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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:

NYS UCS Case Number	Alleged Perpetrator	Defendant #	Defendants	Plaintiff
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p.2 ff.:

70041/2020E	Al, Coach	4	Archdiocese of New York, CYO of the Archdiocese of New York, Holy Family Church & School	DOE, PC-5
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

<p>PC-5 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>THE ARCHDIOCESE OF NEW YORK, CATHOLIC YOUTH ORGANIZATION OF THE ARCHDIOCESE OF NEW YORK, INC., HOLY FAMILY CHURCH, and HOLY FAMILY SCHOOL,</p> <p style="text-align: center;">Defendants.</p>
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**SUMMONS**

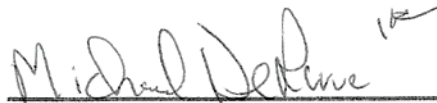
Plaintiff designates the County of BRONX as the place of trial. The basis of venue is the Defendant's county of residence pursuant to CPLR §503.

**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  
June 3, 2020

Phillips & Paolicelli, LLP  
*Attorneys for Plaintiffs*



By: Diane Paolicelli  
Michael DeRuve  
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New York, New York 10027  
212-388-5100

**ARCHDIOCESE OF NEW YORK**

1011 1st Avenue  
New York, NY 10022

**CATHOLIC YOUTH ORGANIZATION OF THE ARCHDIOCESE OF NEW YORK,  
INC**

1011 First Avenue, 6<sup>th</sup> Floor,  
New York, New York, 10022

**HOLY FAMILY CHURCH**

2158 Watson Ave,  
The Bronx, New York 10472

**HOLY FAMILY SCHOOL**

2169 Blackrock Ave,  
The Bronx, New York 10472

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

<p>PC-5 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>THE ARCHDIOCESE OF NEW YORK, CATHOLIC YOUTH ORGANIZATION OF THE ARCHDIOCESE OF NEW YORK, INC., HOLY FAMILY CHURCH, and HOLY FAMILY SCHOOL,</p> <p style="text-align: center;">Defendants.</p>
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**COMPLAINT**

Index No.:

Plaintiff PC-5 Doe, by and through his undersigned attorneys, as and for his Verified 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-5 Doe, a former student at Holy Family School (Bronx, NY) and member of the Catholic Youth Organization of The Archdiocese of New York, Inc (“CYONY”), was repeatedly sexually abused and assaulted CYONY junior league basketball coach, “Al”, who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants, The Archdiocese of New York, CYONY, Holy Family Church, and Holy Family School
3. Plaintiff was about 7 - 9 years old at the time of his abuse.
4. the Roman Catholic Church and Defendants have long known that substantial numbers of its agents throughout history, and up to and including the present day misbehave by soliciting sexual contact with parishioners, students, 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.

5. 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 “Al”, permitted the abuse to occur, failed to supervise “Al”, failed to timely investigate “Al’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 “Al’s” sexual assault of Plaintiff, and Plaintiff’s consequential injuries and damages.

#### **PARTIES**

1. Plaintiff repeats and re-alleges all preceding paragraphs of this Complaint.
2. Plaintiff is an individual residing in New Windsor, New York.
3. Plaintiff was born in 1941.
4. Defendant, The Archdiocese of New York (“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 1101 First Avenue, New York, NY 10022.

5. At all relevant times, Defendant Archdiocese oversaw, managed, controlled, directed and operated parishes, youth organizations, and schools within the Archdiocese, including Holy Family Church, Holy Family School, and the CYONY.

6. Defendant CYONY 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, 6<sup>th</sup> Floor, New York, New York, 10022.

7. At all relevant times, Defendant CYONY was and still is under the direct authority, control and province of Defendant Archdiocese. Today, CYONY is a division of Catholic Charities Community Services, which also operates under Defendant Archdiocese.

