



John Ducette Assignment History

Year	Assignment	Location
1962	Priesthood ordination	Buffalo NY
1962-63	Missionary, St. Isidore Church	East Otto NY
1963-69	Assistant, St. Theresa of the Infant Jesus Church & School	Niagara Falls NY
1969-71	Parochial Vicar, Blessed Sacrament Church & School	Kenmore NY
1971-78	Parochial Vicar, St. John the Baptist Church & School	Kenmore NY
1969-78	Secretary to Aux. Bishop Bernard McLaughlin	Kenmore NY & Various
1978-2016	Chaplain, Apostleship to the Sea	Various
1978-85	Pastor, St. Charles Church	Niagara Falls NY
1985-2008	Pastor, St. Timothy Church	Tonawanda NY
1985 ff.	Chaplain, Town of Tonawanda Police (Reportedly carried a badge)	Tonawanda NY
2008-2011	Retired, residing at Sheehan Residence for Priests	Buffalo NY
2011-2013	Retired, residing at private residence	Niagara Falls NY
2013	Died	

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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
814845/2020	Ducette, Fr. John	6	RC Church of St. Charles Borromeo et al	DOE, PB-53
814875/2020	Ducette, Fr. John	6	RC Church of St. Charles Borromeo et al	DOE, PB-54

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

<p>PB-53 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ROMAN CATHOLIC CHURCH OF ST. CHARLES BORROMEIO (a/k/a ST. CHARLES BORROMEIO CHURCH), LASALLE CHURCH OF CHRIST (a/k/a ST. JOHN DE LASALLE ROMAN CATHOLIC PARISH), ST. JOHN BAPTIST CHURCH, NORTH BUFFALO (a/k/a ST. JOHN THE BAPTIST ROMAN CATHOLIC CHURCH), BLESSED SACRAMENT CENTER OF EUCHARISTIC WORSHIP, INC. (a/k/a BLESSED SACRAMENT CHURCH), ST. TERESA'S ROMAN CATHOLIC CHURCH SOCIETY OF AKRON, N.Y. (a/k/a ST. TERESA ROMAN CATHOLIC CHURCH), ROMAN CATHOLIC CHURCH OF ST. MARY'S (a/k/a ST. MARY'S ROMAN CATHOLIC CHURCH/ST. ISADORES EAST OTTO),</p> <p style="text-align: center;">Defendants.</p>

SUMMONS

Index No.:

Plaintiff designates the County of Erie as the place of trial. The basis of venue is Plaintiff and Defendants' residence.

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
November 19, 2020

Phillips & Paolicelli, LLP

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Attorneys for Plaintiffs

/s/ Yitzchak Fogel
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Attorneys for Plaintiff

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5604 Lindbergh Ave
Niagara Falls, NY 14304

LASALLE CHURCH OF CHRIST (a/k/a ST. JOHN DE LASALLE ROMAN CATHOLIC PARISH)
8477 Buffalo Ave
Niagara Falls NY 14304

ST. JOHN BAPTIST CHURCH, NORTH BUFFALO (a/k/a ST. JOHN THE BAPTIST ROMAN CATHOLIC CHURCH)
1085 Englewood Avenue
Buffalo, NY 14223

BLESSED SACRAMENT CENTER OF EUCHARISTIC WORSHIP, INC. (a/k/a BLESSED SACRAMENT CHURCH)
1029 Delaware Ave
Buffalo, NY 14209

ST. TERESA'S ROMAN CATHOLIC CHURCH SOCIETY OF AKRON, N.Y. (a/k/a ST. TERESA ROMAN CATHOLIC CHURCH)

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1974 Seneca St.
Buffalo, NY 14210

ROMAN CATHOLIC CHURCH OF ST. MARY'S (a/k/a ST. MARY'S ROMAN CATHOLIC
CHURCH/ST. ISADORE'S EAST OTTO)
36 Washington St
Cattaraugus, NY 14719

