



Antoine Attea Assignment History

Year	Assignment	Location
1958	Priesthood ordination	Rome, Italy
1959-60	Missionary, St. Francis Xavier Cabrini Church	Collins Center NY
1960-62	Assistant, St. John the Evangelist Church & School	Buffalo NY
1962-66	Assistant, Immaculate Conception Church & School	Buffalo NY
1966-78	Faculty, Cardinal Mindszenty High School Residence on site	Dunkirk NY
1978-2007	Pastor, St. James Church Concurrently Pastor, Our Lady of Victory Church	Jamestown NY Frewsberg NY
2007	Died, reportedly piloting a plane that “inexplicably” crashed	Jamestown NY airport

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Available here: <https://iapps.courts.state.ny.us/webcivil/etrackLogin>



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
803843/2021	Attea, Msgr. Antoine	3	St. Frances Cabrini RC Church, St. John the Evangelist RC Church & Immaculate Conception Church.	DOE, PB-37
807992/2020	Attea, Msgr. Antoine	1	St. James RC Church Jamestown NY.	DOE, PB-37

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-37 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. FRANCES CABRINI ROMAN CATHOLIC CHURCH f/k/a EPIPHANY OF OUR LORD ROMAN CATHOLIC PARISH COMMUNITY; ST. JOHN THE EVANGELIST ROMAN CATHOLIC CHURCH f/k/a ST. TERESA'S CHURCH; and IMMACULATE CONCEPTION CHURCH f/k/a HOLY CROSS PARISH,</p> <p style="text-align: center;">Defendants.</p>

SUMMONS

Index No.:

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
March 23, 2021

Phillips & Paolicelli, LLP
Attorneys for Plaintiffs

/s/ Diane Paolicelli

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TO:

ST. FRANCES CABRINI ROMAN CATHOLIC CHURCH f/k/a EPIPHANY OF OUR LORD
ROMAN CATHOLIC PARISH COMMUNITY
10893 Sisson Highway
North Collins, NY 14111

ST. JOHN THE EVANGELIST ROMAN CATHOLIC CHURCH f/k/a ST. TERESA'S CHURCH
1974 Seneca Street
Buffalo, NY 14210

IMMACULATE CONCEPTION CHURCH f/k/a HOLY CROSS PARISH
345 Seventh Street
Buffalo, NY 14210

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-37 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. FRANCES CABRINI ROMAN CATHOLIC CHURCH f/k/a EPIPHANY OF OUR LORD ROMAN CATHOLIC PARISH COMMUNITY; ST. JOHN THE EVANGELIST ROMAN CATHOLIC CHURCH f/k/a ST. TERESA’S CHURCH; and IMMACULATE CONCEPTION CHURCH f/k/a HOLY CROSS PARISH,</p> <p style="text-align: center;">Defendants.</p>

COMPLAINT

Index No.: 807992/2020

Plaintiff PB-37 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 PB-37 Doe was repeatedly sexually abused and assaulted by Monsignor Antoine Attea (hereinafter “Msgr. Attea”), who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants, St. Frances Cabrini Roman Catholic Church f/k/a Epiphany of Our Lord Roman Catholic Parish Community; St. John the Evangelist Roman Catholic Church f/k/a St. Teresa’s Church; and Immaculate Conception Church f/k/a Holy Cross Parish (collectively herein “Defendants”), in conjunction with the Diocese of Buffalo, N.Y. (herein “Diocese”) and other parishes.

3. Prior to the bankruptcy of the Diocese, Plaintiff brought suit against the Diocese and other parishes.¹ The present complaint is a related action.

4. In approximately 1997, when Plaintiff was about 12 years old, he was abused by Msgr. Attea while a parishioner at St. James Parish.

5. At all relevant times, Msgr. Attea was hired, retained, supervised, placed, directed and otherwise authorized to act by the Defendants, in conjunction with the Diocese of Buffalo.