8. At all relevant times, Defendant Archdiocese owned the premises where Defendant CYONY was located.

9. At all relevant times, Defendant Archdiocese oversaw, managed controlled, directed and operated Defendant CYONY in conjunction with Holy Family Church and Holy Family School.

10. At all relevant times, Defendant Archdiocese oversaw, managed, controlled, directed and assigned its agents to work in CYONY.

11. At all relevant times, Defendant Holy Family Church was and still is a Roman Catholic Church, organized pursuant to the laws of the State of New York and located at 2158 Watson Ave, The Bronx, New York 10472.

12. At all relevant times, Defendant Holy Family Church was and still is under the direct authority, control and province of Defendant Archdiocese.

13. At all relevant times, Defendant Archdiocese owned the premises where Defendant Holy Family Church was located.

14. At all relevant times, Defendant Archdiocese oversaw, managed controlled, directed and operated Defendant Holy Family Church.

15. At all relevant times, Defendant Archdiocese oversaw, managed, controlled, directed and assigned its agents to work in parishes, churches and schools of the Archdiocese, including Defendant Holy Family School.

16. At all relevant times, Defendant Holy Family School was and still is a Roman Catholic School, organized pursuant to the laws of the State of New York and located at 2169 Blackrock Ave, The Bronx, New York 10472.

17. At all relevant times, Defendant Holy Family School was and still is under the direct authority, control and province of Defendant Archdiocese.

18. At all relevant times, Defendant Archdiocese owned the premises where Defendant Holy Family School was located.

19. At all relevant times, Defendant Archdiocese oversaw, managed controlled, directed and operated Defendant Holy Family School.

20. At all relevant times, Defendant Archdiocese oversaw, managed, controlled, directed and assigned its agents to work in parishes, churches and schools of the Archdiocese, including Defendant Holy Family School.

### **FACTUAL ALLEGATIONS**

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

22. From approximately 1946 through 1951 Plaintiff attended Holy Family School for elementary school.

23. From approximately 1946 through 1951 Plaintiff regularly attended church/mass with his family at Holy Family Church

24. Upon information and belief, CYONY worked in conjunction with Holy Family Church to recruit young male parishioners in the area to participate in CYONY basketball programs and tournaments. This joint recruitment effort is expressed in a pastoral letter from Archbishop of New York, Patrick Cardinal Hayes, dated December 27, 1936.

(<http://www.setonbulldogs.com/Page.asp?n=116387&org=SETONBULLDOGS>)

25. In approximately 1946, Plaintiff joined the CYONY junior league basketball team. Basketball practice for this program was always held inside the Holy Family School gymnasium.

26. At all relevant times, Defendant “Al” was a CYONY junior league basketball coach employed by Defendant Archdiocese.

27. At all relevant times, “Al” was under the direct supervision, employ, and control of the Defendants.

28. By assigning “Al” to the role of junior league basketball coach, Defendants gave “Al” complete access to minors, including Plaintiff, and empowered him to discipline, punish, reprimand, chastise, expel and otherwise exercise complete authority over minors.

29. “Al’s” duties and responsibilities included coaching, supervising, interacting with, mentoring and counseling minor boys.



30. In the performance of their duties, Defendants authorized “Al” to be alone with minor boys, including Plaintiff, and to have unfettered and unsupervised access to them on Holy Family property.

31. Defendants also authorized “Al” to have physical contact with minor boys, in a manner consistent with providing coaching, counseling, educational and spiritual guidance, and leadership.

32. Defendants required students, like Plaintiff, to accept coaching and instruction from “Al” and other coaches, and to obey their instruction.

33. 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 agents, including “Al”.

34. In approximately 1948-50, when Plaintiff was 7 – 9 years old, Defendant “Al” sexually abused Plaintiff on approximately 8 to 12 occasions during CYONY basketball practice. The abuse occurred in the hallway and stairwell (off gym floor) at the Holy Family School gymnasium. One incident of abuse also occurred inside defendant’s car on a service road adjacent to the Cross Bronx Expressway.

