



Brian Hatrick Assignment History

Year	Assignment	Location
1979	Ordination	Buffalo NY
1979-83	Parochial Vicar, Our Lady of the Blessed Sacrament Church & School	Depew NY
1983-86	Parochial Vicar, Fourteen Holy Helpers Church & School	Gardenville NY
1986	Awaiting assignment	Whereabouts unknown
1986-2007	Parochial Vicar, St. Vincent Church	North Evans NY
2007-2015	Retired	Friendship NY
After 2015	Not listed in any ecclesiastical directories	Whereabouts unknown

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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. Faluszcak:

NYS UCS Case Number	Alleged Perpetrator	Defendant #	Defendants	Plaintiff
805197/2021	Hatrack, Fr. Brian	1	Our Lady of the Blessed Sacrament Church n/k/ a St. Martha Church	DOE, PB-3
811475/2019	Hatrack, Fr. Brian	2	Diocese of Buffalo & Fourteen Holy Helpers Parish.	PB-3 DOE
810357/2020	Fr. Brian Hatrick et al	3	Blessed Mother Theresa Parish, St. Martha Parish & St. Benedict Parish.	PB-32 Doe

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-3 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>OUR LADY OF THE BLESSED SACRAMENT ROMAN CATHOLIC CHURCH n/k/a ST. MARTHA PARISH</p> <p style="text-align: center;">Defendant.</p>
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SUMMONS

Index No.:

TO THE ABOVE NAMED DEFENDANTS :

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

DATED: New York, New York
April 19, 2021

Phillips & Paolicelli, LLP
Attorneys for Plaintiffs

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TO:

OUR LADY OF THE BLESSED SACRAMENT ROMAN CATHOLIC CHURCH n/k/a ST.
MARTHA PARISH
10 French Road
Depew, NY 14043

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-3 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>OUR LADY OF THE BLESSED SACRAMENT ROMAN CATHOLIC CHURCH n/k/a ST. MARTHA PARISH</p> <p style="text-align: center;">Defendant.</p>
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COMPLAINT

Index No.:

Plaintiff PB-3 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-3 Doe was repeatedly sexually abused and assaulted by Father Brian Hatrick (hereinafter “Fr. Hatrick”), who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendant Our Lady of the Blessed Sacrament Roman Catholic Church n/k/a St. Martha Parish (herein “Defendant”), in conjunction with the Diocese of Buffalo, N.Y. (herein “Diocese”) and other parishes.
3. Prior to the bankruptcy of the Diocese, Plaintiff brought suit against the Diocese and other parishes.¹ The present complaint is a related action.
4. In approximately 1986, when Plaintiff was about 16 years old, he was abused by Fr. Hatrick while a parishioner at Fourteen Holy Helpers Parish.

¹ *PB-3 Doe v. Diocese of Buffalo et. al*, Index No. 811475/2019.

5. At all relevant times, Fr. Hatrick was hired, retained, supervised, placed, directed and otherwise authorized to act by the Defendant, in conjunction with the Diocese of Buffalo.

6. Despite years of refusal to publicly 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. That list includes Fr. Hatrick.

7. In fact, the Roman Catholic Church, the Diocese of Buffalo, and Defendant 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 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 Defendant.

8. Notwithstanding this knowledge, and the fiduciary duty and relationship of trust owed to parishioners and their children, Defendant negligently, recklessly, and willfully failed to protect Plaintiff from sexual abuse by Fr. Hatrick, permitted the abuse to occur, failed to supervise Fr. Hatrick, failed to timely investigate Fr. Hatrick'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 Fr. Hatrick's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

PARTIES

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

10. Plaintiff was born in 1970.

11. At all relevant times, Our Lady of the Blessed Sacrament Roman Catholic Church was a Roman Catholic Church, organized pursuant to the laws of the State of New York. It was operated in Erie County, New York, with its principal place of business at 10 French Road, Depew, NY 14043. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of Our Lady of the Blessed Sacrament, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Joseph's Roman Catholic Church.

