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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
950203/2020	Gentile, Fr. Gennaro	3	Archdiocese of New York & St. Eugene Church & School	DOE, PC-4

STATE OF NEW YORK
SUPREME COURT: COUNTY OF NEW YORK

<p>PC-4 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>THE ARCHDIOCESE OF NEW YORK, CHURCH OF ST. EUGENE, and ST. EUGENE ELEMENTARY SCHOOL,</p> <p style="text-align: center;">Defendants.</p>
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SUMMONS

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

TO THE ABOVE NAMED DEFENDANTS:

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

DATED: New York, New York
May 29, 2020

Phillips & Paolicelli, LLP
Attorneys for Plaintiffs

Michael DeRuve ^{AB}

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TO:

ARCHDIOCESE OF NEW YORK

1011 First Avenue
New York, NY 10022

**CHURCH OF ST. EUGENE and
ST. EUGENE ELEMENTARY SCHOOL**

707 Tuckahoe Road
Yonkers, NY 10710

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF NEW YORK

<p>PC-4 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>THE ARCHDIOCESE OF NEW YORK, CHURCH OF ST. EUGENE, and ST. EUGENE ELEMENTARY SCHOOL,</p> <p style="text-align: center;">Defendants.</p>
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COMPLAINT

Index No.:

Plaintiff PC-4 Doe, by and through his undersigned attorneys, as and for his Complaint, alleges as follows:

NATURE OF THE ACTION

1. This action is brought pursuant to the Child Victims Act, codified at CPLR 214-g.
2. Plaintiff PC-4 Doe was repeatedly sexually abused and assaulted by Father Gennaro Gentile (herein “Fr. Gentile”), who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants The Archdiocese of New York, Church of St. Eugene, and St. Eugene Elementary School (herein collectively “Defendants”).
3. From approximately 1983 to 1984, when Plaintiff was about thirteen years old, he was abused by Fr. Gentile.

4. The abuse at issue took place while Plaintiff was an altar boy and student at the Church of St. Eugene and St. Eugene Elementary School in Yonkers, NY where the abuser, Fr. Gentile was a priest.¹

5. Despite years of refusal to publically address rampant child abuse by priests, Defendant the Archdiocese of New York recently published a long list clergy in their employ who were credibly accused of molesting children. The list includes Fr. Gentile. The Archdiocese of New York has settled claims alleging abuse by Fr. Gentile.²

6. In fact, the Roman Catholic Church and Defendants have long known that substantial numbers of priests throughout history, and up to and including the present day, 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.

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 Fr. Gentile, permitted the abuse to occur, failed to supervise Fr. Gentile, failed to timely investigate Fr. Gentile's misconduct, failed to educate and train minors, parents, clergy members, and/or adult staff about the risk of sexual abuse in their institution and facilities, to identify signs of sexual abuse, grooming behaviors, or sexual predators, and to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused, acted to protect their own self-interest to the detriment of innocent

¹ There is at least one other CVA complaint against St. Eugene Church, which alleges abuse that predates Plaintiff's abuse. See *William Young v. Archdiocese of N.Y.*, et al., Index No. 950015/2019.

² Jorge Fitz-Gibbon, *Archdiocese pay \$750,000 to victims of former Croton priest Gennaro 'Jerry' Gentile*, LOHUD (Dec. 12, 2017), <https://www.lohud.com/story/news/local/westchester/2017/12/12/archdiocese-pays-750-k-victims-croton-priest-gennaro-jerry-gentile/941749001/>

children, and are otherwise responsible for Fr. Gentile’s sexual assault of Plaintiff, and Plaintiff’s consequential injuries and damages.

PARTIES

8. Plaintiff is an individual residing in New Haven County, Connecticut.

9. Plaintiff was born in 1970.

10. 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.

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

12. At all relevant times, Defendant Church of St. Eugene (herein “St. Eugene Church”) is a Roman Catholic Church, and not-for-profit corporation organized pursuant to the laws of the State of New York, and which operates at all relevant times in Westchester County, New York, with its principal place of business at 707 Tuckahoe Rd, Yonkers, NY 10710.

