advocacy services, SNAP offers resources to support groups, direct counseling, advice on choosing a licensed therapist, and an opportunity for victims and their family members to speak confidentially to SNAP employees and volunteers who personally have been victims of sexual assault.

7. SNAP also advocates publically for victims of abuse, for bringing the perpetrators of that abuse to justice, as well as those who protect them, preventing future acts of rape and abuse, and for public policies that support these goals. These policies include reforming the statute of limitations for rape and abuse, tougher mandatory reporting laws, and tougher consequences for those who hide abuse.

8. It is through that work that the SNAP defendants learned of Father Jiang's abuse of two children through news reports that surfaced after he was arrested.

9. SNAP has counseled and assisted more than 20,000 victims of clergy sexual abuse since its founding.

B. Father Jiang

10. Father Jiang has been a defendant in two criminal actions and the subject of at

least one pending civil action involving sexual abuse perpetrated on two different children while a priest within the Archdiocese of St. Louis.

11. The first charges and lawsuit involves Jiang's abuse of a girl in Lincoln County, Missouri while Jiang was a priest working as an Associate Pastor at the Cathedral Basilica within the Archdiocese of St. Louis.

12. Jiang gained access to the girl during frequent family visits to her home in Lincoln County, Missouri.

13. During the course of these visits, Jiang kissed her and manipulated her into sexual contact. Jiang touched her breasts and her genitals, and used his hand to direct her hands onto his genitals.

14. At least one witness saw Jiang kissing the girl on the mouth and touching her buttocks in the parking lot of the church rectory.

15. Father Jiang also sent her sexual texts and emails.

16. When the abuse was discovered by the girl's parents, the parents confronted Father Jiang.

17. Jiang admitted his conduct and told the parents he would report his behavior to Archbishop Carlson.

18. Father Jiang later left a \$20,000 check on the parent's car.

19. The second incident involved Minor herein.

20. Jiang was charged with twice forcing oral sex on Minor in a Catholic school bathroom between July 2011 and August 2012.

21. While the charges against him were dismissed without prejudice, they are subject to being refiled at a later time.

22. The apparent reason for the dismissal was the victim's emotional recovery rather than the alleged falsity of the charges.

23. In the interim, Jiang has filed this lawsuit in an obvious attempt to intimidate this boy from pushing forward with the charges, and to bully those that have stood up for this young man, including the SNAP Defendants.

24. Jiang has further filed this lawsuit in an attempt to publish defamatory statements regarding all defendants, including the SNAP Defendants, in a forum in which those statements would be more difficult to prosecute as defamation.

25. Jiang has further filed this lawsuit in an attempt to prevent the SNAP Defendants and others from making the public aware of Jiang's activities, and the danger he may pose to others, and for other improper purposes.

COUNT I – ABUSE OF PROCESS

26. For paragraph 24 of their Counterclaim, the SNAP Defendants incorporate by reference paragraphs 1-24 of their Counterclaim as if fully set forth herein.

27. By way of the foregoing, Jiang made an illegal, improper, perverted use of process, and/or a use neither warranted or authorized by the process.

28. Jiang had an illegal purpose in exercising such illegal, improper, and/or perverted use of process.

29. As a direct result of the foregoing, the SNAP Defendants have suffered damages, including damage fees and costs associated with this lawsuit, and damage to reputation.

COUNT II – PUNITIVE DAMAGES

30. For paragraph 30 of their Counterclaim, the SNAP Defendants incorporate by reference paragraphs 1-29 of their Counterclaim as if fully set forth herein.

31. When engaging in the conduct described herein, Jiang acted with evil motive and intent, and/or with callous and/or reckless indifference to the SNAP Defendants' rights.

32. When engaging in the conduct described herein, Jiang acted wantonly, willfully, and maliciously.

PRAYER FOR RELIEF

WHEREFORE, the SNAP Defendants respectfully request that this Court grant them relief against Jiang, including but not limited to the following:

- (a) Compensatory damages;
- (b) Punitive damages;
- (c) Costs;
- (d) Attorney's fees; and
- (e) Such other relief as the Court may deem just and proper.

JURY DEMAND

The SNAP Defendants hereby demand a trial by jury on all claims and counter claims in this matter, and all issues triable to a jury.

Respectfully submitted:

CARPENTER MOSER, LLC

/s/ Amy Lorenz-Moser

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and Barbara Dorris*

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of January, 2016 a copy of the foregoing was electronically filed with the Court, and will be sent electronically by the Court to counsel of record.

/s/ Amy Lorenz-Moser