12. On or about 2011, Our Lady of the Blessed Sacrament Roman Catholic Church of Depew, N.Y. merged with St. Barnabas Roman Catholic Church of Depew, N.Y. and formed a new parish known as St. Martha's Parish. St. Martha's Parish is a Roman Catholic Church, organized pursuant to the laws of the State of New York. It is operated in Erie County, New York, with its principal place of business at 10 French Road, Depew, N.Y. 14043. Upon information and belief, Defendant St. Martha's Parish assumed some or all of the liabilities and/or assets of Defendant Our Lady of the Blessed Sacrament Roman Catholic Church

13. At all relevant times, Defendant Our Lady of the Blessed Sacraments n/k/a St. Martha's Parish; was and/or are still under the direct authority, control, and province of the Diocese of Buffalo.

FACTUAL ALLEGATIONS

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

15. Fr. Hatrick was ordained a Roman Catholic priest in approximately 1979.

16. At the time he sexually abused Plaintiff, Fr. Hatrick was employed by the Diocese and the Fourteen Holy Helpers Roman Catholic Church and under their direct supervision, employ, and control. The facts concerning his abuse are set forth in the earlier filed companion action. *See fn. 1, supra.*

17. Briefly stated between in 1986 , Fr. Hatrick, acting in his capacity as priest, and in furtherance of the business of Defendant, used his position as priest to gain the confidence and trust of Plaintiff to manipulate and/or coerce Plaintiff into gratifying his sexual desires.

18. On multiple occasions, Fr. Hatrick engaged in unpermitted, forcible and harmful sexual contact with Plaintiff.

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

20. Prior to the sexual abuse of Plaintiff, between 1979-1983 Fr. Hatrick served as a priest and parochial Vicar at Our Lady of the Blessed Sacrament Roman Catholic Church n/k/a St. Martha's Parish. Defendant negligently retained Fr. Hatrick 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.

21. Prior to Fr. Hatrick's sexual abuse of Plaintiff herein, Defendant and its respective executive officers knew or should have known it was not safe to allow Fr. Hatrick to have unsupervised contact with minor children, in that Fr. Hatrick posed a sexual danger to minor children.

22. The Roman Catholic Bishop and Vicar General of Buffalo concealed the information about the danger Fr. Hatrick posed to minor children, in order that the Roman

Catholic Bishop and Vicar General of Buffalo could assign Fr. Hatrick to work at parishes, including Defendant and Defendant aided and abetted the Roman Catholic Bishop and Vicar General of Buffalo in concealing the information about the danger Fr. Hatrick posed to minor children.

23. Fr. Hatrick was assigned to the position of priest at St. Margaret's Roman Catholic Church and St. Lawrence Roman Catholic. His duties included interacting with children, including altar boys, students, and children attending Defendant St. Margaret's Roman Catholic Church and St. Lawrence Roman Catholic Church, and participating in the sacraments.

24. In the performance of his duties, Defendant authorized Fr. Hatrick to be alone with minor boys, and to have unfettered and unsupervised access to them on Defendant's property.

25. Defendant required parishioners and students, to accept and obey guidance, discipline, and instruction from Fr. Hatrick and other clergy members.

26. By assigning Fr. Hatrick to the role of priest and parochial Vicar, Defendant gave Fr. Hatrick complete unfettered access to minors, and empowered him to groom, guide, discipline, and otherwise exercise complete authority over minors.

27. 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. Hatrick.

28. The Vatican and other church authorities addressed the problem of clergy sex abuse on countless occasions prior to Fr. Hatrick's 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, Defendant were well aware that errant sexual behavior by some priests was not only widespread but predictable.

29. Defendant owed Plaintiff a duty of reasonable care because they had superior knowledge about the risks their facilities, agents, clergymen, appointees and employees posed to minor children, the risk of abuse in general, and the specific risks that Defendant Fr. Hatrick posed to Plaintiff.

30. Prior to the time of Plaintiff's abuse by Fr. Hatrick Defendant 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.

