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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
70057/2020E	John Doe	3	Archdiocese of New York, Sisters of Charity of St. Vincent DePaul of New York & St. Agatha Home of the New York Foundling Hospital	G., A.

STATE OF NEW YORK
SUPREME COURT: COUNTY OF BRONX

<p>A.G.,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>THE ARCHDIOCESE OF NEW YORK, THE NEW YORK FOUNDLING a/k/a ST. AGATHA HOME OF THE NEW YORK FOUNDLING HOSPITAL, and THE SISTERS OF CHARITY OF SAINT VINCENT DE PAUL OF NEW YORK,</p> <p style="text-align: center;">Defendants.</p>

SUMMONS

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

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the 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 default for the relief demanded in the complaint.

DATED: New York, New York
July 2, 2020

Phillips & Paolicelli, LLP
Attorneys for Plaintiff

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TO:

THE ARCHDIOCESE OF NEW YORK
1011 First Avenue,
New York, New York 10022

SISTERS OF CHARITY OF SAINT VINCENT DE PAUL OF NEW YORK
6301 Riverdale Avenue
Bronx, New York 10471

THE NEW YORK FOUNDLING aka ST. AGATHA HOME OF THE NEW YORK
FOUNDLING HOSPITAL
590 Avenue of the Americas
New York, NY 10011

STATE OF NEW YORK
SUPREME COURT: COUNTY OF BRONX

<p>A.G.,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>THE ARCHDIOCESE OF NEW YORK, THE NEW YORK FOUNDLING a/k/a ST. AGATHA HOME OF THE NEW YORK FOUNDLING HOSPITAL, and THE SISTERS OF CHARITY OF SAINT VINCENT DE PAUL OF NEW YORK,</p> <p style="text-align: center;">Defendants.</p>

COMPLAINT

Index No.:

Plaintiff A.G., 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 A.G., a former occupant of St. Agatha Home of the New York Foundling Hospital (herein “St. Agatha”), which was owned, operated, and/or controlled by Defendants The Archdiocese Of New York, The New York Foundling a/k/a St. Agatha Home Of The New York Foundling Hospital, and The Sisters Of Charity Of Saint Vincent De Paul Of New York (herein collectively “Defendants”), was sexually abused and assaulted by an unknown individual (hereinafter “John Doe”), who was given access to Plaintiff by Defendants.
3. Plaintiff was left with John Doe by a counselor named Ron who was an employee and/or agent of Defendants.

4. Plaintiff was about 12-13 years old when the sexual abuse occurred, in or about 1980.

5. Not only did Defendants place Plaintiff in harm's way by permitting John Doe to have unfettered access to Plaintiff, but they carelessly, negligently, and recklessly, failed to protect Plaintiff from sexual abuse by John Doe, permitted the abuse to occur, failed to supervise Plaintiff, failed to supervise Ron, failed to supervise John Doe, failed to timely investigate Ron's and John Doe's misconduct, failed to train minors, parents, and adult staff about the risk of sexual abuse in their institution, failed 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 John Doe's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

PARTIES

6. Plaintiff is an individual residing in Westchester County, New York. During the relevant years, Plaintiff resided in Rockland County, New York.

7. Plaintiff was born in 1968.

8. Defendant The Archdiocese of New York ("Archdiocese") is, and at all relevant times was, a non-profit organization or entity, which includes but is not limited to civil corporations, decision-making entities, officials, and employees, authorized to conduct business and doing business at 1011 First Avenue, New York, NY 10022.

9. At all relevant times, Defendant Archdiocese oversaw, managed, controlled, directed and operated parishes, churches, schools, and group homes within the Archdiocese.

10. In 1977, St. Agatha Home merged with The New York Foundling Hospital to form St. Agatha Home of the New York Foundling Hospital.

11. At all relevant times, Defendant The New York Foundling (herein “NYF”), was and is 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 590 Avenue of the Americas, New York, New York 10011.

12. At all relevant times, Defendant Sisters of Charity of Saint Vincent De Paul of New York (herein “Sisters of Charity”), 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 6301 Riverdale Avenue, Bronx, New York 10471.

13. At all relevant times, Defendants Archdiocese, NYF, and/or Sisters of Charity oversaw, managed, controlled, directed and operated St. Agatha.