6. Despite years of refusal to publicly address rampant child abuse by priests and nuns, The Diocese of Buffalo recently published a long list of clergy in their employ who were credibly accused of molesting children.

7. In fact, the Roman Catholic Church, the Diocese of Buffalo, and Defendants have long known that substantial numbers of priests and nuns 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 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.

8. 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 Msgr. Attea, permitted the abuse to occur, failed to supervise Msgr. Attea, failed to timely investigate Msgr. Attea's misconduct, failed to train minor parishioners, parents, clergy members and/or adult staff about the risk of sexual abuse in their institution, 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

¹ *PB-37 Doe v. Diocese of Buffalo et. al*, Index No. 807992/2020

sexually abused, acted to protect their own self-interest to the detriment of innocent children, and are otherwise responsible for Msgr. Attea's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

PARTIES

9. Plaintiff is an individual residing in the State of New York. At the time of the events complained of, he was a minor residing in Erie County, New York.

10. Plaintiff was born on December 14, 1984.

11. At all relevant times, St. Frances Cabrini Roman Catholic Church of Collins Center, N.Y. was a Roman Catholic Church, organized pursuant to the laws of the State of New York. It was operated in Erie County, New York, with its principal place of business at 13940 Sisson Highway, Collins Center, NY 14035. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Frances Cabrini Roman Catholic Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Frances Cabrini Roman Catholic Church.

12. On or about 2006, St. Frances Cabrini Roman Catholic Church of Collins Center, N.Y. merged with St. Martin of Tours and St. Mary of the Immaculate Conception and adopted the name of the Epiphany of Our Lord Roman Catholic Parish Community of North Collins, NY. Epiphany of Our Lord Roman Catholic Parish Community a Roman Catholic Church, organized pursuant to the laws of the State of New York. It is operated in Erie County, New York, with its principal place of business at 10893 Sisson Highway, North Collins, NY 14111. Upon information and belief, Defendant Epiphany of Our Lord Roman Catholic Parish Community assumed some or all of the liabilities and/or assets of Defendant St. Frances Cabrini Roman Catholic Church.

13. At all relevant times, St. John the Evangelist Roman Catholic Church of Buffalo, NY was a Roman Catholic Church, organized pursuant to the laws of the State of New York. It was operated in Erie County, New York, with its principal place of business at 2319 Seneca Street, Buffalo, NY 14210. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. John the Evangelist Roman Catholic Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. John the Evangelist Roman Catholic Church.

14. On or about 2009, St. John the Evangelist Roman Catholic Church of Buffalo, N.Y. merged with and adopted the name of St. Teresa's Church of Buffalo, NY. St. Teresa's Church, a Roman Catholic Church, organized pursuant to the laws of the State of New York. It is operated in Erie County, New York, with its principal place of business at 1974 Seneca Street, Buffalo, NY 14210. Upon information and belief, Defendant St. Teresa's Church assumed some or all of the liabilities and/or assets of Defendant St. John the Evangelist Roman Catholic Church.

15. At all relevant times, Immaculate Conception Church of Buffalo, N.Y. was a Roman Catholic Church, organized pursuant to the laws of the State of New York. It was operated in Erie County, New York, with its principal place of business at 144 Edward Street, Buffalo, NY 14201. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of Immaculate Conception Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of Immaculate Conception Church.

16. On or about 2005, Immaculate Conception Church of Buffalo, N.Y. merged with and adopted the name of Holy Cross Parish of Buffalo, NY. Holy Cross Parish, a Roman Catholic Church, organized pursuant to the laws of the State of New York. It is operated in Erie

County, New York, with its principal place of business at 345 Seventh Street, Buffalo, NY 14210. Upon information and belief, Defendant Holy Cross Parish assumed some or all of the liabilities and/or assets of Defendant Immaculate Conception Church.

17. At all relevant times, Cardinal Mindszenty High School of Dunkirk, N.Y. was a Roman Catholic High School, organized pursuant to the laws of the State of New York. It was operated in Chautauqua County, New York, with its principal place of business at 715 Central Avenue, Dunkirk, NY 14048. On information and belief, Cardinal Mindszenty High School closed in 1979.