31. The sexual abuse of Plaintiff by Fr. Hatrick was foreseeable.

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

33. Defendant 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 Fr. Hatrick by assigning, maintaining, and/or appointing them to positions with access to minors.

34. Defendant 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; they promoted their facilities and programs as being safe for children, they held out their agents, including Fr. Hatrick, 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. Hatrick, to spend time with, interact with, and recruit children.

35. Defendant owed Plaintiff a duty to protect him from harm because Defendant's acts and omissions created a foreseeable risk of harm to Plaintiff.

36. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was 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.

37. To the extent that any Defendant 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 Defendant' conduct falls within one or more of the subdivisions of CPLR 1602.

FIRST CAUSE OF ACTION

NEGLIGENT HIRING, RETENTION, SUPERVISION, AND DIRECTION

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

39. Prior to the sexual abuse of Plaintiff, Defendant learned or should have learned that Fr. Hatrick were not fit to work with or around children.

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

41. Defendant negligently retained Fr. Hatrick with knowledge of their propensity for the type of behavior which resulted in Plaintiff's injuries.

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

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

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

45. Fr. Hatrick would not have been in a position to sexually abuse Plaintiff had Defendant not been negligent in the hiring, retention, supervision, and direction of Fr. Hatrick.

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

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

48. By the reason of the foregoing, Defendant 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

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

50. Defendant 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.

51. Defendant 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.

52. At all relevant times, Defendant affirmatively and/or impliedly represented to minor children, their families and the general public that clergy, including Fr. Hatrick, did not pose a risk and/or that they did not have a history of sexually abusing children, and that children, would be safe in their care.

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

54. Upon information and belief, Defendant covered up acts of abuse by Fr. Hatrick and concealed facts concerning Fr. Hatrick's sexual misconduct from Plaintiff and his family.

55. Defendant 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.

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

57. Defendant failed to warn Plaintiff and his parents that Fr. Hatrick posed a risk of child sexual assault.

58. The conduct of Defendant 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 Defendant were knowingly subjecting children in their charge, including Plaintiff, to sexual crimes.

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

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

61. By the reason of the foregoing, Defendant 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

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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

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

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

65. Defendant knew or disregarded the substantial probability that Fr. would cause severe emotional distress to Plaintiff.

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

67. By the reason of the foregoing, Defendant 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

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

69. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420, Defendant had a statutory duty to report reasonable suspicion of abuse of children in their care.

70. Defendant willfully and/or knowingly breached their statutory duty by failing to report reasonable suspicion of abuse by Fr. Hatrick of children in their care.

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

72. By reason of the foregoing, Defendant 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**AIDING AND ABETTING FRAUD**

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

74. The Roman Catholic Bishop and Vicar General of Buffalo fraudulently concealed from the parishioners of Defendant information that would have shown that Fr. Hatrick was a danger to minor children.

75. Defendant had information that would have shown Fr. Hatrick was a danger to minor children. Defendant assisted the Roman Catholic Bishop and Vicar General of Buffalo in

fraudulently concealing information from the parishioners about the danger Fr. Hatrick posed to parishioners.

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

77. To assist Buffalo's Roman Catholic Bishop and Vicar General in fraudulently concealing the information about Fr. Hatrick, Defendant failed to disclose Fr. Hatrick's propensity to sexually abuse minors, and intentionally concealed knowledge of Fr. Hatrick's inappropriate and unlawful sexual activities, knowing that minor children, including Plaintiff, in other parishes where Fr. Hatrick was assigned would rely upon this material omission.

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

79. By reason of the foregoing, Defendant 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

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

Dated: April 19, 2021

Yours, etc.

PHILLIPS & PAOLICELLI, LLP

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB- 3 Doe, a victim of childhood sexual abuse,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>THE DIOCESE OF BUFFALO, and FOURTEEN HOLY HELPERS PARISH,</p> <p style="text-align: center;">Defendants.</p>
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SUMMONS

Index No.:

TO THE ABOVE NAMED DEFENDANTS:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the Complaint, a copy of which is hereby served upon you, and to serve a copy of your Answer to the Complaint upon the undersigned attorneys listed below within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment by default will be taken against you for the relief demanded herein.