35. Plaintiff’s relationship to Defendants as a vulnerable child and team member, and the culture of the Catholic church which Defendants endorsed, put pressure on Plaintiff not to report “Al’s abuse.

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

37. Upon information and belief, not only was Defendant Archdiocese aware of sexual abuse of children, it participated in covering up such heinous acts by moving errant

priests, teachers, coaches, and other members from assignment to assignment, thereby putting children in harm's way.

38. 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 "Al" posed to Plaintiff.

39. Prior to the time of Plaintiff's abuse by "Al", Defendants knew or should have known of numerous acts of sexual assault committed by its agents 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.

40. The sexual abuse of Plaintiff by "Al" was foreseeable.

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

42. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited children and parents to send their children to CYONY programs; 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 "Al", 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 "Al", to spend time with, interact with, and recruit children.

43. 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.

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

45. 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; 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 jurisdictional limits of lower courts in this State.

46. 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**

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

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

49. Defendants, by and through their agents, servants and/or employees, became aware, or should have become aware of “Al’s” propensity to commit sexual abuse and of the risk to Plaintiff’s safety.

50. Defendants negligently retained “Al” with knowledge of his propensity for the type of behavior which resulted in Plaintiff’s injuries.

51. At all relevant times Defendants had a duty to exercise due care in hiring, appointing, assigning, retention, supervision and direction of “Al”, 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 “Al” did not use this assigned position to injure minors by sexual assault, contact or abuse.

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

53. Defendants were negligent and did not use reasonable care in their supervision and direction of “Al”, 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 “Al” posed a threat of sexual abuse to minors; allowed the misconduct describe above to occur and continue; failed to investigate “Al’s” dangerous activities and remove him from their organization; and Defendants were otherwise negligent.

54. “Al” would not have been in a position to sexually abuse Plaintiff had Defendants not been negligent in the hiring, retention, supervision, and direction of “Al”.

55. At all relevant times, “Al” acted in the course and scope of his employment with Defendants.

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

57. As a direct and proximate result of “Al’s” sexual abuse and Defendants’ misconduct, Plaintiff suffered grave injury including physical, psychological and emotional injury as described above.

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

## **SECOND CAUSE OF ACTION**

### **NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT**

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

60. At all relevant times, Defendants affirmatively and/or impliedly represented to minor children, their families and the general public that clergy working in the Archdiocese, including “Al”, 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.

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

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

63. 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.

64. Defendant 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.

65. Defendants failed to warn Plaintiff and his parents that “Al” posed a risk of child sexual assault.

66. 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.

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

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

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

### **THIRD CAUSE OF ACTION**

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

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

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

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

73. Defendants knew or disregarded the substantial probability that "Al" would cause severe emotional distress to Plaintiff.

74. As a direct and proximate result of Defendants' foregoing misconduct, Plaintiff suffered severe emotional distress including psychological and emotional injury as described above.

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

**FOURTH CAUSE OF ACTION**

**PREMISES LIABILITY**

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

77. At all relevant times, Archdiocese of New York owned, operated, and /or controlled the premises of the Holy Family Cross gymnasium, the area where most of the sexual abuse of Plaintiff occurred.

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

79. 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.

80. Defendants knowingly, willfully, recklessly, and negligently 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 "Al". Defendants thereby breached their duty of care of Plaintiff.

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

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

#### **FIFTH CAUSE OF ACTION**

#### **BREACH OF FIDUCIARY DUTY**

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

84. 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.

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

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

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

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

### **SIXTH CAUSE OF ACTION**

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

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

90. 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.

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

92. As a direct and proximate result of Defendants' foregoing breach, 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 exceed the jurisdictional limits of all lower courts, 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**

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

Dated: June 3, 2020

Yours, etc.

**PHILLIPS & PAOLICELLI, LLP**



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