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Summons & Complaints and all public documents subsequently completed and filed by Phillips & Paolicelli LLP. Address: 747 3rd Ave 6th floor, New York, NY 10017. Phone: (212) 388-5100.

Summons & Complaints relying on the research of James G. Faluszczak:

p.2 ff.:

<b>NYS UCS Case Number</b>	<b>Alleged Perpetrator</b>	<b>Defendant #</b>	<b>Defendants</b>	<b>Plaintiff</b>
70084/2020E	Accorsi, Ray	5	Archdiocese of New York, Capuchin Franciscans of St. Mary of NY, et al.	DOE, PC-30

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF THE BRONX

PC-30 DOE,

Index No \_\_\_\_\_ / 2020

Plaintiff,

vs.

THE ARCHDIOCESE OF NEW YORK;  
CAPUCHIN FRANCISCAN TERTIARY  
PROVINCE OF ST. MARY OF N.Y., INC.;  
CAPUCHIN FRANCISCAN FRIARS,  
PROVINCE OF THE SACRED STIGMATA OF  
ST. FRANCIS; IMMACULATE CONCEPTION  
SCHOOL; and IMMACULATE CONCEPTION  
CHURCH,

**SUMMONS**

Defendants.

Plaintiff designates the County of the BRONX as the place of trial. The basis of venue is the Defendant’s county of residence pursuant to CPLR §503.

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiffs' attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

DATED: New York, New York  
July 23, 2020

Phillips & Paolicelli, LLP  
*Attorneys for Plaintiffs*

*Shaina Weissman*

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TO:

**ARCHDIOCESE OF NEW YORK**

1011 First Avenue  
New York, NY 10022

**IMMACULATE CONCEPTION CHURCH**

754 East Gun Hill Rd,  
Bronx NY 10467

**IMMACULATE CONCEPTION SCHOOL**

760 East Gun Hill  
Bronx, NY 10467

**CAPUCHIN FRANCISCAN FRIARS,  
PROVINCE OF THE SACRED STIGMATA OF ST. FRANCIS**

P.O. Box 809  
319 36th Street  
Union City, NJ 07087

**CAPUCHIN FRANCISCAN TERTIARY PROVINCE OF ST. MARY OF N.Y., INC.**

c/o Capuchin Franciscans  
30 Gedney Park Drive  
White Plains, NY, 10605

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF THE BRONX

PC-30 DOE,

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THE ARCHDIOCESE OF NEW YORK;  
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CHURCH

Defendants.

**COMPLAINT**

Index No.: \_\_\_\_\_ / 2020

Plaintiff PC-30 Doe, by and through his undersigned attorneys, as and for his Complaint, alleges as follows:

**NATURE OF THE ACTION**

1. This action is brought pursuant to the Child Victims Act, codified at CPLR 214-g.
2. Plaintiff PC-30 Doe was repeatedly sexually abused and assaulted by a man believed to be named RAY ACCORSI (herein "Accorsi"), who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants THE ARCHDIOCESE OF NEW YORK (herein "the Archdiocese"); CAPUCHIN FRANCISCAN TERTIARY PROVINCE OF ST. MARY OF N.Y., INC. and CAPUCHIN FRANCISCAN FRIARS, PROVINCE OF THE SACRED STIGMATA OF ST. FRANCIS (collectively "the Capuchin Brothers"); IMMACULATE CONCEPTION SCHOOL, and IMMACULATE CONCEPTION CHURCH (herein "Immaculate Conception" and all Defendants collectively as "Defendants").

3. From approximately 1973-1975, when Plaintiff was about twelve to fourteen years old, he was abused by Accorsi.

4. The abuse at issue took place while Plaintiff was an altar boy at the IMMACULATE CONCEPTION CHURCH and a student at the IMMACULATE CONCEPTION SCHOOL in Bronx, NY where the abuser, Accorsi was Director of the Altar Boys.

5. Despite years of refusal to publicly address rampant child abuse by priests, Defendant the Archdiocese recently published a long list clergy in their employ who were credibly accused of molesting children.

6. In fact, the Roman Catholic Church and Defendants have long known that substantial numbers of priests throughout history, and up to and including the present day, violate their vows or promises of celibacy and otherwise misbehave by soliciting sexual contact with parishioners and others, in particular with children like Plaintiff, who are entrusted to their spiritual care and guidance. Official Church documents dealing with this unspeakable misconduct span the centuries, many of which were and are well known to Defendants.