13. At all relevant times, Defendant St. Eugene Church was and still is under the direct authority, control and province of the Archdiocese.

14. At all relevant times, Defendant St. Eugene Elementary School (herein “St. Eugene School”) was and is Roman Catholic Church, and not-for-profit corporation organized pursuant to the laws of the State of New York, and which operates at all relevant times in Westchester County, New York, with its principal place of business at 707 Tuckahoe Rd, Yonkers, NY 10710.

15. At all relevant times, the Archdiocese and St. Eugene Church owned the premises where St. Eugene School was located.

16. At all relevant times, Defendants oversaw, managed controlled, directed and operated St. Eugene School.

17. At all relevant times, Defendants individually and collectively oversaw, managed, controlled, directed and assigned priests, brothers, and other clergy to work in parishes, churches and schools of the Archdiocese, including St. Eugene School.

FACTUAL ALLEGATIONS

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

Father Gennaro “Jerry” Gentile

19. Fr. Gennaro “Jerry” Gentile was ordained in or about 1971.

20. In the same year he was ordained, Rev. Richard O’Gorman, who was Fr. Gentile’s mentor, contacted the field director for education at the seminary in Yonkers, New York, to express his concerns about Fr. Gentile. Rev. O’Gorman criticized Fr. Gentile’s lack of professional distance from his flock, having numbers of children around him without considering what others might think, and taking groups of children to various locations without telling anyone beforehand.³

21. Despite these criticisms and red flags, from approximately 1971 to 1976, Defendants allowed Fr. Gentile to act as a priest at St. Mary’s parish in Poughkeepsie, NY.

22. While a priest at St. Mary’s parish, Fr. Gentile allegedly abused multiple minor parishioners on church grounds and during overnight camping trips.⁴

³ Heidi Evans and Richard T. Pienciak, *Twisted Journey of a Problem Priest*, DAILY NEWS (March 27, 2002).

⁴ *Id.*

23. In or about 1976, Fr. Gentile was transferred to St. Denis parish in Hopewell Junction, New York. During his time at St. Denis, Monsignor Joseph Meehan witnessed Fr. Gentile frequently taking minor boys on overnight trips, driving minor boys in his van, and having minor boys in the rectory.

24. In or about 1982, Fr. Gentile was transferred to St. Mary's parish in Marlboro, New York. During his time there, the pastor made complaints to Rev. O'Gorman in Poughkeepsie about Fr. Gentile purchasing an old school bus to transport minor children, although the pastor did not want him to. Fr. Gentile was only assigned to St. Mary's for approximately one year before being transferred again.

25. In or about the fall of 1983, Fr. Gentile was transferred to St. Eugene Church in Yonkers, New York, where he abused Plaintiff. Within approximately 9 months, Fr. Gentile was again transferred. As is detailed later in this complaint, St. Eugene Church had prior actual notice of Fr. Gentile's inappropriate behavior with minor boys on more than one occasion.

26. Despite this actual notice, in or about 1984, Fr. Gentile was allowed to continue acting as a priest and was transferred to St. Charles in Gardiner, New York. After only one month, he was transferred to Immaculate Conception Church in Tuckahoe, New York, where he served for three years.

27. In or about 1987, Fr. Gentile was transferred to Holy Name of Mary in Croton-in-Hudson, New York, where he served until 2000. During his thirteen years at Holy Name of Mary, Fr. Gentile continued to have frequent overnight gatherings with minor boys at his retreat in upstate New York and in the rectory of Holy Name of Mary.⁵

28. In or about 1995, Fr. Ron Lemmert, who was a priest assigned to Holy Name of Mary during this time period, wrote a letter to the Archdiocese of New York and alerted them of

⁵ *Id.*

Fr. Gentile's overnight gatherings with minor boys in the rectory of the church and at his retreat.