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-53 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ROMAN CATHOLIC CHURCH OF ST. CHARLES BORROMEO (a/k/a ST. CHARLES BORROMEO CHURCH), LASALLE CHURCH OF CHRIST (a/k/a ST. JOHN DE LASALLE ROMAN CATHOLIC PARISH), ST. JOHN BAPTIST CHURCH, NORTH BUFFALO (a/k/a ST. JOHN THE BAPTIST ROMAN CATHOLIC CHURCH), BLESSED SACRAMENT CENTER OF EUCHARISTIC WORSHIP, INC. (a/k/a BLESSED SACRAMENT CHURCH), ST. TERESA’S ROMAN CATHOLIC CHURCH SOCIETY OF AKRON, N.Y. (a/k/a ST. TERESA ROMAN CATHOLIC CHURCH), ROMAN CATHOLIC CHURCH OF ST. MARY’S (a/k/a ST. MARY’S ROMAN CATHOLIC CHURCH/ST. ISADORES EAST OTTO),</p> <p style="text-align: center;">Defendants.</p>

COMPLAINT

Index No.:

Plaintiff PB-53 Doe, by and through his undersigned attorneys, as and for his Complaint, alleges as follows:

NATURE OF THE ACTION

1. This action is brought pursuant to the Child Victims Act, codified at CPLR 214-g.
2. Plaintiff PB-53 Doe was repeatedly sexually abused and assaulted by pastor John Ducette (hereinafter “Ducette”), who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants ROMAN CATHOLIC CHURCH OF ST. CHARLES BORROMEO (a/k/a ST. CHARLES BORROMEO CHURCH), LASALLE CHURCH OF

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CHRIST (a/k/a ST. JOHN DE LASALLE ROMAN CATHOLIC PARISH), ST. JOHN BAPTIST CHURCH, NORTH BUFFALO (a/k/a ST. JOHN THE BAPTIST ROMAN CATHOLIC CHURCH), BLESSED SACRAMENT CENTER OF EUCHARISTIC WORSHIP, INC. (a/k/a BLESSED SACRAMENT CHURCH), ST. TERESA'S ROMAN CATHOLIC CHURCH SOCIETY OF AKRON, N.Y. (a/k/a ST. TERESA ROMAN CATHOLIC CHURCH), ROMAN CATHOLIC CHURCH OF ST. MARY'S (a/k/a ST. MARY'S ROMAN CATHOLIC CHURCH/ST. ISADORES EAST OTTO) (collectively herein "Defendants"), in conjunction with the Diocese of Buffalo, N.Y. (herein "Diocese").

3. In or about 1983, when Plaintiff was about 12 years old, he was abused by Ducette while a parishioner at ROMAN CATHOLIC CHURCH OF ST. CHARLES BORROMEO (a/k/a ST. CHARLES BORROMEO CHURCH) (herein "St. Charles").

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

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

6. In fact, the Roman Catholic Church, the Diocese of Buffalo, and Defendants have long known that substantial numbers of priests and nuns throughout history, and up to and including the present day, violate their vows or promises of celibacy and otherwise misbehave by soliciting sexual contact with parishioners and others, in particular with children 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.

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7. Notwithstanding this knowledge, and the fiduciary duty and relationship of trust owed to parishioners and their children, Defendants negligently, recklessly, and willfully failed to protect Plaintiff from sexual abuse by Ducette, permitted the abuse to occur, failed to supervise Ducette, failed to timely investigate Ducette's misconduct, failed to train minor parishioners, parents, clergy members and/or adult staff about the risk of sexual abuse in their institution, to identify signs of sexual abuse, grooming behaviors, or sexual predators, and to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused, acted to protect their own self-interest to the detriment of innocent children, and are otherwise responsible for Ducette's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

PARTIES

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

9. Plaintiff was born in 1971.

10. At all relevant times, Defendant St. Charles was a Roman Catholic Church, organized pursuant to the laws of the State of New York. According to publicly available information, St. Charles is no longer in operation. It was last operated in Niagara County, New York, with its principal place of business at 5604 Lindbergh Ave, Niagara Falls, NY 14304. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Charles, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Charles.

11. At all relevant times, St. Charles and/or the Diocese of Buffalo, N.Y., owned the premises where Defendant St. Charles was located.

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12. Upon information and belief, LASALLE CHURCH OF CHRIST (a/k/a ST. JOHN DE LASALLE ROMAN CATHOLIC PARISH) (herein “St. John”), located at 8477 Buffalo Ave Niagara Falls NY 14304, is the successor in interest and holder of the liabilities of St. Charles.

