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William A. Cambria, Esq.

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PROBLEM PARISHIONERS

WILLIAM A. CAMBRIA, ESQ.*

Thank you, Bill. One of the problems in trying to prepare for a session like this is to avoid turning this into a simple recitation of war stories and interesting tidbits that might cause a chuckle for a moment or two but don't do you a lot of good when you go back to your office. Obviously the focus of the presentation is such that you have to get into some of the facts and details of these situations to try to make your points.

I am here to speak to you today about two episodes that we have faced in the Archdiocese of Newark. I tried to set them out quite thoroughly in the materials so that much of what I say will repeat what is already there. However, I think it might be helpful to go through the facts quickly and then try to focus on what we can learn from them to help us if we ever encounter a similar situation in the future.

We start out with a young girl whose name is Merron Taddese. Merron was a very bright and intelligent young girl, who achieved good success in the first and second grades at St. James School in Springfield. She did have some occasional discipline problems which were well documented by her teachers. Although her name was Merron, she wanted to be called Suzanne. At deposition she was asked why she was to be called Suzanne, and she said she liked the way the name sounded, and she thought it would be a good name for her. So, that's the name she used at school.

Her mother, on the other hand, was a constant problem to the school's administration, inundating the teaching staff, administration and pastor with persistent complaints that I could say bordered on the bizarre and outlandish, but that would

* Attorney; Archdiocese of Newark.

be a little too kind. They were well into the bizarre and the outlandish. The pastor eventually decided he had to end the disruption to the school and he informed the mother that Merron would not be allowed to continue in the third grade at the school. The mother promptly informed the pastor that she would not accept that decision and that Merron would be back.

That June, during the course of Sunday Mass, this mother walked up the center aisle, stared at the priest for several moments while Mass was in progress and then turned and walked out, leaving a trail of white powder behind her, which correlated to some of the bizarre complaints she had been making about white powder being placed on her daughter's desk in school.

After that episode, the pastor reaffirmed his decision not to readmit her, but sure enough, on opening day in September 1997, mother and daughter were there ready to start the third grade. The pastor had sought our advice and pursuant to our counsel, had arranged for a police presence on the premises. After the police gently asked her to remove herself, the mother not only tried to run into the school, but also had her daughter begin videotaping the whole thing on a camcorder. The policeman then arrested her, and she promptly filed a cross-complaint against the officer for assault. She then proceeded to file first a federal lawsuit against the Archdiocese, which was dismissed for lack of federal jurisdiction, and now a *pro se* state court complaint against us.

What are the lessons that we can learn from this episode? First, I think it is very important that you have a good cooperative arrangement with your local police authorities, seconding what Bill has said. We have found many, many episodes where a simple phone call from the pastor to the chief of police, or someone else at the police department, can not only bring forward some information about the people you are dealing with, but also can be very helpful in terms of preventive action. We were fortunate here to have the fact that the first and second grade teachers had documented the discipline problems that Merron had encountered during her time in the school, so that we could not be accused of making up these disciplinary problems as a reaction to the filing of the lawsuit.

We also had a situation where the bizarre complaints that were made, which are noted in your materials, were rather

isolated in nature. It helps us when we are developing the credibility aspect of this lawsuit because if the mother is telling the truth, then the pastor, teachers, principal and police officers who were on the scene, all have to be not telling the truth. When you get into a courtroom, and that is the situation you are facing, you are in a pretty good position.

I'm sure this is probably true in many parts of the country, but in New Jersey the judges are very likely to bend over backward to be solicitous to a *pro se* plaintiff to make sure that plaintiff has every opportunity to present his or her case. We are presently developing some motions on the order of summary judgment and other failure to provide discovery in hopes of avoiding a trial in this instance.

The second case that I wanted to bring to your attention involved an episode that occurred at Paramus Catholic High School. It is a rather large high school run by the Archdiocese in, strangely enough, the town of Paramus. There is a little bit of history here that might be helpful in understanding some of the background. Paramus Catholic at one point was two separate schools—one a girl's school and one a boy's school. A couple of years ago, I guess three or four to be precise, the two schools were merged into one co-educational school.