14. At all relevant times, St. Agatha was under the direct authority and control of Defendants Archdiocese, NYF, and/or Sisters of Charity.

15. At all relevant times, Defendants Archdiocese, NYF, and/or Sisters of Charity owned the premises where St. Agatha was located.

16. At all relevant times, Ron was an employee and/or agent of Defendants, assigned to the position of counselor at St. Agatha.

FACTUAL ALLEGATIONS

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

18. From approximately the late 1970s to early 1980s Plaintiff resided at St. Agatha.

19. At all relevant times, Ron was an employee and/or agent of Defendants assigned to the position of counselor.

20. At all relevant times, Ron was under the direct supervision, employ and control of the Defendants.

21. At all relevant times, Ron's duties and responsibilities included supervising, protecting, guiding, and counseling minor residents, including Plaintiff, at St. Agatha.

22. At all relevant times Defendants held Ron out as a qualified counselor and a person of trust to minors and their parents.

23. Defendants authorized and allowed Ron to provide counseling to minor residents, including Plaintiff, to be alone with them, and to have unfettered and unsupervised access to them on Defendants' property.

24. Defendants authorized and allowed Ron, and other counselors, to spend the night at St. Agatha without any other adult supervision of the children in Defendants' care or other adult employees present at St. Agatha.

25. In or about 1980, when Plaintiff was about 12-13 years old, Ron, acting in the course and scope of his employment with Defendants, required Plaintiff help his friend, John Doe, move wood at John Doe's home.

26. Plaintiff helped move wood with the understanding that Ron would be present at John Doe's home as well and that the job would take a couple of hours.

27. Upon information and belief, Ron acting in the course of his employment with the Defendants, and while performing his duties of supervising, overseeing, and guiding the Plaintiff, took Plaintiff and used Defendants' vehicle to drive them to John Doe's house.

28. Upon arriving at John Doe's house, Ron introduced Plaintiff to John Doe, got back in Defendants' vehicle, and left Plaintiff alone with John Doe.

29. To the best of Plaintiff's recollection, there was little work to be done at John Doe's home and he finished the job in a matter of minutes.

30. Ron never returned to bring Plaintiff back to St. Agatha and Plaintiff was forced to spend the night at John Doe's home.

31. There, throughout the night in John Doe's bedroom, John Doe repeatedly engaged in unpermitted, forcible, and harmful sexual contact with Plaintiff.

32. The acts committed by John Doe were in violation of New York Penal Code Article 130.

33. The next morning, Ron picked Plaintiff up from John Doe's home in the Defendants' vehicle and drove him back to St. Agatha.

34. Ron acting in the course of his employment with the Defendants, and while performing his duties of supervising, overseeing, and guiding the Plaintiff, coerced Plaintiff to remain silent and to not report him to anyone, by intimidating Plaintiff, humiliating Plaintiff for having learning disabilities, and threatening to separate Plaintiff from his family if he ever reported.

35. In addition to these direct threats, Plaintiff's relationship to Defendants as a young, vulnerable child, put pressure on Plaintiff not to report Ron's actions, John Doe's abuse or Ron's subsequent threats and intimidation.

36. Upon information and belief, Defendants never investigated or questioned Ron or Plaintiff as to why Plaintiff was taken off the premises of St. Agatha or why Plaintiff was missing from St. Agatha the night he was being sexually abused at John Doe's home.

37. Upon information and belief, Defendants never noticed Plaintiff was taken off the premises of St. Agatha or was missing from St. Agatha the night he was being sexually abused at John Doe's home.

38. Defendants knew or should have known that Ron was a danger to minors, like Plaintiff, before he left a minor unattended over night and allowed Plaintiff to be sexually abused.

39. Defendants knew or should have known that Ron was not qualified to perform the duties of a counselor to minors.

40. Defendants knew or should have known that allowing Ron, to have unsupervised and unlimited access with minors, particularly vulnerable minors like Plaintiff who needed special attention, posed an unacceptable risk of child sex abuse.

41. Defendant knew or should have known that having only one adult counselor at a time supervise minors in their care posed an unacceptable risk of child sex abuse.

42. Prior to the time of Plaintiff's abuse by John Doe, Defendants knew or should have known that there was a specific danger of child sex abuse for children in their institutions and programs.