13. At all relevant times, Defendant ST. JOHN BAPTIST CHURCH, NORTH BUFFALO (a/k/a ST. JOHN THE BAPTIST ROMAN CATHOLIC CHURCH) (herein “St. John Baptist”), was and is a Roman Catholic Church, organized pursuant to the laws of the State of New York with its principal place of business at 1085 Englewood Avenue, Buffalo, NY 14223. At all relevant times, the Roman Catholic Bishop of Buffalo, New York was the President of St. John Baptist, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. John Baptist.

14. At all relevant times, Defendant BLESSED SACRAMENT CENTER OF EUCHARISTIC WORSHIP, INC. (a/k/a BLESSED SACRAMENT CHURCH) (herein “Blessed Sacrament”) was a Roman Catholic Church, organized pursuant to the laws of the State of New York, and which operated at all relevant times in Erie County, New York, with its principal place of business at 1029 Delaware Ave, Buffalo, NY 14209. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of Blessed Sacrament, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of Blessed Sacrament.

15. At all relevant times, Defendant ST. TERESA’S ROMAN CATHOLIC CHURCH SOCIETY OF AKRON, N.Y. (a/k/a ST. TERESA ROMAN CATHOLIC CHURCH) (herein “St. Teresa”) was a Roman Catholic Church, organized pursuant to the laws of the State of New York, and which operated at all relevant times in Erie County, New York, with its

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principal place of business at 1974 Seneca St., Buffalo, NY 14210. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Teresa, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Teresa.

16. At all relevant times, Defendant ROMAN CATHOLIC CHURCH OF ST. MARY'S (a/k/a ST. MARY'S ROMAN CATHOLIC CHURCH/ST. ISADORES EAST OTTO) (herein "St. Mary's") was a Roman Catholic Church, organized pursuant to the laws of the State of New York, and which operated at all relevant times in Cattaraugus County, New York, with its principal place of business at 36 Washington St., Cattaraugus, NY 14719. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Mary's, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Mary's.

17. At all relevant times, Defendants St. Charles, St. John, St. John Baptist, Blessed Sacrament, St. Teresa, and St. Mary's were and/or are still under the direct authority, control, and province of the Diocese of Buffalo.

FACTUAL ALLEGATIONS

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

19. Ducette was ordained a Roman Catholic priest in approximately 1962.

20. At the time he sexually abused Plaintiff Ducette was employed by the Defendant St. Charles and under the direct supervision, employ, and control of the Defendant St. Charles, in conjunction with the Diocese of Buffalo.

21. From approximately 1962 to 1963, Ducette served as a missionary at Defendant St. Mary's. From approximately 1963 to approximately 1969, Ducette served as a priest at Defendant St. Teresa. From approximately 1969 to approximately 1971, Ducette served as a

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parochial vicar at Defendant Blessed Sacrament. From approximately 1971 to approximately 1978, Ducette served as a parochial vicar at Defendant St. John Baptist. From approximately 1978 to approximately 1985, Ducette served as a pastor at Defendant St. Charles. These Defendants each negligently retained Ducette with knowledge of his propensity for the type of behavior which resulted in Plaintiff's injuries, and did not take steps to prevent his abuse of minors or to report him to the authorities.

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

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

24. At all relevant times, Plaintiff was a parishioner of St. Charles.

25. Ducette was assigned to the position of priest at St. Charles. His duties included interacting with children, including altar boys, students, and children attending school and services, and participating in the sacraments.

26. In the performance of his duties, Defendants authorized Ducette to be alone with minor boys, including Plaintiff, and to have unfettered and unsupervised access to them on Defendants' property.

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27. Defendants required parishioners and students, like Plaintiff, to accept and obey guidance, discipline, and instruction from Ducette and other clergy members.

28. By assigning Ducette to the role of a priest/pastor, Defendants gave Ducette complete unfettered access to minors, including Plaintiff, and empowered him to groom, guide, discipline, travel with, and otherwise exercise complete authority over minors.

29. Plaintiff was raised as a Catholic, and at all relevant times had developed a reverence, respect, and/or fear for the Catholic Church and its clergy, including Ducette.

30. In or about 1983, at approximately 12 years old, Ducette, acting in his capacity as priest/pastor, and in furtherance of the business of Defendants, used his position as priest to gain the confidence and trust of Plaintiff to manipulate and/or coerce Plaintiff into gratifying his sexual desires.