18. At all relevant times, Defendants St. Frances Cabrini Roman Catholic Church f/k/a Epiphany of Our Lord Roman Catholic Parish Community; St. John the Evangelist Roman Catholic Church f/k/a St. Teresa's Church; and Immaculate Conception Church f/k/a Holy Cross Parish were and/or are still under the direct authority, control, and province of the Diocese of Buffalo.

FACTUAL ALLEGATIONS

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

20. Msgr. Attea was ordained a Roman Catholic priest in approximately 1958.

21. At the time he sexually abused Plaintiff, Msgr. Attea was employed by the Diocese and the St. James Parish and under their direct supervision, employ, and control. The facts concerning his abuse are set forth in the earlier filed companion action. *See fn. 1, supra.*

22. Briefly stated in approximately 1997, Msgr. Attea, acting in his capacity as priest, and in furtherance of the business of Defendants, used his position as priest to gain the confidence and trust of Plaintiff to manipulate and/or coerce Plaintiff into gratifying his sexual desires.

23. The sexual contact was in violation of Article 130 of New York's Penal Law.

24. Prior to the sexual abuse of Plaintiff, in 1959-1960 Msgr. Attea served as Missionary at Defendant St. Frances Cabrini Roman Catholic Church f/k/a Epiphany of Our Lord Roman Catholic Parish Community. From approximately 1960-1962, Msgr. Attea served as Assistant Priest at Defendant St. John the Evangelist Roman Catholic Church f/k/a St. Teresa's Church. From approximately 1962-1966, Msgr. Attea served as Assistant Priest at Immaculate Conception Church f/k/a Holy Cross Parish. From approximately 1966-1978, Msgr. Attea served as Faculty at Cardinal Mindszenty High School. These Defendants each negligently retained Msgr. Attea with knowledge of his propensity for the type of behavior which resulted in Plaintiff's injuries, and did not take steps to prevent his abuse of minors or to report him to the authorities.

25. Prior to Msgr. Attea's sexual abuse of Plaintiff herein, Defendants and their respective executive officers knew or should have known it was not safe to allow Msgr. Attea to have unsupervised contact with minor children, in that Msgr. Attea posed a sexual danger to minor children.

26. The Roman Catholic Bishop and Vicar General of Buffalo concealed the information about the danger Msgr. Attea posed to minor children, in order that the Roman Catholic Bishop and Vicar General of Buffalo could assign Msgr. Attea to work at parishes, including Defendants and Defendants aided and abetted the Roman Catholic Bishop and Vicar General of Buffalo in concealing the information about the danger Msgr. Attea posed to minor children.

27. Msgr. Attea was assigned to the position of priest at St. John the Evangelist Roman Catholic Church f/k/a St. Teresa's Church; and Immaculate Conception Church f/k/a

Holy Cross Parish. His duties included interacting with children, including altar boys, students, and children attending Defendants St. John the Evangelist Roman Catholic Church f/k/a St. Teresa's Church; and Immaculate Conception Church f/k/a Holy Cross Parish, and participating in the sacraments.

28. In the performance of his duties, Defendants authorized Msgr. Attea to be alone with minor boys, and to have unfettered and unsupervised access to them on Defendants' property.

29. Defendants St. Frances Cabrini Roman Catholic Church f/k/a Epiphany of Our Lord Roman Catholic Parish Community; St. John the Evangelist Roman Catholic Church f/k/a St. Teresa's Church; and Immaculate Conception Church f/k/a Holy Cross Parish required parishioners and students, to accept and obey guidance, discipline, and instruction from Msgr. Attea and other clergy members.

30. By assigning Msgr. Attea to the role of Missionary and Assistant Priest, Defendants St. Frances Cabrini Roman Catholic Church f/k/a Epiphany of Our Lord Roman Catholic Parish Community; St. John the Evangelist Roman Catholic Church f/k/a St. Teresa's Church; and Immaculate Conception Church f/k/a Holy Cross Parish gave Msgr. Attea complete unfettered access to minors, and empowered him to groom, guide, discipline, and otherwise exercise complete authority over minors.

