

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

STEPHEN DEL SESTO, AS RECEIVER  
AND ADMINISTRATOR OF THE ST.  
JOSEPH HEALTH SERVICES OF RHODE  
ISLAND RETIREMENT PLAN et al.,

Plaintiffs

v.

PROSPECT CHARTERCARE, LLC et al.,

Defendants

C.A. No. 1:18-CV-00328-LDA

**THE DIOCESAN DEFENDANTS' RULE 5.1 NOTICE OF CONSTITUTIONAL  
CHALLENGE OF RHODE ISLAND STATUTE**

Pursuant to Rule 5.1(a) of the Federal Rules of Civil Procedure, Defendants Roman Catholic Bishop of Providence, a corporation sole, Diocesan Administration Corporation and Diocesan Service Corporation (collectively, the "Diocesan Defendants"), respectfully file this Rule 5.1 Notice of Constitutional Challenge of a Rhode Island Statute with the Court. In the Diocesan Defendants' Response in Opposition to Joint Motion for Settlement Class Certification, Appointment of Class Counsel and Preliminary Settlement Approval and Motion for Award of Attorneys' Fees filed with this Court on December 21, 2018, the Diocesan Defendants challenge the constitutionality of R.I. Gen. Laws § 23-17.14-35.

In compliance with Rule 5.1(a)(2), the Diocesan Defendants will serve the Rhode Island Attorney General with a copy of this Notice and the paper questioning the state statute's constitutionality via certified mail.

Respectfully Submitted,

ROMAN CATHOLIC BISHOP OF  
PROVIDENCE, A CORPORATION SOLE,  
DIOCESAN ADMINISTRATION  
CORPORATION and DIOCESAN SERVICE  
CORPORATION

By Their Attorneys,

PARTRIDGE SNOW & HAHN LLP

/s/ Howard Merten

---

Howard Merten (#3171)  
Eugene G. Bernardo (#6006)  
Paul M. Kessimian (#7127)  
Christopher M. Wildenhain (#8619)  
40 Westminster Street, Suite 1100  
Providence, RI 02903  
(401) 861-8200  
(401) 861-8210 FAX  
[hmerten@psh.com](mailto:hmerten@psh.com)  
[ebernardo@psh.com](mailto:ebernardo@psh.com)  
[pkessimian@psh.com](mailto:pkessimian@psh.com)  
[cwildenhain@psh.com](mailto:cwildenhain@psh.com)

DATED: December 21, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of December 2018, the foregoing document has been filed electronically through the Rhode Island ECF system, is available for viewing and downloading, and will be sent electronically to the counsel who are registered participants identified on the Notice of Electronic Filing.

I further certify that the foregoing was served upon the Attorney General of Rhode Island by mailing a copy thereof via Certified Mail to the Rhode Island Attorney General at the following address:

Peter Kilmartin, Attorney General  
Rebecca Tedford Partington, Deputy Chief – Civil Division  
Rhode Island Department of the Attorney General  
150 South Main Street  
Providence, Rhode Island 02903

/s/ Howard Merten