31. On multiple occasions, spanning several years, Ducette engaged in unpermitted, forcible, and harmful sexual contact with Plaintiff on church grounds and elsewhere.

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

33. Plaintiff's relationship to Defendants as a vulnerable child and parishioner, and the culture of the Catholic Church which Defendants endorsed, put pressure on Plaintiff not to report Ducette's abuse or threats.

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

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35. 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 Ducette posed to Plaintiff.

36. Prior to the time of Plaintiff's abuse by Ducette, 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.

37. The sexual abuse of Plaintiff by Ducette was foreseeable.

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

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

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

41. 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

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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 these Defendants affirmatively assumed a position of empowerment over Plaintiff.

42. 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.

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

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

45. 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.

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

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

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

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

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50. Defendants knew or disregarded the substantial probability that Ducette would cause severe emotional distress to Plaintiff.

51. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and continues to suffer loss of spirituality; has suffered and will continue to suffer loss of earnings and earning capacity; has incurred and will in the future incur expenses for medical and psychological treatment, and was otherwise damaged in an amount that exceeds the jurisdictional limit of the lower courts of this State.

52. 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

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

54. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Ducette were not fit to work with or around children.

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

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56. Defendants negligently retained Ducette with knowledge of his propensity for the type of behavior which resulted in Plaintiff's injuries.

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

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

59. Defendants were negligent and did not use reasonable care in their supervision and direction of Ducette, 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 Ducette posed a threat of sexual abuse to minors; allowed the misconduct describe above to occur and continue; failed to investigate Ducette dangerous activities and remove him from their premises; and Defendants were otherwise negligent.

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

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

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62. Defendants' aforesaid actions were willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of 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, in an amount that exceeds the jurisdictional limit of the lower courts of this State, together with interest and costs.

SECOND CAUSE OF ACTION

NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

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

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

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

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68. At all relevant times, Defendants affirmatively and/or impliedly represented to minor children, their families and the general public that clergy, including Ducette, 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.

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

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

71. 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.

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

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

74. 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

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and well-being of children, and to the fact that Defendants were knowingly subjecting children in their charge, including Plaintiff, to sexual crimes.

75. Defendants' aforesaid actions were negligent, reckless, willful and wanton in their disregard for the rights and safety of children, including 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 the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount to be determined at trial, in an amount that exceeds the jurisdictional limit of the lower courts of this State, together with interest and costs.

THIRD CAUSE OF ACTION

PREMISES LIABILITY

(only as to Defendant St. Charles and St. John)

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

79. At all relevant times, Defendants St. Charles owned, operated, and /or controlled the premises known as St. Charles, including the areas where the sexual abuse of Plaintiff occurred.

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

81. 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 parishioners, like Plaintiff, whose presence was reasonably anticipated.

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82. Defendants willfully, recklessly, and negligently failed to provide a reasonably safe premise that was free from the presence of sexual predators and/or the assault by the occupants of the premises, including Ducette. Defendants thereby breached their duty of care of Plaintiff.

83. 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.

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

FOURTH CAUSE OF ACTION

BREACH OF STATUTORY DUTIES TO REPORT

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

86. 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.

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

88. 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.

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

FIFTH CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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

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

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

93. Defendants knew or disregarded the substantial probability that Frs. Sclafani and Magee would cause severe emotional distress to Plaintiff.

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

95. 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.

SIXTH CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY

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

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97. 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 fiduciary duty to act in the best interests of Plaintiff.

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

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

100. 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.

101. 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.

SEVENTH CAUSE OF ACTION

BREACH OF DUTY IN LOCO PARENTIS

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

103. 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.

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

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105. 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.

106. 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.

EIGHTH CAUSE OF ACTION

AIDING AND ABETTING FRAUD

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

108. The Roman Catholic Bishop and Vicar General of Buffalo fraudulently concealed from the parishioners of Defendants that would have shown that Ducette was a danger to minor children.

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

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

111. To assist Buffalo's Roman Catholic Bishop and Vicar General in fraudulently concealing the information about Ducette, Defendants failed to disclose Ducette's propensity to sexually abuse minors, and intentionally concealed knowledge of Ducette's inappropriate and

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unlawful sexual activities, knowing that minor children, including Plaintiff, in other parishes where Ducette was assigned would rely upon this material omission.

