

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

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

FILED - CIRCUIT COURT  
JACKSON CO., MO - KC  
12 SEP 20 PM 4:10

**DEFENDANT'S MOTION FOR ORDER HOLDING  
NON-PARTIES IN CONTEMPT OF COURT WITH SUGGESTIONS IN SUPPORT**

**Motion**

Defendant Father Michael Tierney hereby moves this Court for an Order holding non-parties Survivors Network of Those Abused by Priests (SNAP) and David Clohessy in contempt of Court. Missouri rules provide that this Court may find a non-party in contempt of court for failure to obey a subpoena and discovery orders. Mo. Ct. Rule 58.02(f).

**Suggestions In Support**

Below is a timeline of events supporting this Motion:

- April 23, 2012: This Court entered an Order against SNAP and Clohessy granting Defendants' Motion to Compel Answers to Deposition Questions and to Produce Documents. The Order allows for redaction of names or other identifying information of individuals who may have been in contact with SNAP except as such identifying information relates to plaintiffs in ongoing litigation against the Diocese. (Exhibit A).
- May 31, 2012: This Court entered an Order for Judge Hartenbach to preside as special master over David Clohessy's continued deposition taken pursuant to an October 2011 subpoena duces tecum. (Exhibit B).
- May 31, 2012: This Court entered an Order granting in part and denying in part the motion of SNAP and Clohessy for reconsideration of this Court's April 23, 2012 Order. The Order on the Motion for Reconsideration continues to compel SNAP and Clohessy to provide documents and deposition testimony. (Exhibit C).

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- June 22, 2012: Defendant Tierney moved the Court for a date certain by which SNAP and Clohessy had to comply with the above orders because no documents had been produced as of June 22, 2012. (Exhibit D).
- July 17, 2012: This Court entered an Order granting defendant Tierney's motion for date certain, and ordered that SNAP and Clohessy produce the documents ordered on April 23, 2012 by July 30, 2012. (Exhibit E). No documents were produced by July 30, 2012.
- July 30, 2012: SNAP filed a motion to modify the Court's April 23, 2012 Order to allow SNAP an additional 45 days from denial of its Writ Petition in the Missouri Supreme Court in which to produce responsive documents. (Exhibit F).
- August 17, 2012: SNAP filed a motion to modify the Court's April 23, 2012 Order to restrict the production of documents due to the dismissal of defendant Diocese from the case. (Exhibit G).
- August 23, 2012: This Court denied both of SNAP's motions to modify the Court's April 23, 2012 Order and ordered that SNAP and Clohessy produce responsive documents by August 29, 2012, and that Clohessy sit for deposition within 45 days after the documents are produced. (Exhibit H).
- August 29, 2012: SNAP and Clohessy do not produce documents.
- August 31, 2012: SNAP and Clohessy begin to produce some responsive documents, but they are heavily and inappropriately redacted and incomplete.
- September 13, 2012: SNAP and Clohessy conclude production of some responsive documents that are heavily and inappropriately redacted and incomplete. Counsel for SNAP and Clohessy send letter to Tierney counsel indicating that SNAP documents relating to co-defendants Reardon and O'Brien will not be produced despite the fact that they come within the Court's prior orders. SNAP also refuses to turn over documents relating to Fr. Ratigan, who is not a defendant in any Tierney cases. (Exhibit I).
- September 14, 2012: Counsel for Tierney writes SNAP counsel indicating that Tierney counsel will not seek production of SNAP documents relating to Fr. Ratigan at this time, but that documents relating to co-defendants Reardon and O'Brien should be produced and that inappropriate redactions should be removed. (Exhibit J).

SNAP and Clohessy sought writs in the Missouri Court of Appeals and Supreme Court to prohibit the subpoena of Clohessy and SNAP documents -- those writs were denied. SNAP and

Clohessy also sought writs in the Missouri Court of Appeals and Supreme Court to prohibit this Court's April 23, 2012 Order on Motion to Compel -- and those writs were denied. SNAP and Clohessy have failed to comply with every Court-ordered deadline for discovery. The documents SNAP and Clohessy produced after this Court's deadline are heavily redacted -- they do not merely redact names and identifying information of non-parties. In some documents, entire paragraphs are redacted. Further, SNAP and Clohessy have taken the position, despite failure to obtain writ relief in Missouri's Appellate Courts, that they will simply ignore this Court's April 23, 2012 Order and refuse to produce responsive documents relating to co-defendants Reardon and O'Brien.

WHEREFORE, defendant Father Michael Tierney requests that this Court (a) set a show cause hearing wherein defendant can show the Court the inappropriately redacted documents SNAP and Clohessy have produced as this Court's prior orders may prohibit the filing of such documents with the Court; and (b) that this Court find SNAP and Clohessy are in contempt of this Court's prior orders and subpoena; and (c) that this Court issue appropriate sanctions, including but not limited to the issuance of an Order for production of documents with proper redactions.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served by United States mail, postage prepaid, this 20th day of September, 2012 upon:

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