Fr. Lemmert begged the Archdiocese to investigate Fr. Gentile.⁶

29. In or about October 1996, a minor boy came forward alleging sexual abuse by Fr. Gentile during an overnight at his retreat. The Archdiocese had a meeting with the boy's mother, who made a formal complaint against Fr. Gentile.⁷

30. In or about November 1996, Fr. Lammert wrote another letter to the Archdiocese expressing additional concerns about Fr. Gentile's frequent overnight unchaperoned trips with minor boys. According to Lamment, he was told that Gentile would no longer be permitted to take unchaperoned trips with minor boys, that he would get counseling, and attend group therapy for sex offenders. However, Fr. Gentile would remain a priest.⁸

31. In or about 1997, a lawsuit accused Fr. Gentile of abusing two minor boys, who were brothers, in the 1990s at Fr. Gentile's retreat and at the boys' home.⁹

32. Subsequently, despite all of the red flags, complaints, and actual notice given to the Archdiocese, it not only allowed Fr. Gentile to continue to act as a priest, but the Archdiocese publicly supported Fr. Gentile, stated there was no substance to the lawsuit, and there had been no complaints made against Fr. Gentile in the past. Further, Fr. Lemment was dismissed from Holy Name of Mary, while Fr. Gentile was allowed to stay for an additional three years.¹⁰

33. In 2002, over 30 years after Fr. O'Gorman and others expressed concerns of Fr. Gentile's interactions with minor boys, as well as other countless warnings, red flags, and

⁶ *Id.*

⁷ Heidi Evans and Ricahrd T. Pienciak, *Problem Priest Had Church on His Side*, DAILY NEWS (March 28, 2002).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

complaints made against him, Fr. Gentile was finally removed from ministry and, in 2005, Fr. was defrocked by the Vatican in Rome.¹¹

Plaintiff's Abuse By Fr. Gentile

34. At all relevant times, Fr. Gentile was a Roman Catholic priest employed by Defendants.

35. At all relevant times, Fr. Gentile was under the direct supervision, employ, and control of the Defendants.

36. During the time that Plaintiff was a student and altar boy attending St. Eugene Church and St. Eugene School, Defendants assigned Fr. Gentile to be a priest at St. Eugene Church.

37. By assigning Fr. Gentile to the role of priest, Defendants gave Fr. Gentile complete access to minors, including Plaintiff, and empowered him to discipline, punish, reprimand, chastise, expel and otherwise exercise complete authority over minors.

38. Fr. Gentile's duties and responsibilities included supervising, interacting with, mentoring and counseling minor boys.

39. In the performance of their duties, Defendants authorized Fr. Gentile to be alone with minor boys, including Plaintiff, and to have unfettered and unsupervised access to them on Defendants' property.

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

¹¹ Melissa Klein, *Croton-on-Hudson priest removed from parish*, JOURNAL NEWS (April 7, 2002) and Gery Stern, *Westchester Pastors Charged with Sexual Abuse of Minors*, JOURNAL NEWS (Sept. 2, 2005).

41. Defendants required altar boys, like Plaintiff, to accept instruction from Fr. Gentile and other clergy and teachers, and to obey their instruction.

42. 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 Fr. Gentile.

43. In approximately 1983, when Plaintiff was about 13 years old, Fr. Gentile, acting in his capacity as priest, and in furtherance of the business of Defendants, used his position to gain the trust and friendship of Plaintiff and his family so he could act on his sexual attraction to minor boys.

44. After meeting Plaintiff, an altar boy at St. Eugene Church, Fr. Gentile began giving Plaintiff special attention and/or praise; bringing him to professional sporting events; giving Plaintiff hugs to condition him to being touched; bringing Plaintiff to his room in the rectory; and inviting him to sleepovers at his retreat and the rectory. These acts were done to gain Plaintiff's trust so he would overlook or accept the sexual acts forced upon him by Fr. Gentile.

45. On multiple occasions, on the premises of St. Eugene Church, Fr. Gentile engaged in unpermitted, forcible and harmful sexual contact with Plaintiff in violation of Article 130 of New York Penal Law.

46. Further, on one of these occasions, Fr. Thomas O'Keefe, another priest assigned to St. Eugene Church, discovered Plaintiff and Fr. Gentile sitting on Fr. Gentile's bed in the rectory, while Fr. Gentile was engaging in unpermitted, forcible and harmful sexual contact with Plaintiff. Fr. O'Keefe kicked Plaintiff out of the rectory and scolded Fr. Gentile.