7. Notwithstanding this knowledge, and the fiduciary duty and relationship of trust owed to parishioners and their children, Defendants negligently, recklessly, and willfully failed to protect Plaintiff from sexual abuse by Accorsi, permitted the abuse to occur, failed to supervise Accorsi, failed to timely investigate Accorsi's misconduct, failed to educate and train minors, parents, clergy members, and/or adult staff about the risk of sexual abuse in their institution and facilities, to identify signs of sexual abuse, grooming behaviors, or sexual predators, and to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused, acted to protect their own self-interest to the detriment of innocent children, and are

otherwise responsible for Accorsi's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

### **PARTIES**

8. Plaintiff is an individual residing in Westchester County, New York.

9. Plaintiff was born in 1961.

10. Defendant the Archdiocese is, and at all relevant times was, a non-profit organization or entity, which includes but is not limited to civil corporations, decision-making entities, officials, and employees, authorized to conduct business and doing business at 1011 First Avenue, New York, NY 10022.

11. At all relevant times, the Archdiocese oversaw, managed, controlled, directed and operated parishes, churches and schools within the Archdiocese.

12. Defendant CAPUCHIN FRANCISCAN TERTIARY PROVINCE OF ST. MARY OF N.Y., INC. is, and at all relevant times was, a non-profit organization or entity, which includes but is not limited to civil corporations, decision-making entities, officials, and employees, authorized to conduct business and doing business at 30 Gedney Park Drive, White Plains, NY, 10605.

13. Defendant CAPUCHIN FRANCISCAN FRIARS, PROVINCE OF THE SACRED STIGMATA OF ST. FRANCIS is, and at all relevant times was, a non-profit organization or entity, which includes but is not limited to civil corporations, decision-making entities, officials, and employees, authorized to conduct business and doing business at 319 36<sup>th</sup> Street, Union City, NJ 07087.

14. At all relevant times, Defendant IMMACULATE CONCEPTION CHURCH is a Roman Catholic Church, and not-for-profit corporation organized pursuant to the laws of the State

of New York, and which operates at all relevant times in Bronx County, New York, with its principal place of business at 754 East Gun Hill Rd, Bronx NY 10467.

15. At all relevant times, Defendant IMMACULATE CONCEPTION SCHOOL is a Roman Catholic School, and not-for-profit corporation organized pursuant to the laws of the State of New York, and which operates at all relevant times in Bronx County, New York, with its principal place of business at 760 East Gun Hill Rd, Bronx NY 10467.

16. At all relevant times, Defendants Immaculate Conception School and Church were and still are under the direct authority, control and province of the Archdiocese.

17. At all relevant times, Defendants Immaculate Conception School and Church were and still are run by the Capuchin Brothers.

18. At all relevant times, the Archdiocese and Capuchin Brothers owned the premises where Immaculate Conception School and Church are located.

19. At all relevant times, Defendants oversaw, managed controlled, directed and operated the altar boy choir at Immaculate Conception.

20. At all relevant times, Defendants individually and collectively oversaw, managed, controlled, directed and assigned priests, brothers, and other clergy and sacristans, to work in parishes, churches and schools of the Archdiocese, including Immaculate Conception.

#### **FACTUAL ALLEGATIONS**

21. Plaintiff repeats and re-alleges all preceding paragraphs of this Complaint.

22. At all relevant times, Accorsi was a Roman Catholic sacristan employed by Defendants.

23. At all relevant times, Accorsi was under the direct supervision, employ, and control of the Defendants.

24. During the time that Plaintiff was a student and altar boy attending Immaculate Conception, Defendants assigned Accorsi to be Director of the Altar Boys at Immaculate Conception.

25. By assigning Accorsi to the role of Director of the Altar Boys, Defendants gave Accorsi complete access to minors, including Plaintiff, and empowered him to discipline, punish, reprimand, chastise, expel and otherwise exercise complete authority over minors.

26. Accorsi's duties and responsibilities included supervising, interacting with, mentoring and counseling minor boys.

27. In the performance of their duties, Defendants authorized Accorsi to be alone with minor boys, including Plaintiff, and to have unfettered and unsupervised access to them on Defendants' property.

28. Defendants also authorized Accorsi to have physical contact with minor boys, in a manner consistent with providing counseling, educational and spiritual guidance, and leadership.

29. Defendants required altar boys, like Plaintiff, to accept instruction from Accorsi and other clergy and teachers, and to obey their instruction.

30. Plaintiff was raised as a Catholic, and at all relevant times had developed a reverence, respect and/or fear for the Catholic Church and its clergy, including Accorsi.