The merger resulted in some stresses at the administrative level over the first couple of years after the merger, and there was a significant turnover in administrative staff. The Archdiocese, therefore, recruited a new president who in September 1997 came from out of state to take over administration of the school. When that president came, he encountered an existing principal and vice principal, and this apparently did not form a good mix. By the end of his first year, the principal resigned and the vice principal also left the school. The president therefore assumed the role of principal, as well the position of president.

About a year ago, I'm talking about the spring of 1998, there was a student trip out of state. During the trip there was an assault by a group of students against another student. Disciplinary action was taken against the five students who were involved. This is all by way of background before commencement of the current school year, 1998-1999. Paramus Catholic at the beginning of this school year had approximately 925 students.

At the beginning of the year, September 1998, the first

anonymous e-mail message was received. It was signed by "Angry Moms" and demanded the removal of the president-principal of the school. About three months later, in December, a popular lay campus minister left the school after some disagreements with the president, and the e-mails began in earnest. Throughout December and January, there were a number of messages. Examples of some of them are contained in your materials. What you don't have in your materials, because of a need to try to keep this concise, is the pages of forwarding addresses that were attached to some of these messages. It is quite clear that these messages were going around to as many as two or three hundred people at a shot, which shows how popular the Internet is these days, particularly with students and the younger generation.

In January of this year, every elementary school in the Archdiocese received an e-mail message, which is contained in your materials. The thrust of it was, "If you can't trust the administration of Paramus Catholic High School, then you shouldn't let your eighth graders go to that school, if you want to do well by your students." The Superintendent issued a statement in support of the president-principal, but an anonymous rebuttal was immediately sent to all elementary schools in the Archdiocese.

At this point, the newspapers started to get into the act. As you may know, in most instances in the past, the media will not give any credence to anonymous letters. However, in this case, the media was following the situation. Fortunately, the reporter investigating the story interviewed parents, faculty and students at the school, which showed that there was a lot of support for the president-principal, and that all the negativity that was coming forward in these messages seemed to be isolated to a fairly small group of people.

We cooperated with the president-principal and formed a strategy of trying to find out who was sending these anonymous e-mail messages. Therefore, a complaint was filed in the name of the principal in federal court against a John Doe defendant alleging defamation, and subpoenas were served on America OnLine and the Microsoft Hotmail subsidiary.

At that point, the newspaper investigation broke and, rather unfortunately from our perspective, the focus of the story was upon the fact that litigation had resulted from this anonymous e-

mail barrage, rather than the fact that the school was being victimized. The focus of the story had changed. We think that it would have been better if it had come out the other way, but that's what happens sometimes. When the newspaper report came out, the sender of the e-mail came to the newspaper and admitted responsibility. His identity was confirmed by the response to our subpoenas. What are the lessons to be learned from this? First, I think that based on our research, the law of defamation as it exists must be applicable to messages sent over the Internet and through e-mail. We believe that in an appropriate case that certainly would be a powerful weapon to use for scurrilous or defamatory remarks that are made over the Internet.

I've noted before the power of this type of communication. The ease and ability of students to process this information quickly throughout the school community, so that students and their parents were well aware of the situation as it was happening, was remarkable.

Third, you will have difficulty learning who is sending anonymous e-mails because the providers, America OnLine and the like, are not at all anxious to cooperate in providing that type of information. Obviously, for commercial reasons, they have the privacy interests of their customer base to protect. If you want identifying information, you are going to have to do it through litigation and through subpoena. Again, it is helpful to have good relationships with the media and to be solicitous of their expressions of concern. The main aspect that helped us here is the fact that the president-principal of the school did in fact have widespread support among the students, faculty and parents.

There is some good news at the end. Our registration at this school for the coming school year 1999-2000 is now in excess of 1,000 students, up about hundred students from the current year. The damage has been contained and things at this point seem to be going well. The only thing I didn't tell you in the materials was who actually was the sender of the anonymous e-mail. It did turn out to be the lay campus minister who had left the school in December.

Thank you.