31. 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 Msgr. Attea.

32. The Vatican and other church authorities addressed the problem of clergy sex abuse on countless occasions prior to Msgr. Attea's abuse of Plaintiff, and communicated as much with all levels of Church hierarchy including bishops, Diocesan leaders, and parishes. As

such, at all relevant times, Defendants were well aware that errant sexual behavior by some priests was not only widespread but predictable.

33. Defendants owed Plaintiff a duty of reasonable care because they had superior knowledge about the risks their facilities, agents, clergymen, appointees and employees posed to minor children, the risk of abuse in general, and the specific risks that Defendant Msgr. Attea posed to Plaintiff.

34. Prior to the time of Plaintiff's abuse by Msgr. Attea Defendants knew or should have known of numerous acts of sexual assault committed by clergy members within the Diocese and elsewhere in the Roman Catholic Church, and knew that there was a specific danger of child sex abuse for children in their institutions.

35. The sexual abuse of Plaintiff by Msgr. Attea was foreseeable.

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

37. Defendants had the duty to reasonably manage, supervise, control and/or direct priests who served at their respective institutions, and a duty not to aid pedophiles such as Msgr. Attea by assigning, maintaining, and/or appointing them to positions with access to minors.

38. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited children and parents to send their children to their facilities,; they undertook custody of minor children; they promoted their facilities and programs as being safe for children, they held out their agents, including Msgr. Attea, 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 Msgr. Attea, to spend time with, interact with, and recruit children.

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

40. 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 limit of the lower courts of this State.

41. 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

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

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

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

45. Defendants negligently retained Msgr. Attea with knowledge of their propensity for the type of behavior which resulted in Plaintiff's injuries.

46. At all relevant times Defendants had a duty to exercise due care in hiring, appointing, assigning, retention, supervision and direction of Msgr. Attea so as to protect minor children, including Plaintiff, who were likely to come into contact with them, and/or under their influence or supervision, and to ensure that Msgr. Attea did not use this assigned position to injure minors by sexual assault, contact or abuse.

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

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

49. Msgr. Attea would not have been in a position to sexually abuse Plaintiff had Defendants not been negligent in the hiring, retention, supervision, and direction of Msgr. Attea.

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

51. 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.

52. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount to be determined at trial, in an amount that exceeds the jurisdictional limit of the lower courts of this State, together with interest and costs.

SECOND CAUSE OF ACTION

NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

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

54. Defendants were negligent and did not use reasonable care in their training, if any, of minors and/or their 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.

55. Defendants were negligent and did not use reasonable care in their training, if any, of 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 their statutory duty to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused.

56. At all relevant times, Defendants affirmatively and/or impliedly represented to minor children, their families and the general public that clergy, including Msgr. Attea, did not

pose a risk and/or that they did not have a history of sexually abusing children, and that children, would be safe in their care.

57. Defendants knew or should have known this representation was false and that employing clergy, including Msgr. Attea and giving them unfettered access to children, including Plaintiff, posed an unacceptable risk of harm to children.

58. Upon information and belief, Defendants covered up acts of abuse by Msgr. Attea and concealed facts concerning Msgr. Attea's sexual misconduct from Plaintiff and his family.

59. 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.

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

61. Defendants failed to warn Plaintiff and his parents that Msgr. Attea posed a risk of child sexual assault.

62. 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.

63. Defendants' aforesaid actions were negligent, reckless, willful and wanton in their disregard for the rights and safety of children, including Plaintiff.

64. 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.

65. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount to be determined at trial, in an amount that exceeds the jurisdictional limit of the lower courts of this State, together with interest and costs.

THIRD CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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

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

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

69. Defendants knew or disregarded the substantial probability that Msgr. Attea would cause severe emotional distress to Plaintiff.