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

113. By reason of the foregoing, Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

WHEREFORE, Plaintiff prays for judgment as follows:

- a. Awarding Plaintiff compensatory damages for his injuries, in an amount to be determined at trial;
- b. Awarding Plaintiff punitive damages for his injuries, in an amount to be determined at trial;
- c. Awarding Plaintiff prejudgment interest, to the extent available by law;
- d. Awarding Plaintiffs costs and disbursements and attorneys' fees to the extent available by law; and
- e. Awarding such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

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

Dated: November 19, 2020

Yours, etc.

PHILLIPS & PAOLICELLI, LLP

/s/ Yitzchak Fogel
By: Diane Paolicelli

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Attorneys for Plaintiff

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

<p>PB-54 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ROMAN CATHOLIC CHURCH OF ST. CHARLES BORROMEIO (a/k/a ST. CHARLES BORROMEIO CHURCH), LASALLE CHURCH OF CHRIST (a/k/a ST. JOHN DE LASALLE ROMAN CATHOLIC PARISH), ST. JOHN BAPTIST CHURCH, NORTH BUFFALO (a/k/a ST. JOHN THE BAPTIST ROMAN CATHOLIC CHURCH), BLESSED SACRAMENT CENTER OF EUCHARISTIC WORSHIP, INC. (a/k/a BLESSED SACRAMENT CHURCH), ST. TERESA'S ROMAN CATHOLIC CHURCH SOCIETY OF AKRON, N.Y. (a/k/a ST. TERESA ROMAN CATHOLIC CHURCH), ROMAN CATHOLIC CHURCH OF ST. MARY'S (a/k/a ST. MARY'S ROMAN CATHOLIC CHURCH/ST. ISADORES EAST OTTO),</p> <p style="text-align: center;">Defendants.</p>

SUMMONS

Index No.:

Plaintiff designates the County of Erie as the place of trial. The basis of venue is Plaintiff and Defendants' residence.

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
November 19, 2020

Phillips & Paolicelli, LLP

{00056331}

Attorneys for Plaintiffs

/s/ Yitzchak Fogel
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Attorneys for Plaintiff

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5604 Lindbergh Ave
Niagara Falls, NY 14304

LASALLE CHURCH OF CHRIST (a/k/a ST. JOHN DE LASALLE ROMAN CATHOLIC PARISH)
8477 Buffalo Ave
Niagara Falls NY 14304

ST. JOHN BAPTIST CHURCH, NORTH BUFFALO (a/k/a ST. JOHN THE BAPTIST ROMAN CATHOLIC CHURCH)
1085 Englewood Avenue
Buffalo, NY 14223

BLESSED SACRAMENT CENTER OF EUCHARISTIC WORSHIP, INC. (a/k/a BLESSED SACRAMENT CHURCH)
1029 Delaware Ave
Buffalo, NY 14209

ST. TERESA'S ROMAN CATHOLIC CHURCH SOCIETY OF AKRON, N.Y. (a/k/a ST. TERESA ROMAN CATHOLIC CHURCH)

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1974 Seneca St.
Buffalo, NY 14210

ROMAN CATHOLIC CHURCH OF ST. MARY'S (a/k/a ST. MARY'S ROMAN CATHOLIC
CHURCH/ST. ISADORE'S EAST OTTO)
36 Washington St
Cattaraugus, NY 14719

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

PB-54 Doe,

Plaintiff,

vs.

COMPLAINT

Index No.:

ROMAN CATHOLIC CHURCH OF ST. CHARLES BORROMEO (a/k/a ST. CHARLES BORROMEO CHURCH), LASALLE CHURCH OF CHRIST (a/k/a ST. JOHN DE LASALLE ROMAN CATHOLIC PARISH), ST. JOHN BAPTIST CHURCH, NORTH BUFFALO (a/k/a ST. JOHN THE BAPTIST ROMAN CATHOLIC CHURCH), BLESSED SACRAMENT CENTER OF EUCHARISTIC WORSHIP, INC. (a/k/a BLESSED SACRAMENT CHURCH), ST. TERESA’S ROMAN CATHOLIC CHURCH SOCIETY OF AKRON, N.Y. (a/k/a ST. TERESA ROMAN CATHOLIC CHURCH), ROMAN CATHOLIC CHURCH OF ST. MARY’S (a/k/a ST. MARY’S ROMAN CATHOLIC CHURCH/ST. ISADORES EAST OTTO),

Defendants.