47. Fr. O'Keefe did not report Fr. Gentile's unlawful behavior, or if he did, the report went unheeded by Defendants. Thereafter, Fr. Gentile again engaged in unpermitted, forcible and harmful sexual contact with Plaintiff.

48. In or about 1984, Plaintiff's mother discovered that Fr. Gentile had purposely exposed his genitals to Plaintiff and his brother. Plaintiff's mother made a complaint about Fr. Gentile to St. Eugene Church. Shortly after this complaint was made, Fr. Gentile was transferred to another church.

49. Plaintiff's relationship to Defendants as a vulnerable child, altar boy, and student, and the culture of the Catholic church which Defendants endorsed, put pressure on Plaintiff not to report Fr. Gentile's abuse.

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

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

52. Upon information and belief, not only were Defendants Archdiocese, St. Eugene Church and St. Eugene School aware of sexual abuse of children, but it participated in covering up such heinous acts by moving errant priests and clergy members, such as Fr. Gentile, from assignment to assignment, thereby putting Plaintiff and other children in harm's way.

53. Defendants owed Plaintiff a duty of reasonable care because they had superior knowledge about the risks their facilities posed to minor children, the risk of abuse in general, and the risks that Fr. Gentile posed to Plaintiff.

54. Prior to the time of Plaintiff's abuse by Fr. Gentile, Defendants knew or should have known of numerous acts of sexual assault committed by clergy members within the

Archdiocese and elsewhere in the Roman Catholic church, and knew that there was a specific danger of child sex abuse for children in their institutions and programs.

55. The sexual abuse of Plaintiff by Fr. Gentile was foreseeable.

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

57. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited children and parents to send their children to St. Eugene School; 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 Fr. Gentile, as safe to work with and around minor boys, they encouraged parents and children to spend time with their agents; and/or authorized their agents, including Fr. Gentile, to spend time with, interact with, and recruit children.

58. Defendants owed Plaintiff a heightened, fiduciary duty of care because they held themselves out as being able to provide a safe and secure environment for children, including Plaintiff; Plaintiff's parents entrusted Plaintiff to Defendants' care, and expected that Plaintiff would be safe and properly supervised in an environment free from harm and abuse; Plaintiff was a vulnerable minor, and unable to protect himself; and Defendants affirmatively assumed a position of empowerment over Plaintiff.

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

60. 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 monetary limits of all courts of lower jurisdiction.

61. 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

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

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

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

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

66. At all relevant times Defendants had a duty to exercise due care in hiring, appointing, assigning, retention, supervision and direction of Fr. Gentile, so as to protect minor children, including Plaintiff, who were likely to come into contact with him, and/or under his

influence or supervision, and to ensure that Fr. Gentile did not use this assigned position to injure minors by sexual assault, contact or abuse.

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

68. Defendants were negligent and did not use reasonable care in their supervision and direction of Fr. Gentile, failed to monitor his activities, failed to oversee the manner in which he carried out the duties to which Defendants assigned him, even though they knew or should have known that Fr. Gentile posed a threat of sexual abuse to minors; allowed the misconduct describe above to occur and continue; failed to investigate Fr. Gentile's dangerous activities and remove him from their premises; and Defendants were otherwise negligent.

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

70. At all relevant times, Fr. Gentile acted in the course and scope of his employment with Defendants.

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

72. As a proximate and direct result of Fr. Gentile's sexual abuse and misconduct, Plaintiff suffered grave injury, including physical, 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 that exceed the jurisdictional limits of all lower courts, to be determined at trial, together with interest and costs.

SECOND CAUSE OF ACTION

NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

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

75. At all relevant times, Defendants affirmatively and/or impliedly represented to minor children, their families and the general public that clergy working in the Archdiocese, including Fr. Gentile, 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.

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

77. 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.

78. Defendants were negligent and did not use reasonable care in their training, if any, of clergy members and/or adult staff about the risk of sexual abuse in their institution and facilities, to identify signs of sexual abuse, grooming behaviors, or sexual predators, and to

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

79. Defendant Archdiocese maintained a policy and practice of covering up criminal activity committed by clergy members within the Archdiocese.