Dated: New York, New York
September 9, 2019

Yours, etc.



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-and-

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF THE ERIE

<p>PB- 3 Doe, a victim of childhood sexual abuse,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>THE DIOCESE OF BUFFALO, and FOURTEEN HOLY HELPERS PARISH,</p> <p style="text-align: center;">Defendants.</p>
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COMPLAINT

Index No.:

PB-3 Doe, a victim of childhood sexual abuse, by and through his undersigned attorneys, as and for his Complaint, alleges as follows:

NATURE OF THE ACTION

1. This action is brought pursuant to the Child Victims Act, codified at CPLR 214-g.
2. Plaintiff PB-3 Doe was sexually abused by Fr. Brian Hatrick (“Fr. Hatrick”), then a priest with Defendant Fourteen Holy Helpers Parish (“Fourteen Holy Helpers”), a Roman Catholic parish that was at all relevant times under the authority of the Defendant Diocese of Buffalo (“Diocese”).
3. Plaintiff was about sixteen (16) years old when Fr. Hatrick sexually abused him.
4. The Roman Catholic Church, and the Defendants specifically, have long known that substantial numbers of priests throughout history, and up to and including the present day, violate their vows or promises of celibacy and otherwise misbehave by soliciting sexual contact with parishioners and others, in particular with children like Plaintiff, who are entrusted to their

spiritual care and guidance. Official Church documents dealing with this unspeakable misconduct span the centuries, many of which were and are well known to Defendants.

5. Despite years of refusal to publically address rampant child abuse by priests, Defendant the Diocese of Buffalo recently published a long list of priests with substantiated claims of sexual abuse of a minor. That list includes Fr. Hatrick, who victimized many children.

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

PARTIES

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

8. Plaintiff was born in 1970.

9. Defendant Diocese of Buffalo is a not for profit corporation, organized pursuant to the laws of the State of New York, with its principal place of business located at 795 Main Street, Buffalo, NY.

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

11. At all relevant times, Defendant Fourteen Holy Helpers was and is a religious corporation organized pursuant to the laws of the State of New York, with its principal place of business located at 1345 Indian Church Road, West Seneca, New York.

12. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and operated Defendant Fourteen Holy Helpers.

13. At all relevant times, Defendant Diocese owned the premises where Defendant Fourteen Holy Helpers was located.

14. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and assigned priests to work in parishes, churches and schools that were under the authority of the Diocese, including Defendant Fourteen Holy Helpers.

FACTUAL ALLEGATIONS

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

16. At all relevant times, Plaintiff and his family were parishioners of Defendant Fourteen Holy Helpers.

17. At all relevant times, Fr. Hatrick was a Roman Catholic priest employed by Defendant Diocese and assigned to Defendant Fourteen Holy Helpers Parish.

18. At all relevant times, Fr. Hatrick was under the direct supervision and control of the Defendant Diocese and Defendant Fourteen Holy Helpers. His assigned duties included, *inter alia*, serving as priest, and interacting with, mentoring, disciplining and counseling children.

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

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

21. Defendants required young parishioners, like Plaintiff, to accept discipline and instruction from clergy, including Fr. Hatrick, and to obey their orders.

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

23. In or about the spring and summer of 1986, when Plaintiff about sixteen (16) years old, Fr. Hatrick engaged in unpermitted, forcible and harmful sexual contact with Plaintiff, on multiple occasions.

24. At that time, Fr. Hatrick was in charge of preparing children for the Sacrament of Confirmation, and used his spiritual authority as a pretext to groom and sexually assault Plaintiff. This misconduct took place on Defendants' premises, in Fr. Hatrick's car, and on fishing trips endorsed by Defendants.