31. In approximately 1973, when Plaintiff was about 12 years old, Accorsi, acting in his capacity as sacristan, and in furtherance of the business of Defendants, used his position to gain the trust and friendship of Plaintiff and his family so he could act on his sexual attraction to minor boys.

32. On multiple occasions, on the premises of Immaculate Conception, Accorsi engaged in unpermitted, forcible and harmful sexual contact with Plaintiff.



33. The sexual contact was in violation of Article 130 of New York Penal Law.

34. After each incident of sexual abuse, Accorsi would place a \$5.00 bill in Plaintiff's uniform blazer pocket, while continuing to touch Plaintiff inappropriately.

35. Plaintiff's relationship to Defendants as a vulnerable child, altar boy, and student, and the culture of the Catholic church which Defendants endorsed, put pressure on Plaintiff not to report Accorsi's abuse.

36. Defendants knew or should have known that Accorsi was a danger to minor boys like Plaintiff before he sexually abused Plaintiff.

37. The Vatican and other church authorities addressed the problem of clergy sex abuse on countless occasions prior to Accorsi's abuse of Plaintiff, and communicated as much with all levels of Church hierarchy including bishops and other Diocesan leaders. As such, at all relevant times, Defendants were well aware that errant sexual behavior by some sacristans was not only widespread but predictable.

38. Upon information and belief, not only were Defendants aware of sexual abuse of children, but they participated in covering up such heinous acts by moving errant priests and clergy members, such as Accorsi, from assignment to assignment, thereby putting Plaintiff and other children in harm's way.

39. Defendants owed Plaintiff a duty of reasonable care because they had superior knowledge about the risks their facilities posed to minor children, the risk of abuse in general, and the risks that Accorsi posed to Plaintiff.

40. Prior to the time of Plaintiff's abuse by Accorsi, Defendants knew or should have known of numerous acts of sexual assault committed by clergy members within the Archdiocese

and elsewhere in the Roman Catholic church, and knew that there was a specific danger of child sex abuse for children in their institutions and programs.

41. The sexual abuse of Plaintiff by Accorsi was foreseeable.

42. Prior to the time of Plaintiff's abuse by Accorsi, Defendants knew or should have known of Accorsi's acts of child sexual abuse on other minors.

43. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited children and parents to send their children to IMMACULATE CONCEPTION CHURCH and the IMMACULATE CONCEPTION SCHOOL; they undertook custody of minor children, including Plaintiff; they promoted their facilities and programs as being safe for children, they held out their agents, including Accorsi, as safe to work with and around minor boys, they encouraged parents and children to spend time with their agents; and/or authorized their agents, including Accorsi, to spend time with, interact with, and recruit children.

44. Defendants owed Plaintiff a heightened, fiduciary duty of care because they held themselves out as being able to provide a safe and secure environment for children, including Plaintiff; Plaintiff's parents entrusted Plaintiff to Defendants' care, and expected that Plaintiff would be safe and properly supervised in an environment free from harm and abuse; Plaintiff was a vulnerable minor, and unable to protect himself; and Defendants affirmatively assumed a position of empowerment over Plaintiff.

45. Defendants owed Plaintiff a duty to protect him from harm because Defendants' acts and omissions created a foreseeable risk of harm to Plaintiff.

46. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; shame and embarrassment, mood swings, low self-esteem, low self-

confidence, was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and continues to suffer loss of spirituality; has suffered and will continue to suffer loss of earnings and earning capacity; has incurred and will in the future incur expenses for medical and psychological treatment, and was otherwise damaged in an amount that exceeds the monetary limits of all courts of lower jurisdiction.

47. To the extent that any Defendants plead, or otherwise seek to rely upon Article 16 of the New York Civil Practice Law and Rules (CPLR) to have fault apportioned to another allegedly culpable party, Plaintiff expressly states that Defendants' conduct falls within one or more of the subdivisions of CPLR 1602.

### **FIRST CAUSE OF ACTION**

#### **NEGLIGENT HIRING, RETENTION, SUPERVISION, AND DIRECTION**

48. Plaintiff repeats and re-alleges each and every allegation set forth above as if fully set forth herein.

49. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Accorsi was not fit to work with or around children.

50. Defendants, by and through their agents, servants and/or employees, became aware, or should have become aware of Accorsi's propensity to commit sexual abuse and of the risk to Plaintiff's safety.

51. Defendants negligently retained Accorsi with knowledge of Accorsi's propensity for the type of behavior which resulted in Plaintiff's injuries.