Plaintiff PB-54 Doe, by and through his undersigned attorneys, as and for his Complaint, alleges as follows:

NATURE OF THE ACTION

1. This action is brought pursuant to the Child Victims Act, codified at CPLR 214-g.
2. Plaintiff PB-54 Doe was repeatedly sexually abused and assaulted by pastor John Ducette (hereinafter “Ducette”), who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants ROMAN CATHOLIC CHURCH OF ST. CHARLES BORROMEO (a/k/a ST. CHARLES BORROMEO CHURCH), LASALLE CHURCH OF

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CHRIST (a/k/a ST. JOHN DE LASALLE ROMAN CATHOLIC PARISH), ST. JOHN BAPTIST CHURCH, NORTH BUFFALO (a/k/a ST. JOHN THE BAPTIST ROMAN CATHOLIC CHURCH), BLESSED SACRAMENT CENTER OF EUCHARISTIC WORSHIP, INC. (a/k/a BLESSED SACRAMENT CHURCH), ST. TERESA'S ROMAN CATHOLIC CHURCH SOCIETY OF AKRON, N.Y. (a/k/a ST. TERESA ROMAN CATHOLIC CHURCH), ROMAN CATHOLIC CHURCH OF ST. MARY'S (a/k/a ST. MARY'S ROMAN CATHOLIC CHURCH/ST. ISADORES EAST OTTO) (collectively herein "Defendants"), in conjunction with the Diocese of Buffalo, N.Y. (herein "Diocese").

3. In or about 1983, when Plaintiff was about 12 years old, he was abused by Ducette while a parishioner at ROMAN CATHOLIC CHURCH OF ST. CHARLES BORROMEO (a/k/a ST. CHARLES BORROMEO CHURCH) (herein "St. Charles").

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

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

6. In fact, the Roman Catholic Church, the Diocese of Buffalo, and Defendants have long known that substantial numbers of priests and nuns throughout history, and up to and including the present day, violate their vows or promises of celibacy and otherwise misbehave by soliciting sexual contact with parishioners and others, in particular with children 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.

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7. Notwithstanding this knowledge, and the fiduciary duty and relationship of trust owed to parishioners and their children, Defendants negligently, recklessly, and willfully failed to protect Plaintiff from sexual abuse by Ducette, permitted the abuse to occur, failed to supervise Ducette, failed to timely investigate Ducette's misconduct, failed to train minor parishioners, parents, clergy members and/or adult staff about the risk of sexual abuse in their institution, to identify signs of sexual abuse, grooming behaviors, or sexual predators, and to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused, acted to protect their own self-interest to the detriment of innocent children, and are otherwise responsible for Ducette's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

PARTIES

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

9. Plaintiff was born in 1971.

10. At all relevant times, Defendant St. Charles was a Roman Catholic Church, organized pursuant to the laws of the State of New York. According to publicly available information, St. Charles is no longer in operation. It was last operated in Niagara County, New York, with its principal place of business at 5604 Lindbergh Ave, Niagara Falls, NY 14304. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Charles, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Charles.

11. At all relevant times, St. Charles and/or the Diocese of Buffalo, N.Y., owned the premises where Defendant St. Charles was located.

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12. Upon information and belief, LASALLE CHURCH OF CHRIST (a/k/a ST. JOHN DE LASALLE ROMAN CATHOLIC PARISH) (herein “St. John”), located at 8477 Buffalo Ave Niagara Falls NY 14304, is the successor in interest and holder of the liabilities of St. Charles.

13. At all relevant times, Defendant ST. JOHN BAPTIST CHURCH, NORTH BUFFALO (a/k/a ST. JOHN THE BAPTIST ROMAN CATHOLIC CHURCH) (herein “St. John Baptist”), was and is a Roman Catholic Church, organized pursuant to the laws of the State of New York with its principal place of business at 1085 Englewood Avenue, Buffalo, NY 14223. At all relevant times, the Roman Catholic Bishop of Buffalo, New York was the President of St. John Baptist, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. John Baptist.