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

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

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

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

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

30. Prior to the time of Plaintiff's abuse Defendants knew or should have known of numerous acts of sexual assault committed by clergy members within the Diocese and elsewhere in the Roman Catholic Church, and knew that there was a specific danger of child sex abuse for children in their institutions and programs.

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

32. Prior to the time of Plaintiff's abuse by Fr. Hatrick, Defendants knew or should have known of acts of child sexual abuse by Fr. Hatrick.

33. In March, 2018, the Diocese admitted publically that Fr. Hatrick was among the many Diocesan priests with substantiated claims of sexual abuse of a minor.

34. Nevertheless, the Diocese never notified law enforcement officials of Fr. Hatrick's illegal activities, and, upon information and belief, permitted him to remain in active ministry for years despite knowing of his predatory and criminal behavior.

35. The conduct alleged herein would constitute a sexual offense as defined in article one hundred thirty of the penal law.

36. Defendants owed Plaintiff a duty of reasonable care because they affirmatively solicited parishioners, including parents and their children, to participate in parish activities; they undertook custody of minor children, including Plaintiff; they promoted their facilities and

programs as being safe for children; they held out their agents, including priests, as safe to work with and around minors, they encouraged parents and children to spend time with their agents; and/or authorized their agents, including Fr. Hatrick, to spend time with, interact with, and recruit children.

37. 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.

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

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

COUNT I

NEGLIGENT HIRING, RETENTION, SUPERVISION, AND DIRECTION

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

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

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

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

44. Fr. Hatrick 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. Hatrick.

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

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

47. Plaintiff suffered grave injury as a result of the foregoing sexual abuse and misconduct, including physical, psychological and emotional injury as described above.

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

COUNT II

NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

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

50. At all relevant times, Defendants affirmatively and/or impliedly represented to minor children, their families and the general public that clergy working in the Diocese, including Fr. Hatrick, did not pose a risk and/or that he did not have a history of sexually abusing children, and that children, including Plaintiff, would be safe in his care.

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

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

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

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

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

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

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

58. 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.

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

60. 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.

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

COUNT III

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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

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

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

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

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

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

COUNT IV

PREMISES LIABILITY

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

69. At all relevant times, Defendants owned, operated, and /or controlled the premises of Defendants Fourteen Holy Helpers, including areas where sexual abuse of Plaintiff occurred.

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

71. 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.

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

73. 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.

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

COUNT V

BREACH OF FIDUCIARY DUTY

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

76. At all relevant times, there existed a fiduciary relationship of trust, confidence and reliance between Plaintiff and Defendants. The entrustment of Plaintiff to the care and supervision of the Defendants while Plaintiff was a vulnerable child, imposed upon Defendants a fiduciary duty to act in the best interests of Plaintiff.

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

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

79. 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.

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

COUNT VI

BREACH OF DUTY IN LOCO PARENTIS

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

82. 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.

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

84. 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.

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

COUNT VII

BREACH OF STATUTORY DUTIES TO REPORT

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

87. 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.

88. Defendants breached their statutory duty by failing to report reasonable suspicion of abuse by Fr. Hatrick of children in their care.

89. 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.

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

WHEREFORE, Plaintiff prays for judgment as follows:

- a. Awarding Plaintiff compensatory damages for his injuries, in an amount to be determined at trial;
- b. Awarding Plaintiff punitive damages for his injuries, in an amount to be determined at trial;
- c. Awarding Plaintiff prejudgment interest, to the extent available by law;

- d. Awarding Plaintiffs costs and disbursements and attorneys' fees to the extent available by law; and
- e. Awarding such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

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

Dated: New York, New York
September 9, 2019

Yours, etc.