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

71. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages in an amount that exceeds the jurisdictional limit of the lower courts of this State, plus interest and costs.

FOURTH CAUSE OF ACTION

BREACH OF STATUTORY DUTIES TO REPORT

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

73. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420, Defendants had a statutory duty to report reasonable suspicion of abuse of children in their care.

74. Defendants willfully and/or knowingly breached their statutory duty by failing to report reasonable suspicion of abuse by Msgr. Attea of children in their care.

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

76. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages in an amount that exceeds the jurisdictional limit of the lower courts of this State, plus interest and costs.

FIFTH CAUSE OF ACTION

AIDING AND ABETTING FRAUD

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

78. The Roman Catholic Bishop and Vicar General of Buffalo fraudulently

concealed from the parishioners of Defendants information that would have shown that Msgr. Attea was a danger to minor children.

79. Defendants had information that would have shown Msgr. Attea was a danger to minor children. Defendants assisted the Roman Catholic Bishop and Vicar General of Buffalo in fraudulently concealing information from the parishioners about the danger Msgr. Attea posed to parishioners.

80. If the information about the danger Msgr. Attea posed to minors had not been concealed from parishioners, Msgr. Attea could not have been assigned to the institutions where he sexually assaulted, sexually abused, and/or had sexual contact with the Plaintiff.

81. To assist Buffalo's Roman Catholic Bishop and Vicar General in fraudulently concealing the information about Msgr. Attea, Defendants failed to disclose Msgr. Attea's propensity to sexually abuse minors, and intentionally concealed knowledge of Msgr. Attea's inappropriate and unlawful sexual activities, knowing that minor children, including Plaintiff, in other parishes where Msgr. Attea was assigned would rely upon this material omission.

82. As a direct and proximate result of the foregoing misconduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

83. By reason of the foregoing, Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, 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

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

Dated: March 23, 2021

Yours, etc.

PHILLIPS & PAOLICELLI, LLP

/s/ Diane Paolicelli

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Attorneys for Plaintiff

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-37 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST JAMES RC CHR PARISH OTRCH A/K/A ST. JAMES PARISH,</p> <p style="text-align: center;">Defendant.</p>
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SUMMONS

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

TO THE ABOVE NAMED DEFENDANT:

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 28, 2020

Phillips & Paolicelli, LLP
Attorneys for Plaintiffs

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Attorneys for Plaintiff

TO:

ST JAMES RC CHR PARISH OTRCH A/K/A ST. JAMES PARISH

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Jamestown, NY 14701

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-37 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST JAMES RC CHR PARISH OTRCH A/K/A ST. JAMES PARISH,</p> <p style="text-align: center;">Defendant.</p>
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COMPLAINT

Index No.:

Plaintiff PB-37 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 PB-37 Doe was repeatedly sexually abused and assaulted by Monsignor Antoine Attea (herein "Msgr. Attea"), who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendant St. James RC Chr Parish Otrch, also known as St. James Parish ("St. James"), in conjunction with the Diocese of Buffalo, N.Y. ("Diocese of Buffalo" or "Diocese").
3. In approximately 1997, when Plaintiff was about twelve years old, he was abused by Msgr. Attea.¹
4. The abuse at issue took place while Plaintiff attended St. James Parish in Jamestown NY where the abuser, Msgr. Attea was a Minister.

¹ Upon information and belief, Msgr. Attea died in plane crash in 2007.

5. Despite years of refusal to publically address rampant child abuse by priests, The Diocese of Buffalo recently published a long list clergy in their employ who were credibly accused of molesting children.

6. In fact, the Roman Catholic Church and Defendant 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 Defendant.

7. Notwithstanding this knowledge, and the fiduciary duty and relationship of trust owed to parishioners and their children, Defendant negligently, recklessly, and willfully failed to protect Plaintiff from sexual abuse by Msgr. Attea, permitted the abuse to occur, failed to supervise Msgr. Attea, failed to timely investigate Msgr. Attea'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 Msgr. Attea's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

PARTIES

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

9. Plaintiff was born in 1984.

10. At all relevant times, Defendant St. James 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 Chautauqua County, New York, with its principal place of business at 27 Allen Street, Jamestown, NY 14701.

