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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. Faluszczyk:

<b>NYS UCS Case Number</b>	<b>Alleged Perpetrator</b>	<b>Defendant #</b>	<b>Defendants</b>	<b>Plaintiff</b>
950246/2019	Creager, Fr. Robert J.	2	Catholic Diocese of Peoria & St. John the Baptist RC Church, Clinton IL.	MM-1-DOE

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

-----X  
MM-1-Doe,

Plaintiff,

**SUMMONS**

-against-

INDEX No.:

CATHOLIC DIOCESE OF PEORIA, ST. JOHN THE  
BAPTIST CATHOLIC CHURCH OF CLINTON,  
ILLINOIS.

Defendants.  
-----X

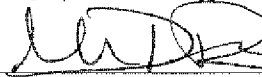
Plaintiff designates the County of New York as the place of trial. The basis of venue is a substantial part of the events or omissions giving rise to the claims occurred in New York County.

**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 plaintiff's 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 defaulted for the relief demanded in the complaint.

Dated: New York, New York  
December 16, 2019

**PHILLIPS & PAOLICELLI, LLP**  
*Attorneys for Plaintiff*

By:   
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To:

CATHOLIC DIOCESE OF PEORIA  
419 E. MADISON AVENUE, PEORIA, ILLINOIS

ST. JOHN THE BAPTIST CATHOLIC CHURCH OF CLINTON, ILLINOIS  
502 N. MONROE STREET, CLINTON, ILLINOIS

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

<p>MM-1-Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>CATHOLIC DIOCESE OF PEORIA, ST. JOHN THE BAPTIST CATHOLIC CHURCH OF CLINTON, ILLINOIS.</p> <p style="text-align: center;">Defendants.</p>
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**COMPLAINT**

Index No.:

Plaintiff, M.M., 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 was repeatedly sexually abused and assaulted by Fr. Robert Creager ("Fr. Creager"), who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants, Catholic Diocese of Peoria, Illinois ("Diocese") and St. John the Baptist Catholic Church of Clinton, Illinois ("Parish").
3. Plaintiff was about 14 years old at the time of his abuse in the State of New York.
4. Despite years of refusal to publicly address child abuse by priests, Defendant Diocese published a list of clergy in their employ who were credibly accused of molesting children. The list includes Fr. Creager, who is now deceased.
5. 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,

commit criminal acts by soliciting sexual contact with parishioners and others, 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.

6. Notwithstanding this knowledge, and the fiduciary duty and relationship of trust owed to lay worshipers and their children, Defendants negligently, recklessly, and willfully failed to protect Plaintiff from sexual abuse by Fr. Creager, negligently hired Fr. Creager, permitted the abuse to occur, failed to supervise Fr. Creager, failed to timely investigate Fr. Creager's misconduct, failed to educate and train minors, parents, clergy members, and/or adult staff about the risk of sexual abuse in their school, 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 including the plaintiff when he was a minor, and are otherwise responsible for Fr. Creager's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

#### PARTIES

7. Plaintiff is an individual residing in Florida and, at relevant times, lived in Illinois.

8. Plaintiff was born in 1965.

9. Defendant Diocese 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 419 E. Madison Avenue, Peoria, Illinois.

10. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and operated parishes, churches and schools and their personnel of the Diocese.

11. At all relevant times, Defendant Parish was and still is a parish church, organized pursuant to the laws of the State of Illinois and located at 502 N. Monroe Street, Clinton, Illinois.

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

13. At all relevant times, Defendant Diocese owned the premises where Defendant Parish was located.

14. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and operated Defendant Parish.

15. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and assigned priests and other clergy to work in parishes, churches and schools of the Diocese, including Defendant Parish.

16. Fr. Robert Creager was an agent of Defendant Parish and Defendant Diocese at all relevant times.

### **FACTUAL ALLEGATIONS**

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

18. From approximately 1965 to 1981 plaintiff resided within the boundaries of the defendant Diocese.

19. At all relevant times, Fr. Creager was a Roman Catholic priest employed by Defendant Diocese.

20. At all relevant times, Fr. Creager was under the direct supervision, employ, and control of the Defendant Diocese and its bishop.

21. During the time that Plaintiff was a minor, Defendants assigned Fr. Creager to be pastor at Defendant Parish.

22. Defendants knew or should have known of extensive drinking and sexual improprieties of Fr. Creager prior to and at the time of the abuse. Defendants knew about DUIs of Fr. Creager and complaints of his drinking and improper activities and did not disclose said acts to its parishoners and church members in the diocese.

23. By assigning Fr. Creager to the role of pastor and as a priest in the Parish and Diocese, Defendants gave Fr. Creager access to minors, and empowered him to exercise authority and control over minors, including Plaintiff.

24. Fr. Creager's duties and responsibilities included supervising, interacting with, mentoring and counseling minor boys, including Plaintiff.

25. In the performance of their duties, Defendants Diocese and Parish authorized Fr. Creager to be alone with minor boys, including Plaintiff, and to have unsupervised access to them.

26. Defendants also authorized Fr. Creager to have physical contact with minor boys, in a manner consistent with providing discipline, counseling, educational and spiritual guidance, and leadership.

27. Defendants taught and required minors, like Plaintiff, to accept spiritual and moral instruction from Fr. Creager and other clergy, and to obey their instructions.

28. Plaintiff was raised as a Catholic, and at all relevant times had developed a reverence, respect and faith in the Catholic Church and its clergy, including Fr. Creager.

29. In September of 1980, [REDACTED] went on a religious journey or pilgrimage to New York State, Rome and Israel with others from the Diocese which was led by Fr. Creager.

30. While in New York City in New York State at the above time, Father Creager engaged in unpermitted, unlawful and harmful sexual contact with Plaintiff, a minor.