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-and-

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB- 32 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>BLESSED MOTHER THERESA PARISH f/k/a ST. AUGUSTINE PARISH, ST. MARTHA PARISH f/k/a ST. BARNABAS CHURCH and OUR LADY OF THE BLESSED SACRAMENT CHURCH, and SAINT BENEDICT PARISH ,</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 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
September 18, 2020

PHILLIPS & PAOLICELLI, LLP

/s/ Yitzchak Fogel
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BLESSED MOTHER THERESA PARISH f/k/a ST. AUGUSTINE PARISH

496 Terrace Blvd,
Depew, NY 14043

**ST. MARTHA PARISH f/k/a ST. BARNABAS CHURCH and OUR LADY OF THE
BLESSED SACRAMENT CHURCH**

10 French Rd.,
Depew, NY 14043

SAINT BENEDICT PARISH

13 Eggert Rd,
Buffalo, NY 14226

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-32 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>BLESSED MOTHER THERESA PARISH f/k/a ST. AUGUSTINE PARISH, ST. MARTHA PARISH f/k/a ST. BARNABAS CHURCH and OUR LADY OF THE BLESSED SACRAMENT CHURCH, and SAINT BENEDICT PARISH,</p> <p style="text-align: center;">Defendants.</p>

COMPLAINT

Index No.:

Plaintiff PB-32 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-32 Doe was repeatedly sexually abused and assaulted by Msgr. Gerard Green (“Msgr. Green”), Fr. Brian Hatrick (“Fr. Hatrick”), and Fr. Edwin Fagowski (“Fr. Fagowski”) – all clergy who were hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants in conjunction with the Diocese of Buffalo, N.Y., (“Diocese of Buffalo” or “Diocese”).
3. Plaintiff was approximately 15 years old at the time his abuse began, in or about 1977.
4. Despite years of refusal to publically address rampant child abuse by priests and nuns, The Diocese of Buffalo recently published a long list clergy in their employ who were

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credibly accused of molesting children. This list contains Fr. Hatrick and Msgr Green, two clergy members who abused Plaintiff.

5. 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.

6. Notwithstanding this knowledge, and the fiduciary duty and relationship of trust owed to parishioners and their children, Defendants negligently, recklessly, and willfully failed to protect Plaintiff from sexual abuse by their employees, permitted the abuse to occur, failed to supervise their employees, failed to timely investigate their employees' 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 their employees' sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

PARTIES

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

8. Plaintiff was born in 1961.

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9. At all relevant times, Defendant St. Augustine Parish (hereinafter “St. Augustine”) 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 496 Terrace Boulevard, Depew, NY 14043.

10. In or about 2009, St. Augustine merged with another parish to form Blessed Mother Teresa Parish (“Blessed Mother Teresa”). Upon information and belief, Blessed Mother Teresa Parish assumed some or all of the liabilities and/or assets of St. Augustine.

11. Defendant Blessed Mother Teresa is 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 496 Terrace Boulevard, Depew, NY 14043.

12. At all relevant times, Defendant St. Barnabas Church (herein “St. Barnabas”) 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 2049 George Urban Boulevard, Depew, NY 14043.

13. At all relevant times, Defendant Our Lady of the Blessed Sacrament Church (herein “Blessed Sacrement”) 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 10 French Road, Depew, NY 14043.

14. In or about 2011, St. Barnabas merged with Our Lady of the Blessed Sacrament Church to form St. Martha Parish. Upon information and belief, St. Martha assumed some or all of the liabilities and/or assets of St. Barnabas and Blessed Sacrament.

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15. Defendant St. Martha Parish (“St. Martha”) is/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 10 French Road, Depew, NY 14043.

16. At all relevant times, Defendant Saint Benedict Parish (herein “St. Benedict”) was and is 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 1317 Eggert Rd, Buffalo, NY 14226.

17. At all relevant times, Defendants were and still are 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. At all relevant times, Plaintiff was a parishioner of St. Barnabas.

20. At all relevant times, Msgr. Green was Roman Catholic priest employed by and under the direct supervision and control of one or more of the Defendants, in conjunction with the Diocese of Buffalo. His assigned duties included serving as monsignor. His duties also included interacting with, mentoring and counseling children.