11. At all relevant times, Defendant oversaw, managed, controlled, directed and assigned priests, brothers, and other clergy to work in St. James Parish.

12. At all relevant times, Defendant St. James was and still is under the direct authority, control and province of the Diocese.

FACTUAL ALLEGATIONS

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

14. At all relevant times, Msgr. Attea was a Roman Catholic Minister employed by Defendant, in conjunction with the Diocese of Buffalo.

15. At all relevant times, Msgr. Attea was under the direct supervision, employ, and control of the Defendant, in conjunction with the Diocese of Buffalo.

16. During the time that Plaintiff was attending St. James, Defendant assigned Msgr. Attea to be a Minister at St. James.

17. By assigning Msgr. Attea to the role of Minister, Defendant gave Msgr. Attea complete access to minors, including Plaintiff, and empowered him to discipline, punish, reprimand, chastise, expel and otherwise exercise complete authority over minors.

18. Msgr. Attea's duties and responsibilities included supervising, interacting with, mentoring and counseling minor boys.

19. In the performance of their duties, Defendant authorized Msgr. Attea to be alone with minor boys, including Plaintiff, and to have unfettered and unsupervised access to them on Defendant's property.

20. Defendant also authorized Msgr. Attea to have physical contact with minor boys, in a manner consistent with providing counseling, educational and spiritual guidance, and leadership.

21. Defendant required parishioners, like Plaintiff, to accept instruction from Msgr. Attea and other clergy and teachers, and to obey their instruction.

22. 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 Msgr. Attea.

23. On the premises of the church of St. James, Msgr. Attea engaged in unpermitted, forcible and harmful sexual contact with Plaintiff.

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

25. Plaintiff's relationship to Defendant as a vulnerable child, and the culture of the Catholic church which Defendant endorsed, put pressure on Plaintiff not to report Msgr. Attea's abuse.

26. Defendant knew or should have known that Msgr. Attea was a danger to minor boys like Plaintiff before he sexually abused Plaintiff.

27. The Vatican and other church authorities addressed the problem of clergy sex abuse on countless occasions prior to Msgr. Attea'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, Defendant was well aware that errant sexual behavior by some priests was not only widespread but predictable.

28. Upon information and belief, not only was Defendant St. James aware of sexual abuse of children, but it participated in covering up such heinous acts by moving errant priests and clergy members, such as Msgr. Attea, from assignment to assignment, thereby putting Plaintiff and other children in harm's way.

29. Defendant 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 Msgr. Attea posed to Plaintiff.

30. Prior to the time of Plaintiff's abuse by Msgr. Attea, Defendant 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.

31. The sexual abuse of Plaintiff by Msgr. Attea was foreseeable.

32. Prior to the time of Plaintiff's abuse by Msgr. Attea, Defendant knew or should have known of Msgr. Attea's acts of child sexual abuse on other minors.

33. Defendant owed Plaintiff a reasonable duty of care because they affirmatively solicited children and parents to send their children to St. James; 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 Msgr. Attea, 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 Msgr. Attea, to spend time with, interact with, and recruit children.

34. Defendant 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 Defendant's 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 Defendant affirmatively assumed a position of empowerment over Plaintiff.

35. Defendant owed Plaintiff a duty to protect him from harm because Defendant's acts and omissions created a foreseeable risk of harm to Plaintiff.

36. 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 monetary limits of all courts of lower jurisdiction.

37. To the extent that any Defendant pleads, or otherwise seeks 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 Defendant's conduct falls within one or more of the subdivisions of CPLR 1602.

FIRST CAUSE OF ACTION**NEGLIGENT HIRING, RETENTION, SUPERVISION, AND DIRECTION**

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

39. Prior to the sexual abuse of Plaintiff, Defendant learned or should have learned that Msgr. Attea was not fit to work with or around children.