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

81. Defendant Archdiocese failed to report multiple allegations of sexual abuse by its employees, agents and representatives, to the proper authorities, thereby putting children at risk of sexual assault.

82. Upon information and belief, Defendants covered up acts of abuse by Fr. Gentile, and concealed facts concerning Fr. Gentile’s sexual misconduct from Plaintiff and his family.

83. It was not until April 2019 that Defendant Archdiocese publicly named Fr. Gentile as having been accused of sexual assault of a minor. Abuse by Fr. Gentile was determined to be eligible for compensation under the IRCP.

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

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

86. The conduct of Defendants as described herein was done with utter disregard as to the potential profound injuries which would ensue, and with depraved indifference to the health

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

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

88. 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.

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

THIRD CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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 Fr. Gentile 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.

FOURTH CAUSE OF ACTION

PREMISES LIABILITY

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

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

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

99. Defendants had a duty to see that the premises at which Plaintiff was rightfully present were in a reasonably safe condition for the intended use by students, like Plaintiff, whose presence was reasonably anticipated.

100. 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 Fr. Gentile. Defendants thereby breached their duty of care of Plaintiff.

101. Defendants knew or should have known, among other things, that Fr. Gentile posed an unreasonable risk to minor children, such as Plaintiff, on the premises of St. Eugene Church and St. Eugene School.

102. Plaintiff's injuries were foreseeable.

103. 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.

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

FIFTH CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY

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

106. 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.

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

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

109. 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.

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

SIXTH CAUSE OF ACTION

BREACH OF DUTY IN LOCO PARENTIS

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

112. 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.

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

114. 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.

115. 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 STATUTORY DUTIES TO REPORT

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

117. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420 and New York Educ. Law Art. 23-b, Defendants had a statutory duty to report reasonable suspicion of abuse of children in their care.

118. Defendants breached their statutory duty by knowingly and/or willingly failing to report reasonable suspicion of abuse by Fr. Gentile of children in their care.

119. 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.

120. 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 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

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

Dated: May 29, 2020

Yours, etc.

PHILLIPS & PAOLICELLI, LLP

Michael DeRube ^{Att}

By: Diane Paolicelli
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STATE OF NEW YORK
SUPREME COURT: COUNTY OF NEW YORK

<p>PC-4 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ARCHDIOCESE OF NEW YORK, CHURCH OF ST. EUGENE, and ST. EUGENE ELEMENTARY SCHOOL,</p> <p style="text-align: center;">Defendants.</p>
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Index No.:

STIPULATION

WHEREAS Plaintiff has filed this action pursuant to the Child Victims Act and has done so using the pseudonym “PC-4 DOE” and the caption “PC-4 DOE v. ARCHDIOCESE OF NEW YORK, CHURCH OF ST. EUGENE, and ST. EUGENE ELEMENTARY SCHOOL”; and

WHEREAS, although under the law the ARCHDIOCESE OF NEW YORK, CHURCH OF ST. EUGENE, and ST. EUGENE ELEMENTARY SCHOOL may object to Plaintiff’s use of a pseudonym, the undersigned Defendants agree to waive such objections pursuant to the terms set forth in this Stipulation;

Accordingly,

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned, that Defendants consent to permit Plaintiff to proceed under the pseudonym “PC-4 DOE” as used in the above caption; and

IT IS FURTHER HEREBY STIPULATION AND AGREED by and between the undersigned, that the Parties will comply with the terms and conditions of section III of Case Management Order No. 1 issued by Hon. George J. Silver, D.C.A.J., dated February 24, 2020.

IT IS FURTHER STIPULATED AND AGREED, by and between counsel for the respective parties, that counsels' signatures on this Stipulation via facsimile or email, and in counterpart, shall be deemed good and sufficient for all purposes. This Stipulation may be electronically filed with the Clerk of the Court without further notice.

Dated: June 22, 2020

PHILLIPS & PAOLICELLI, LLP

By: M. Michael DeRuve *ka*

Diane Paolicelli
Michael DeRuve
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SO ORDERED

J.S.C.