21. At all relevant times Fr. Fagowski was a Roman Catholic priest employed by and under the direct supervision and control of one or more of the Defendants, in conjunction with the Diocese of Buffalo. His assigned duties included interacting with, mentoring and counseling children.

22. At all relevant times Fr. Hatrick was a Roman Catholic priest employed by and under the direct supervision and control of one or more of the Defendants, in conjunction with

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the Diocese of Buffalo. His assigned duties included interacting with, mentoring and counseling children.

23. Upon information and belief, at all relevant times, all or some of the Defendants, individually and/or collectively, assigned, directed or otherwise permitted priests, including Fr. Fagowski, Fr. Hatrick and Msgr. Green, to work at and/or reside at summer camps located in or around western New York. At all relevant times Defendants authorized Msgr. Green, Fr. Fagowski, and Fr. Hatrick to be alone with children, including Plaintiff, and to have unfettered and unsupervised access to them.

24. Defendants authorized Msgr. Green, Fr. Fagowski, and Fr. Hatrick to have physical contact with minors, in a manner consistent with providing discipline, counseling, educational and spiritual guidance, and leadership.

25. Msgr. Green, Fr. Fagowski and Fr. Hatrick used their positions as priests to groom Plaintiff and obtain Plaintiff's trust, in order to satisfy their own sexual appetites.

26. 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.

27. In or about 1977 or 1978, when Plaintiff was a high school student, Fr. Fagowski engaged in unpermitted, forcible and harmful sexual contact with Plaintiff.

28. The abuse by Fr. Fagowski occurred in the rectory of St. Augustine.

29. In or about 1978-1979, Msgr. Green engaged in unpermitted, forcible and harmful sexual contact with Plaintiff on numerous occasions.

30. The abuse by Fr. Green, took place at various camps in western New York affiliated with one or more of the Defendants.

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31. In or about 1978 or 1979, Fr. Hatrick engaged in unpermitted, forcible and harmful sexual contact with Plaintiff. Using his position of power and influence as a priest, Fr. Hatrick induced Plaintiff to take a trip alone with him to an out of state baseball game. Fr. Hatrick sexually abused Plaintiff during that trip.

32. Defendants authorized Msgr. Green, Fr. Fagowski, Fr. Hatrick, in the performance of their duties, to be alone with minor boys, including Plaintiff, and to have unfettered and unsupervised access to them on Defendants' property.

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

34. 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 Msgr. Green, Fr. Fagowski, and Fr. Hatrick.

35. 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 immediately report the sexual abuse.

36. Defendants knew or should have known that their employees posed a danger to minor boys like Plaintiff before they sexually abused Plaintiff.

37. The Vatican and other church authorities addressed the problem of clergy sex abuse on countless occasions prior to Msgr. Green, Fr. Fagowski, and Fr. Hatrick's , 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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38. Defendants owed Plaintiff a duty of reasonable care because they had superior knowledge about the risks their facilities posed to minor children, the risk of abuse in general, and the risks that Msgr. Green, Fr. Fagowski, and Fr. Hatrick posed to Plaintiff.

39. Prior to the time of Plaintiff's abuse by Msgr. Green, Fr. Fagowski, and Fr. Hatrick, Defendants knew or should have known of numerous acts of sexual assault committed by clergy members within the Diocese and elsewhere in the Roman Catholic Church, and knew that there was a specific danger of child sex abuse for children in their institutions and programs.

40. The sexual abuse of Plaintiff by Msgr. Green, Fr. Fagowski, Fr. Hatrick, was foreseeable.

41. Prior to the time of Plaintiff's abuse by Msgr. Green, Fr. Fagowski, and Fr. Hatrick, Defendants knew or should have known of Msgr. Green's, Fr. Fagowski's, and Fr. Hatrick's acts of child sexual abuse on other minors.

42. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited children and parents to send their children to Defendants; they undertook custody of minor children, including Plaintiff; they promoted their facilities and programs as being safe for children, they held out their agents, including Msgr. Green, Fr. Fagowski, and Fr. Hatrick, as safe to work with and around minor boys, they encouraged parents and children to spend time with their agents; and/or authorized their agents, including Msgr. Green, Fr. Fagowski, and Fr. Hatrick, to spend time with, interact with, and recruit children.