14. At all relevant times, Defendant BLESSED SACRAMENT CENTER OF EUCHARISTIC WORSHIP, INC. (a/k/a BLESSED SACRAMENT CHURCH) (herein “Blessed Sacrament”) was a Roman Catholic Church, organized pursuant to the laws of the State of New York, and which operated at all relevant times in Erie County, New York, with its principal place of business at 1029 Delaware Ave, Buffalo, NY 14209. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of Blessed Sacrament, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of Blessed Sacrament.

15. At all relevant times, Defendant ST. TERESA’S ROMAN CATHOLIC CHURCH SOCIETY OF AKRON, N.Y. (a/k/a ST. TERESA ROMAN CATHOLIC CHURCH) (herein “St. Teresa”) was a Roman Catholic Church, organized pursuant to the laws of the State of New York, and which operated at all relevant times in Erie County, New York, with its

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principal place of business at 1974 Seneca St., Buffalo, NY 14210. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Teresa, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Teresa.

16. At all relevant times, Defendant ROMAN CATHOLIC CHURCH OF ST. MARY'S (a/k/a ST. MARY'S ROMAN CATHOLIC CHURCH/ST. ISADORES EAST OTTO) (herein "St. Mary's") was a Roman Catholic Church, organized pursuant to the laws of the State of New York, and which operated at all relevant times in Cattaraugus County, New York, with its principal place of business at 36 Washington St., Cattaraugus, NY 14719. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Mary's, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Mary's.

17. At all relevant times, Defendants St. Charles, St. John, St. John Baptist, Blessed Sacrament, St. Teresa, and St. Mary's were and/or are still under the direct authority, control, and province of the Diocese of Buffalo.

FACTUAL ALLEGATIONS

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

19. Ducette was ordained a Roman Catholic priest in approximately 1962.

20. At the time he sexually abused Plaintiff Ducette was employed by the Defendant St. Charles and under the direct supervision, employ, and control of the Defendant St. Charles, in conjunction with the Diocese of Buffalo.

21. From approximately 1962 to 1963, Ducette served as a missionary at Defendant St. Mary's. From approximately 1963 to approximately 1969, Ducette served as a priest at Defendant St. Teresa. From approximately 1969 to approximately 1971, Ducette served as a

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parochial vicar at Defendant Blessed Sacrament. From approximately 1971 to approximately 1978, Ducette served as a parochial vicar at Defendant St. John Baptist. From approximately 1978 to approximately 1985, Ducette served as a pastor at Defendant St. Charles. These Defendants each negligently retained Ducette with knowledge of his propensity for the type of behavior which resulted in Plaintiff's injuries, and did not take steps to prevent his abuse of minors or to report him to the authorities.

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

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

24. At all relevant times, Plaintiff was a parishioner of St. Charles.

25. Ducette was assigned to the position of priest at St. Charles. His duties included interacting with children, including altar boys, students, and children attending school and services, and participating in the sacraments.

26. In the performance of his duties, Defendants authorized Ducette to be alone with minor boys, including Plaintiff, and to have unfettered and unsupervised access to them on Defendants' property.

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27. Defendants required parishioners and students, like Plaintiff, to accept and obey guidance, discipline, and instruction from Ducette and other clergy members.

28. By assigning Ducette to the role of a priest/pastor, Defendants gave Ducette complete unfettered access to minors, including Plaintiff, and empowered him to groom, guide, discipline, travel with, and otherwise exercise complete authority over minors.

29. Plaintiff was raised as a Catholic, and at all relevant times had developed a reverence, respect, and/or fear for the Catholic Church and its clergy, including Ducette.

30. In or about 1983, at approximately 12 years old, Ducette, acting in his capacity as priest/pastor, and in furtherance of the business of Defendants, used his position as priest to gain the confidence and trust of Plaintiff to manipulate and/or coerce Plaintiff into gratifying his sexual desires.

31. On multiple occasions, spanning several years, Ducette engaged in unpermitted, forcible, and harmful sexual contact with Plaintiff on church grounds and elsewhere.

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

33. Plaintiff's relationship to Defendants as a vulnerable child and parishioner, and the culture of the Catholic Church which Defendants endorsed, put pressure on Plaintiff not to report Ducette's abuse or threats.

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

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35. 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 Ducette posed to Plaintiff.

36. Prior to the time of Plaintiff's abuse by Ducette, 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.

37. The sexual abuse of Plaintiff by Ducette was foreseeable.

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

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

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

41. 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

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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 these Defendants affirmatively assumed a position of empowerment over Plaintiff.