31. In addition, Plaintiff's groomed relationship with Fr. Creager, his relationship to Defendants as a vulnerable child, and Creager's authority as a priest within the culture of the Catholic church which Defendants endorsed, put pressure on Plaintiff not to report Fr. Creager's abuse.

32. Defendants knew, or should have known, that Fr. Creager was a danger to minor boys like Plaintiff before he sexually abused Plaintiff.

33. Defendants knew or should have known that The Vatican and other church authorities addressed the problem of clergy sex abuse on countless occasions prior to Fr. Creager's abuse of Plaintiff.

34. Said knowledge was 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 priests was not only widespread but predictable.

35. Due to said extensive knowledge of childhood sexual abuse by priests defendants knew or should have known of actual and potential dangers to minor children presented by unsupervised contact of minors with priests.

36. Upon information and belief, not only was Defendant Diocese aware of sexual abuse of children, but it participated in delaying disclosure/covering up such heinous acts by remaining silent regarding said behavior, failing to prosecute priests and moving errant priests and clergy members from assignment to assignment, thereby putting children in harm's way.

37. Defendants owed Plaintiff a duty of reasonable care because they had superior knowledge about the risks of sexual abuse in the Catholic Church and the risks that their



personnel posed to minor children, the risk of abuse in general, and the risks that Fr. Creager posed to Plaintiff.

38. Prior to the time of Plaintiff's abuse by Fr. Creager, Defendants knew or should have known of numerous acts of sexual assault committed by clergy members within the Roman Catholic church and knew that there was a specific danger of child sex abuse for children in their institutions and programs.

39. The sexual abuse of Plaintiff by Fr. Creager was foreseeable.

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

41. After plaintiff was abused, Defendants failed to act and caused other children to be abused by Fr. Creager.

42. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited children and parents to send their children to them; they undertook custody of minor children, including Plaintiff; they promoted their personnel and programs as being safe for children, they held out their agents, including Fr. Creager, 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 Fr. Creager, to spend time with, interact with, and interact with children and while not being supervised.

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. Defendant Diocese gave legal advice to plaintiff advising him not to file an action against it. Defendant diocese disclosed that Fr. Creager abused others. And, defendant diocese misled and continues to mislead the plaintiff about his legal rights and its knowledge of abuse in the diocese and of Fr. Creager during his tenure in the Diocese. By doing so, defendant Diocese continues to injure the 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; was hampered 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.

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**

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

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

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

51. Defendants were negligent and did not use reasonable care in their supervision and direction of Fr. Creager, 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 Fr. Creager posed a threat of sexual abuse to minors; allowed the misconduct described above to occur and continue; failed to investigate Fr. Creager's dangerous activities and remove him from his position; and Defendants were otherwise negligent.

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

53. 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 their duty to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused.

54. Fr. Creager 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. Creager.

55. At all relevant times, Fr. Creager 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. Plaintiff suffered grave injury as a result of Fr. Creager's sexual abuse and misconduct, 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 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 Diocese,

including Fr. Creager, 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 Fr. Creager and giving him access to children, including Plaintiff, posed an unacceptable risk of harm to children.

62. Defendants had a policy of not discussing the dangers of sexual abuse, not discussing historical abuse by priests, discussing the prevention of sexual abuse with minors so that minors would know to immediately report said abuse, would know that abuse was a crime, and would otherwise have knowledge to protect themselves from sexual abuse. Defendants, otherwise, did not have a sex abuse prevention program for minor children under their care.

63. Defendant Diocese maintained a policy and practice of not disclosing and/or covering up criminal activity committed by clergy members within the Diocese up until forced disclosure after a scandal involving the defendant diocese in the early 2000s.

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

65. Defendant Diocese 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.

66. Upon information and belief, Defendants covered up acts of abuse by Fr. Creager, and concealed facts concerning Fr. Creager’s sexual misconduct from Plaintiff.

67. By failing to disclose the identities, histories and information about sexually abusive clergy in their employ, including Fr. Creager, Defendants unreasonably deprived the

families of children entrusted to their care, including Plaintiff, of the ability to protect their children.

68. Defendants failed to warn Plaintiff and his parents that Fr. Creager posed a risk of child sexual assault.

69. 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.

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

71. 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.

72. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount to be determined at trial, together with interest and costs.

**THIRD CAUSE OF ACTION**

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

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

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

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

76. Defendants knew or disregarded the substantial probability that Fr. Creager would cause severe emotional distress to Plaintiff.

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

78. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interest and costs.

#### **FOURTH CAUSE OF ACTION**

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

79. Plaintiff repeats and re-alleges each and every allegation set forth above as if fully set forth herein. Fr. Creager was given medical and legal power of attorney for minor plaintiff during the trip to NY on the above date.

80. 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 minor child, imposed upon Defendants a fiduciary duty to act in the best interests of Plaintiff.

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

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

83. 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.

84. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interest and costs.

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

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

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

86. 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.

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

88. 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.

89. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interest and costs.

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

#### **BREACH OF STATUTORY DUTIES TO REPORT**

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



91. 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.

92. Defendants breached their statutory duty by failing to report abuse herein.

93. 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.

94. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interest and costs.

**JOINT AND SEVERAL LIABILITY**

95. Per CPLR 1601 (a), the limitation on Joint and Several liability does not apply here as this case falls under CPLR 1602 (5) intentional acts and CPLR 1602 (7) actions involving reckless disregard for the safety of others and CPLR 1602 (11) parties acting intentionally or knowingly in concert with others as pled in detail in the causes of action above.

**JURY TRIAL DEMANDED**

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

**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.

Dated: December 16, 2019

Yours,

**PHILLIPS & PAOLICELLI, LLP**



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