52. At all relevant times Defendants had a duty to exercise due care in hiring, appointing, assigning, retention, supervision and direction of Accorsi, so as to protect minor

children, including Plaintiff, who were likely to come into contact with him, and/or under his influence or supervision, and to ensure that Accorsi did not use this assigned position to injure minors by sexual assault, contact or abuse.

53. Defendants were negligent and failed to use reasonable care in hiring, appointing, assigning, and retention, of Accorsi, failed to properly investigate his background and employment history, and/or hired, appointed and/or assigned him to Immaculate Conception, when Defendants knew or should have known of facts that would make him a danger to children; and Defendants were otherwise negligent.

54. Defendants were negligent and did not use reasonable care in their supervision and direction of Accorsi, failed to monitor his activities, failed to oversee the manner in which he carried out the duties to which Defendants assigned him, even though they knew or should have known that Accorsi posed a threat of sexual abuse to minors; allowed the misconduct describe above to occur and continue; failed to investigate Accorsi's dangerous activities and remove him from their premises; and Defendants were otherwise negligent.

55. Accorsi would not have been in a position to sexually abuse Plaintiff had Defendants not been negligent in the hiring, retention, supervision, and direction of Fr. Accorsi.

56. At all relevant times, Accorsi acted in the course and scope of his employment with Defendants.

57. Defendants' aforesaid actions were willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiff.

58. As a proximate and direct result of Accorsi's sexual abuse and Defendant's misconduct, Plaintiff suffered grave injury, including physical, psychological and emotional injury as described above.

59. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount that exceeds the monetary limits of all courts of lower jurisdiction, to be determined at trial, together with interest and costs.

**SECOND CAUSE OF ACTION**

**NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT**

60. Plaintiff repeats and re-alleges each and every allegation set forth above as if fully set forth herein.

61. At all relevant times, Defendants affirmatively and/or impliedly represented to minor children, their families and the general public that those working in the Archdiocese, including Accorsi, did not pose a risk and/or that they did not have a history of sexually abusing children, and that children, including Plaintiff, would be safe in their care.

62. Defendants knew or should have known this representation was false and that employing Accorsi and giving him unfettered access to children, including Plaintiff, posed an unacceptable risk of harm to children.

63. Defendants were negligent and did not use reasonable care in their training, if any, of minor parishioners and parents about the risk of sexual abuse in their institution and facilities, to identify signs of sexual abuse, grooming behaviors, or sexual predators, and to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused.

64. Defendants were negligent and did not use reasonable care in their training, if any, of clergy members and/or adult staff about the risk of sexual abuse in their institution and facilities, to identify signs of sexual abuse, grooming behaviors, or sexual predators, and to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused.

65. The Archdiocese maintained a policy and practice of covering up criminal activity committed by clergy members within the Archdiocese.

66. Over the decades, this “cover-up” policy and practice of the Archdiocese resulted in the sexual assault of untold numbers of children, and put numerous other children at risk of sexual assault.

67. The Archdiocese failed to report multiple allegations of sexual abuse by its employees, agents and representatives, to the proper authorities, thereby putting children at risk of sexual assault.

68. Upon information and belief, Defendants covered up acts of abuse by Accorsi, and concealed facts concerning Accorsi’s sexual misconduct from Plaintiff and his family.

69. By failing to disclose the identities, histories and information about sexually abusive sacristans in their employ, including Accorsi, Defendants unreasonably deprived the families of children entrusted to their care, including Plaintiff, of the ability to protect their children.

70. Defendants failed to warn Plaintiff and his parents that Accorsi posed a risk of child sexual assault.

71. The conduct of Defendants as described herein was done with utter disregard as to the potential profound injuries which would ensue, and with depraved indifference to the health and well-being of children, and to the fact that Defendants were knowingly subjecting children in their charge, including Plaintiff, to sexual crimes.

72. Defendants’ aforesaid actions were negligent, reckless, willful and wonton in their disregard for the rights and safety of children, including Plaintiff.

73. As a direct and proximate result of Accorsi and Defendants' misconduct, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

74. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount that exceeds the monetary limits of all courts of lower jurisdiction, to be determined at trial, together with interest and costs.

### **THIRD CAUSE OF ACTION**

#### **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

75. Plaintiff repeats and re-alleges each and every allegation set forth above as if fully set forth herein.

76. The sexual abuse of Plaintiff was extreme and outrageous conduct, beyond all possible bounds of decency, atrocious and intolerable in a civilized world.

77. Defendants' aforesaid negligent, grossly negligent and reckless misconduct, endangered Plaintiff's safety and caused him to fear for his own safety.

78. Defendants knew or disregarded the substantial probability that Accorsi would cause severe emotional distress to Plaintiff.

