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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:

NYS UCS Case Number	Alleged Perpetrator	Defendant #	Defendants	Plaintiff
808719/2021	Doe, Fr.	1	St. Agnes Church Buffalo NY.	PB-74 DOE

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-74 DOE,</p> <p style="text-align: right;">Plaintiff,</p> <p>vs.</p> <p>ST. AGNES CHURCH,</p> <p style="text-align: right;">Defendants.</p>
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SUMMONS

Index No.:

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

TO THE ABOVE NAMED DEFENDANTS:

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

DATED: New York, New York
July 2, 2021

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By:

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TO:

ST. AGNES CHURCH

194 Ludington Street, Buffalo, NY

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-74 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. AGNES CHURCH,</p> <p style="text-align: center;">Defendants.</p>
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COMPLAINT

Index No.:

PB-74 Doe, a victim of childhood sexual abuse, 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-74 Doe was sexually abused by a Roman Catholic priest or pastor (referred herein as “Fr. Doe”) of Defendant St. Agnes Church (collectively “Defendants” in conjunction with the Diocese of Buffalo, N.Y. (“Diocese or Buffalo Diocese”).
3. Plaintiff was about eight (8) years old at the time of his abuse by Fr. Doe.
4. The Roman Catholic Church, and the Defendants specifically, have long known that substantial numbers of priests throughout history, and up to and including the present day, violate their vows or promises of celibacy and otherwise misbehave by soliciting sexual contact with parishioners and others, in particular with children like Plaintiff, who are entrusted to their spiritual care and guidance. Official Church documents dealing with this unspeakable misconduct span the centuries, many of which were and are well known to Defendants.

5. Notwithstanding this knowledge, and the fiduciary duty and relationship of trust owed to parishioners and their children, Defendants negligently, recklessly, and willfully failed to protect Plaintiff from sexual abuse, permitted the abuse to occur, failed to supervise, failed to timely investigate misconduct, acted to protect their own self-interest to the detriment of innocent children, and are otherwise responsible for the sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

PARTIES

6. Plaintiff is an individual residing in Wyoming County, New York.

7. Plaintiff's was born in 1946.

8. At all relevant times, Defendant St. Agnes Church was a religious corporation organized pursuant to the laws of the State of New York, with its principal place of business located at 194 Ludington Street, Buffalo, NY.

9. Upon information and belief, after Plaintiff's abuse, the Diocese of Buffalo, N.Y., closed St. Agnes Church and sold it to a Buddhist group.

10. At all relevant times, the Defendant St. Agnes Church oversaw, managed, controlled, directed and operated St. Agnes Church.

11. At all relevant times, Defendant St. Agnes Church owned the premises where St. Agnes Church was located.

12. At all relevant times, Defendant St. Agnes Church oversaw, managed, controlled, directed and assigned priests to work in its church.

FACTUAL ALLEGATIONS

13. Plaintiff repeats and each and every allegation set forth above as if fully set forth herein.

14. In or about May of 1955, Plaintiff received her first communion at St. Agnes Church.

15. At all relevant times, Fr. Doe, was a Roman Catholic priest employed by Defendants, in conjunction with the Diocese of Buffalo.

16. At all relevant times, Fr. Doe was under the direct supervision and control of the Defendants, in conjunction with the Diocese of Buffalo. His assigned duties included, *inter alia*, serving as priest and, upon information and belief, as pastor. His duties included interacting with, mentoring, disciplining and counseling children.

17. At all relevant times Defendants authorized Fr. Doe to be alone with children, including Plaintiff, and to have unfettered and unsupervised access to them.

18. Defendants authorized Fr. Doe to have physical contact with minors, in a manner consistent with providing discipline, counseling, educational and spiritual guidance, and leadership.

19. Defendants required parishioners, like Plaintiff, to accept discipline and instruction from clergy, including Fr. Doe, and to obey their orders.

20. Plaintiff was raised as a Catholic, and at all relevant times was encouraged to have reverence, fear and respect for the Catholic Church and its clergy.

21. While Fr. Doe was alone with Plaintiff, Fr. Doe engaged in unpermitted, forcible and harmful sexual contact with intimate parts of Plaintiff's body for no purpose other than to humiliate Plaintiff and/or for Fr. Doe's own sexual gratification.

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

23. Fr. Doe admonished Plaintiff not to tell anyone about the abuse.

24. Further, Plaintiff's relationship to Defendants as a vulnerable child and student, and the culture of the Catholic Church which Defendants endorsed, put pressure on Plaintiff not to report the sexual molestation and abuse.

25. Defendants knew or should have known that Fr. Doe was a danger to minor boys like Plaintiff, before the sexual abuse of Plaintiff occurred.

26. The Vatican and other church authorities addressed the problem of clergy sex abuse on countless occasions prior to the 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.

27. Upon information and belief, not only were Defendants 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.

28. 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 Fr. Doe posed to Plaintiff.

29. Prior to the time of Plaintiff's abuse 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 and programs.

30. The sexual abuse of Plaintiff described above was foreseeable.

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

32. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited parishioners and parents to send their children to St. Agnes Church; 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 priests, as safe to work with and around minors, they encouraged parents and children to spend time with their agents; and/or authorized their agents, including the priests, to spend time with, interact with, and recruit children.

33. 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.

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

35. 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 loss of earnings and earning capacity; has incurred and may in the future incur expenses for medical and psychological treatment, and was otherwise damaged.

FIRST CAUSE OF ACTION

NEGLIGENT HIRING, RETENTION, SUPERVISION, AND DIRECTION

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

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

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

39. Defendants negligently retained Fr. Doe with knowledge of Fr. Doe's propensity for the type of behavior which resulted in Plaintiff's injuries.

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

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

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

43. Fr. 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 Fr. Doe.

44. Defendants were also negligent in failing to properly train, supervise, instruct, their clergy members, employees, and/or agents, and in failing to properly train, supervise, instruct and direct any other clergy or lay persons who failed to protect Plaintiff from abuse by Fr. Doe, and Defendants were otherwise negligent.

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

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

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

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

49. At all relevant times, there existed a fiduciary relationship of trust, confidence and reliance between Plaintiff and Defendants. 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.

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

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

52. 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.

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

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

55. By the reason of the foregoing, Defendants are jointly and severally 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

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

57. 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. Doe, did not pose a risk and/or that he did not have a history of sexually abusing children, and that children, including Plaintiff, would be safe in his care.

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

59. Defendants maintained a policy and practice of covering up criminal activity committed by clergy members within the Diocese.

60. 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.

61. 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.

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

63. Defendants failed to report multiple allegations of sexual abuse by their employees, agents and representatives, to the proper authorities, thereby putting children at risk of sexual assault.

64. Upon information and belief, Defendants covered up acts of abuse by Fr. Doe and concealed facts concerning his sexual misconduct from Plaintiff and his family.

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

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

67. 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.

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

69. 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.

70. By the reason of the foregoing, Defendants are jointly and severally 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

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 of Defendant St. Agnes 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, like Plaintiff, whose presence was reasonably anticipated.

75. Defendants willfully, recklessly, and negligently failed to provide a reasonably safe premises that were free from the presence of sexual predators and/or the assault by the occupants of the premises, including Fr. Doe. Defendants thereby breached their duty of care to 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 jointly and severally liable to Plaintiff for compensatory and punitive damages in an amount 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

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

Dated: New York, New York

July 2, 2021

Yours, etc.

PHILLIPS & PAOLICELLI, LLP

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