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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
513050/2020	Doe, Msgr. John	2	Diocese of Brooklyn & Our Lady of Grace Church.	DOE, PC-26

STATE OF NEW YORK
SUPREME COURT: COUNTY OF KINGS

<p>PC-26 Doe</p> <p style="text-align: center;">Plaintiff,</p> <p>-against-</p> <p>THE ROMAN CATHOLIC DIOCESE OF BROOKLYN, NEW YORK and OUR LADY OF GRACE CHURCH,</p> <p style="text-align: center;">Defendants.</p>
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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
July 22, 2020

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THE ROMAN CATHOLIC DIOCESE OF BROOKLYN, NEW YORK

310 Prospect Park West

Brooklyn, NY 11215

OUR LADY OF GRACE CHURCH

430 Avenue W

Brooklyn, NY 11223

STATE OF NEW YORK
SUPREME COURT: COUNTY OF KINGS

<p>PC-26 Doe</p> <p style="text-align: center;">Plaintiff,</p> <p>-against-</p> <p>THE ROMAN CATHOLIC DIOCESE OF BROOKLYN, NEW YORK and OUR LADY OF GRACE CHURCH,</p> <p style="text-align: center;">Defendants.</p>
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COMPLAINT

Index No.

Plaintiff, PC-26 Doe, by and through his undersigned attorneys, as and for his Complaint, alleges as follows:

NATURE OF THE ACTION

1. This action is brought pursuant to the Child Victims Act, codified at CPLR 214-g.
2. Plaintiff, PC-26 Doe, was repeatedly sexually abused and assaulted by the then Monsignor at Defendant Our Lady of Grace Church, who for purposes of this Complaint will be referred to as Monsignor John Doe¹ (“Msgr. John Doe”) who was hired, retained, supervised, placed, directed, and otherwise authorized to act by Defendants The Roman Catholic Diocese of Brooklyn, New York (the “Diocese”) and Our Lady of Grace Church (“Our Lady of Grace”) (collectively, “Defendants”).
3. Plaintiff was about 9 years old at the time of his abuse.

¹ At this time while Plaintiff recalls his abuser was the Monsignor, he is unclear on the precise name of his abuser, whose name will be the subject of discovery. On information and belief there was only one Monsignor at Defendant Our Lady of Grace Church at the time Plaintiff was abused, and so his full name will be readily identifiable

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

5. The Roman Catholic Church and Defendants have long known that substantial numbers of priests throughout history, and up to and including the present day, violate their vows or promises of celibacy and otherwise misbehave by soliciting sexual contact with parishioners and others, in particular with children like Plaintiff, who are entrusted to their spiritual care and guidance. Official Roman Catholic 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 parishioners and their children, Defendants negligently, recklessly, and willfully failed to protect the Plaintiff from sexual abuse by Msgr. John Doe, permitted the abuse to occur, failed to supervise Msgr. John Doe, failed to timely investigate Msgr. John Doe'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. John Doe's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

PARTIES

7. Plaintiff is an individual residing in Monmouth County, New Jersey.

8. Plaintiff was born in 1960.

9. At all relevant times, Defendant The Roman Catholic Diocese of Brooklyn, New York was and still is a non-profit organization or entity, which includes but is not limited to civil corporations, decision-making entities, officials, employees, authorized to conduct business and doing business at 310 Prospect Park West, Brooklyn, NY 11215.

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

11. At all relevant times, Defendant Our Lady of Grace Church [“Our Lady of Grace”] was and still is a Roman Catholic church, organized pursuant to the laws of the State of New York and located at 430 Avenue W, Brooklyn, NY 11223.

12. At all relevant times, Defendant Our Lady of Grace 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 Our Lady of Grace was located.

14. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed, and operated Defendant Our Lady of Grace.

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 Our Lady of Grace.

FACTUAL ALLEGATIONS

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

17. In or about 1969, Plaintiff attended Defendant Our Lady of Grace where he and his family were members of its congregation.

18. At all relevant times, Msgr. John Doe was a Roman Catholic priest employed by Defendant Diocese.

19. At all relevant times, Msgr. John Doe was under the direct supervision, employ, and control of the Defendants.

20. In or about 1969, Plaintiff attended Defendant Our Lady of Grace to prepare for the sacrament of confirmation.

21. During the time Plaintiff attended Defendant Our Lady of Grace, Msgr. John Doe's duties and responsibilities included supervising, interacting with, mentoring, and counseling minor boys, including Plaintiff.