43. The sexual abuse of Plaintiff by John Doe was foreseeable.

44. Defendants owed Plaintiff a reasonable duty of care because 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 Ron, as safe to work with and around minors, they encouraged children to spend time with their agents; and/or authorized their agents, including Ron, to provide services to children.

45. 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 was a vulnerable minor, and unable to protect himself; and Defendants affirmatively assumed a position of empowerment over Plaintiff.

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

47. 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 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.

48. 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 Defendants' conduct falls within one or more of the subdivisions of CPLR 1602. Pursuant to the Child Victims Act, a notice of claim is not a prerequisite to the filing of this action.

COUNT I

NEGLIGENT HIRING, RETENTION, SUPERVISION, AND DIRECTION

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

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

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

52. Defendants were negligent and did not use reasonable care in their supervision and direction of Ron, failed to monitor his activities, failed to oversee the manner in which he carried out the duties to which Defendants assigned them, even though they knew or should have known that Ron posed a threat to minors; allowed the misconduct described above to occur and continue; failed to investigate Ron's activities and remove him from their institution; failed to have policies and practices in place that would have prevented this abuse; and Defendants were otherwise negligent.

53. 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 Ron.

54. At all relevant times, Ron acted in the course and scope of his employment with Defendants.

55. Defendants were negligent and did not use reasonable care in their supervision and direction of Plaintiff, failed to monitor his activities, failed to monitor his whereabouts the day he left St. Agatha with Ron, failed to monitor his whereabouts the night he was sexually abused by John Doe, even though they owed Plaintiff, a minor, a duty to protect him from harm; allowed the misconduct described above to occur; failed to investigate Plaintiff's activities; and Defendants were otherwise negligent.

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

57. As a direct and proximate result of the aforesaid misconduct, Plaintiff suffered grave injury, including physical, psychological and emotional injury as described above.

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

COUNT II

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 their employees and agents, including Ron, would adequately supervise, monitor, and care for children in their custody, did not pose a risk 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 Ron and giving him unfettered access to children, including Plaintiff, posed an unacceptable risk of harm to children.

62. Defendants were negligent and did not use reasonable care in their training, if any, of minors and their parents about the risk of sexual abuse in their institution or facilities, to identify signs of sexual abuse, grooming behaviors, and sexual predators, and to report suspicions that a minor was abused, maltreated, groomed, and/or otherwise sexually abused.

63. 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 or facilities, to identify signs of sexual abuse, grooming behaviors, and sexual predators, and their statutory duty to report suspicions that a minor was abused, maltreated, groomed, and/or otherwise sexually abused.

64. Defendants carelessly, negligently and recklessly failed to have in place an appropriate policy and/or practice for making hiring and assignment decisions, so as to protect vulnerable children in their care from sexual abuse.

65. Defendants carelessly, negligently and recklessly failed to have in place an appropriate policy and/or practice to monitor, supervise or oversee Ron's interactions with minors such as Plaintiff, in order to keep them safe from sexual abuse.

66. The careless, negligent and reckless misconduct by 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. 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.

67. 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.

COUNT III

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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

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

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

71. Defendant knew or disregarded the substantial probability that Ron and/or John Doe would cause severe emotional distress to Plaintiff.

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

73. 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.

COUNT IV**PREMISES LIABILITY**

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

75. At all relevant times, Defendants owned, operated, and/or controlled the premises known as St. Agatha.

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

77. 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 minors, like Plaintiff, whose presence was reasonably anticipated.

78. 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 Ron. Defendants thereby breached their duty of care of Plaintiff.

79. 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.

80. 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.

COUNT V**BREACH OF FIDUCIARY DUTY**

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

82. 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 these Defendants a fiduciary duty to act in the best interests of Plaintiff.

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

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

85. 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.

86. 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.

COUNT VI

BREACH OF DUTY IN LOCO PARENTIS

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

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

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

90. 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.

91. 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.

COUNT VII

BREACH OF STATUTORY DUTIES TO REPORT

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

93. 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.

94. Defendants breached their statutory duty by failing to report reasonable suspicion that Plaintiff had been abused, maltreated, and/or sexually abused in their care.

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

96. 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.

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 him 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

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

Dated: July 2, 2020

Yours, etc.

PHILLIPS & PAOLICELLI, LLP

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