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

41. Defendant negligently retained Msgr. Attea with knowledge of Msgr. Attea's propensity for the type of behavior which resulted in Plaintiff's injuries.

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

43. Defendant was negligent and failed to use reasonable care in hiring, appointing, assigning, and retention, of Msgr. Attea, failed to properly investigate his background and employment history, and/or hired, appointed and/or assigned him to St. James, when Defendant knew or should have known of facts that would make him a danger to children; and Defendant was otherwise negligent.

44. Defendant was negligent and did not use reasonable care in their supervision and direction of Msgr. Attea, failed to monitor his activities, failed to oversee the manner in which he

carried out the duties to which Defendant assigned him, even though they knew or should have known that Msgr. Attea posed a threat of sexual abuse to minors; allowed the misconduct describe above to occur and continue; failed to investigate Msgr. Attea's dangerous activities and remove him from their premises; and Defendant was otherwise negligent.

45. Msgr. Attea would not have been in a position to sexually abuse Plaintiff had Defendant not been negligent in the hiring, retention, supervision, and direction of Msgr. Attea.

46. At all relevant times, Msgr. Attea acted in the course and scope of his employment with Defendant.

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

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

49. By the reason of the foregoing, Defendant is 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

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

51. Defendant was negligent and did not use reasonable care in its training, if any, of minors and/or their 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.

52. Defendant was negligent and did not use reasonable care in its training, if any, of 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 their statutory duty to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused.

53. At all relevant times, Defendant affirmatively and/or impliedly represented to minor children, their families and the general public that clergy, including Msgr. Attea, 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.

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

55. Defendant was 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.

56. Defendant was 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.

57. Upon information and belief, Defendant covered up acts of abuse by Msgr. Attea, and concealed facts concerning Msgr. Attea's sexual misconduct from Plaintiff and his family.

58. By failing to disclose the identities, histories and information about sexually abusive clergy in their employ, including Msgr. Attea, Defendant unreasonably deprived the families of children entrusted to their care, including Plaintiff, of the ability to protect their children.

59. Defendant failed to warn Plaintiff and his parents that Msgr. Attea posed a risk of child sexual assault.

60. The conduct of Defendant 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 Defendant was knowingly subjecting children in their charge, including Plaintiff, to sexual crimes.

61. Defendant's aforesaid actions were negligent, reckless, willful and wonton in their disregard for the rights and safety of children, including Plaintiff.

62. As a direct and proximate result of Msgr. Attea and Defendant's misconduct, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

63. By the reason of the foregoing, Defendant is 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

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NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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

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

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

67. Defendant knew or disregarded the substantial probability that Msgr. Attea would cause severe emotional distress to Plaintiff.

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

69. By the reason of the foregoing, Defendant is 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

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

71. At all relevant times, Defendant owned, operated, and /or controlled the premises of St. James Parish known as St. James Church, including the areas where the sexual abuse of Plaintiff occurred.

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

73. Defendant 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.

74. Defendant 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 Msgr. Attea. Defendant thereby breached their duty of care of Plaintiff.

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

76. By the reason of the foregoing, Defendant is 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

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

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

79. Defendant was entrusted with the well-being, care, and safety of Plaintiff, which Defendant had a fiduciary duty to protect.

80. By reason of the foregoing, Defendant breached their fiduciary duties to Plaintiff.

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

82. By the reason of the foregoing, Defendant is 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*

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

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

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

86. As a direct and proximate result of Msgr. Attea'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, Defendant is 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

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

89. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420 and New York Educ. Law Art. 23-b, Defendant had a statutory duty to report reasonable suspicion of abuse of children in their care.

90. Defendant breached their statutory duty by knowingly and/or willingly failing to report reasonable suspicion of abuse by Msgr. Attea of children in their care.

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

92. By the reason of the foregoing, Defendant is 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

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

Dated: July 28, 2020

Yours, etc.

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