42. 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.

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

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

45. 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.

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

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

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

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

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50. Defendants knew or disregarded the substantial probability that Ducette would cause severe emotional distress to Plaintiff.

51. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and continues to suffer loss of spirituality; has suffered and will continue to suffer loss of earnings and earning capacity; has incurred and will in the future incur expenses for medical and psychological treatment, and was otherwise damaged in an amount that exceeds the jurisdictional limit of the lower courts of this State.

52. 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

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

54. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Ducette were not fit to work with or around children.

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

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56. Defendants negligently retained Ducette with knowledge of his propensity for the type of behavior which resulted in Plaintiff's injuries.

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

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

59. Defendants were negligent and did not use reasonable care in their supervision and direction of Ducette, 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 Ducette posed a threat of sexual abuse to minors; allowed the misconduct describe above to occur and continue; failed to investigate Ducette dangerous activities and remove him from their premises; and Defendants were otherwise negligent.

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

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

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62. Defendants' aforesaid actions were willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of 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, in an amount that exceeds the jurisdictional limit of the lower courts of this State, together with interest and costs.

SECOND CAUSE OF ACTION

NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

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

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

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

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68. At all relevant times, Defendants affirmatively and/or impliedly represented to minor children, their families and the general public that clergy, including Ducette, 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.

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

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

71. 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.

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

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

74. 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

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and well-being of children, and to the fact that Defendants were knowingly subjecting children in their charge, including Plaintiff, to sexual crimes.

75. Defendants' aforesaid actions were negligent, reckless, willful and wanton in their disregard for the rights and safety of children, including 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 the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount to be determined at trial, in an amount that exceeds the jurisdictional limit of the lower courts of this State, together with interest and costs.

THIRD CAUSE OF ACTION

PREMISES LIABILITY

(only as to Defendant St. Charles and St. John)

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

79. At all relevant times, Defendants St. Charles owned, operated, and /or controlled the premises known as St. Charles, including the areas where the sexual abuse of Plaintiff occurred.

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

81. 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 parishioners, like Plaintiff, whose presence was reasonably anticipated.

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82. Defendants willfully, recklessly, and negligently failed to provide a reasonably safe premise that was free from the presence of sexual predators and/or the assault by the occupants of the premises, including Ducette. Defendants thereby breached their duty of care of Plaintiff.

83. 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.

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

FOURTH CAUSE OF ACTION

BREACH OF STATUTORY DUTIES TO REPORT

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

86. 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.

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

88. 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.

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

FIFTH CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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

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

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

93. Defendants knew or disregarded the substantial probability that Frs. Sclafani and Magee would cause severe emotional distress to Plaintiff.

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

95. 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.

SIXTH CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY

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

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97. 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 fiduciary duty to act in the best interests of Plaintiff.

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

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

100. 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.

101. 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.

SEVENTH CAUSE OF ACTION

BREACH OF DUTY IN LOCO PARENTIS

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

103. 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.

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

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105. 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.

106. 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.

EIGHTH CAUSE OF ACTION

AIDING AND ABETTING FRAUD

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

108. The Roman Catholic Bishop and Vicar General of Buffalo fraudulently concealed from the parishioners of Defendants that would have shown that Ducette was a danger to minor children.

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

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

111. To assist Buffalo's Roman Catholic Bishop and Vicar General in fraudulently concealing the information about Ducette, Defendants failed to disclose Ducette's propensity to sexually abuse minors, and intentionally concealed knowledge of Ducette's inappropriate and

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unlawful sexual activities, knowing that minor children, including Plaintiff, in other parishes where Ducette was assigned would rely upon this material omission.

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

113. By reason of the foregoing, Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

WHEREFORE, Plaintiff prays for judgment as follows:

- a. Awarding Plaintiff compensatory damages for his injuries, in an amount to be determined at trial;
- b. Awarding Plaintiff punitive damages for his injuries, in an amount to be determined at trial;
- c. Awarding Plaintiff prejudgment interest, to the extent available by law;
- d. Awarding Plaintiffs costs and disbursements and attorneys' fees to the extent available by law; and
- e. Awarding such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

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

Dated: November 19, 2020

Yours, etc.

PHILLIPS & PAOLICELLI, LLP

/s/ Yitzchak Fogel

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