79. As a direct and proximate result of Accorsi's sexual abuse and Defendant's misconduct, Plaintiff suffered severe emotional distress including psychological and emotional injury as described above.

80. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount that exceeds the monetary limits of all courts of lower jurisdiction, to be determined at trial, together with interest and costs.

### **FOURTH CAUSE OF ACTION**

**PREMISES LIABILITY**

81. Plaintiff repeats and re-alleges each and every allegation set forth above as if fully set forth herein.

82. At all relevant times, Defendants owned, operated, and/or controlled the premises known as Immaculate Conception, including the areas where the sexual abuse of Plaintiff occurred.

83. At all relevant times, Plaintiff was rightfully present at the aforementioned premises.

84. Defendants had a duty to see that the premises at which Plaintiff was rightfully present were in a reasonably safe condition for the intended use by students, like Plaintiff, whose presence was reasonably anticipated.

85. Defendants knowingly and willfully failed to provide a reasonably safe premises that was free from the presence of sexual predators and/or the assault by the occupants of the premises, including Accorsi. Defendants thereby breached their duty of care of Plaintiff.

86. As a direct and proximate result of Accorsi's sexual abuse and Defendant's misconduct, Plaintiff suffered grave injury, including the physical, psychological, and emotional injury and damages as described above.

87. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount that exceeds the monetary limits of all courts of lower jurisdiction, to be determined at trial, together with interest and costs.

**FIFTH CAUSE OF ACTION****BREACH OF FIDUCIARY DUTY**

88. Plaintiff repeats and re-alleges each and every allegation set forth above as if fully set forth herein.



89. At all relevant times, there existed a fiduciary relationship of trust, confidence and reliance between Plaintiff and each Defendant. The entrustment of Plaintiff to the care and supervision of the Defendants while Plaintiff was a vulnerable child, imposed upon Defendants fiduciary duty to act in the best interests of Plaintiff.

90. Defendants were entrusted with the well-being, care, and safety of Plaintiff, which Defendants had a fiduciary duty to protect.

91. By reason of the foregoing, Defendants breached their fiduciary duties to Plaintiff.

92. As a direct and proximate result of Accorsi's sexual abuse and Defendant's misconduct, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

93. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount that exceeds the monetary limits of all courts of lower jurisdiction, to be determined at trial, together with interest and costs.

#### **SIXTH CAUSE OF ACTION**

#### **BREACH OF DUTY IN LOCO PARENTIS**

94. Plaintiff repeats and re-alleges each and every allegation set forth above as if fully set forth herein.

95. At all relevant times, Plaintiff was a vulnerable child entrusted to Defendants care, and was under the supervision and control of Defendants, such that Defendants owed him a duty to act *in loco parentis* and to prevent foreseeable injuries.

96. By reason of the foregoing, Defendants breached their duties to act *in loco parentis*.

97. As a direct and proximate result of Accorsi's sexual abuse and Defendant's misconduct, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

98. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount that exceeds the monetary limits of all courts of lower jurisdiction, to be determined at trial, together with interest and costs.

**SEVENTH CAUSE OF ACTION**

**BREACH OF STATUTORY DUTIES TO REPORT**

99. Plaintiff repeats and re-alleges each and every allegation set forth above as if fully set forth herein

100. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420 and New York Educ. Law Art. 23-b, Defendants the Archdiocese and Immaculate Conception School had a statutory duty to report reasonable suspicion of abuse of children in their care.

101. The Archdiocese and Immaculate Conception School breached their statutory duty by knowingly and/or willingly failing to report reasonable suspicion of abuse by Accorsi of children in their care.

102. As a direct and proximate result of Accorsi's sexual abuse and Defendants' misconduct, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

103. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount that exceeds the monetary limits of all courts of lower jurisdiction, to be determined at trial, together with interest and costs.

**WHEREFORE**, Plaintiff prays for judgment as follows:

- a. Awarding Plaintiff compensatory damages for his injuries, in an amount to be determined at trial;
- b. Awarding Plaintiff punitive damages for his injuries, in an amount to be determined at trial;
- c. Awarding Plaintiff prejudgment interest, to the extent available by law;
- d. Awarding Plaintiffs costs and disbursements and attorneys' fees to the extent available by law; and
- e. Awarding such other and further relief as this Court may deem just and proper.

**JURY TRIAL DEMANDED**

104. Plaintiff demands a trial by jury of all issues triable by jury in this action.

Dated: July 23, 2020

Yours, etc.

**PHILLIPS & PAOLICELLI, LLP**

*Shaina Weissman*

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