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

23. Plaintiff was raised a Catholic, and at all relevant times, had developed reverence, respect, and/or fear for the Roman Catholic Church and its clergy, including Msgr. John Doe. Plaintiff's immediate family shared these beliefs and values.

24. In or about 1969, while Plaintiff attended Defendant Our Lady of Grace, Msgr. John Doe singled out Plaintiff and engaged in inappropriate grooming behavior on Defendants' property under the guise of religious instruction in preparation for Plaintiff's confirmation.

25. On multiple occasions in or about 1969 while Plaintiff attended Defendant Our Lady of Grace, Msgr. John Doe engaged in unpermitted, forcible, and harmful sexual contact with Plaintiff in the church office located on Defendants' property.

26. During all relevant times, Defendants knew or should have known that Msgr. John Doe was a danger to minor children like Plaintiff before he sexually abused Plaintiff.

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

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

29. 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 Msgr. John Doe posed to Plaintiff.

30. Prior to the time of Plaintiff's abuse by Msgr. John Doe, Defendants knew or should have known of numerous acts of sexual assault committed by clergy members within the Defendant 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 and programs.

31. The sexual abuse of Plaintiff by Msgr. John Doe was foreseeable.

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

33. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited children and parents to send their children to Defendant Our Lady of Grace; 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. John Doe, 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. John Doe, to spend time with, interact with, and recruit children.

34. 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.

35. Defendants owed Plaintiff a duty to protect him from harm because Defendants' 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 and will continued 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 the lower courts of this State.

37. 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

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, Defendants learned or should have learned that Msgr. John Doe was not fit to work with or around children.

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

41. Defendants negligently retained Msgr. John Doe and with knowledge of Msgr. John Doe's propensity for the type of behavior which resulted in Plaintiff's injuries.

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

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

44. Defendants were negligent and did not use reasonable care in their supervision and direction of Msgr. John Doe, 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 Msgr. John Doe posed a threat of sexual abuse to minors; allowed the

misconduct described above to occur and continue; failed to investigate Msgr. John Doe's dangerous activities and remove him from their premises; and Defendants were otherwise negligent.

45. Msgr. John Doe 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. John Doe.

46. At all relevant times, Msgr. John Doe acted in the course and scope of his employment with Defendants.

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

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

49. 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 interests and costs in an amount that exceeds the jurisdictional limits of the lower courts of this State.

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. 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.

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

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

55. Defendant Diocese maintained a policy and practice of covering up criminal activity by clergy members within the Diocese.

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

57. 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.

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

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

60. Defendants failed to warn Plaintiff and his parents that Msgr. John Doe posed a risk of child sexual assault.

61. 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.

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

63. 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.

64. 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 in an amount that exceeds the jurisdictional limits of the lower courts of this State.

THIRD CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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

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

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

68. Defendants knew or disregarded the substantial probability that Msgr. John Doe would cause severe emotional distress to Plaintiff.

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

70. 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 interests and costs in an amount that exceeds the jurisdictional limits of the lower courts of this State.

FOURTH CAUSE OF ACTION**PREMISES LIABILITY**

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

72. At all relevant times, Defendants owned, operated, and/or controlled the premises known as Our Lady of Grace Church, including the areas where the sexual abuse of Plaintiff occurred.

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

74. 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 and parishioners, like Plaintiff, whose presence was reasonably anticipated.

75. Defendants 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 Msgr. John Doe. Defendants thereby breached their duty of care of Plaintiff.

76. 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.

77. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interests and costs in an amount that exceeds the jurisdictional limits of the lower courts of this State.

FIFTH CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY

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

79. 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 a fiduciary duty to act in the best interests of Plaintiff.

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

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

82. 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.

83. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interests and costs in an amount that exceeds the jurisdictional limits of the lower courts of this State.

SIXTH CAUSE OF ACTION

BREACH OF DUTY IN LOCO PARENTIS

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

85. 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.

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

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 reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interests and costs in an amount that exceeds the jurisdictional limits of the lower courts of this State.

SEVENTH CAUSE OF ACTION

BREACH OF STATUTORY DUTIES TO REPORT

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

90. 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.

91. Defendants knowingly and willfully breached their statutory duty by failing to report reasonable suspicion of abuse by Msgr. John Doe of children in their care.

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

93. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interests and costs in an amount that exceeds the jurisdictional limits of the lower courts of this State.

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: July 22, 2020

Yours, etc.

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