43. 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

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

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

45. 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.

46. 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

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

48. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Msgr. Green, Fr. Fagowski, and Fr. Hatrick were not fit to work with or around children.

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

50. Defendants negligently retained Fr. Labelle with knowledge of Msgr. Green's, Fr. Fagowski's, and Fr. Hatrick's propensity for the type of behavior which resulted in Plaintiff's injuries.

51. At all relevant times Defendants had a duty to exercise due care in hiring, appointing, assigning, retention, supervision and direction of Msgr. Green, Fr. Fagowski, and Fr. Hatrick, so as to protect minor children, including Plaintiff, who were likely to come into contact with him, and/or under his influence or supervision, and to ensure that Msgr. Green, Fr. Fagowski, and Fr. Hatrick, did not use their assigned positions to injure minors by sexual assault, contact or abuse.

52. Defendants were negligent and failed to use reasonable care in hiring, appointing, assigning, and retention, of Msgr. Green, Fr. Fagowski, and Fr. Hatrick, failed to properly investigate their background and employment history, and/or hired, appointed and/or assigned them to their respective positions when Defendants knew or should have known of facts that would make these individuals a danger to children; and Defendants were otherwise negligent.

53. Defendants were negligent and did not use reasonable care in their supervision and direction of Msgr. Green, Fr. Fagowski, and Fr. Hatrick, failed to monitor their activities, and failed to oversee the manner in which they carried out the duties to which Defendants assigned them, even though they knew or should have known that Msgr. Green, Fr. Fagowski, and Fr. Hatrick, posed a threat of sexual abuse to minors; allowed the misconduct describe above to occur and continue; failed to investigate Msgr. Green, Fr. Fagowski, and Fr. Hatrick's

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collective dangerous activities and remove them from their premises; and Defendants were otherwise negligent.

54. Msgr. Green, Fr. Fagowski, And Fr. Hatrick would not have been in a position to sexually abuse Plaintiff had Defendants not been negligent in the hiring, retention, supervision, and direction of Msgr. Green, Fr. Fagowski, and Fr. Hatrick.

55. At all relevant times, Msgr. Green, Fr. Fagowski, and Fr. Hatrick acted in the course and scope of their employment with Defendants.

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

57. As a direct and proximate result of Msgr. Green, Fr. Fagowski, and Fr. Hatrick's sexual abuse and Defendants' misconduct, Plaintiff suffered grave injury, including physical, psychological and emotional injury as described above.

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

SECOND CAUSE OF ACTION

NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

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

60. At all relevant times, Defendants affirmatively and/or impliedly represented to minor children, their families and the general public that clergy, including Msgr. Green, Fr. Fagowski, and Fr. Hatrick 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.

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61. Defendants knew or should have known this representation was false and that employing clergy, including Msgr. Green, Fr. Fagowski, and Fr. Hatrick, and giving them unfettered access to children, including Plaintiff, posed an unacceptable risk of harm to children.

62. Upon information and belief, Defendants covered up acts of abuse by Msgr. Green, Fr. Fagowski, and Fr. Hatrick and concealed facts concerning Msgr. Green, Fr. Fagowski, and Fr. Hatrick's sexual misconduct from Plaintiff and his family.

63. 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.

64. 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.

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

66. Defendants failed to warn Plaintiff and his parent that Msgr. Green, Fr. Fagowski, and Fr. Hatrick posed a risk of child sexual assault.

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67. The conduct of Defendants as described herein was done with utter disregard as to the potential profound injuries which would ensue, and with depraved indifference to the health and well-being of children, and to the fact that Defendants were knowingly subjecting children in their charge, including Plaintiff, to sexual crimes.

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

69. As a direct and proximate result of Defendants' misconduct, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

70. By the reason of the foregoing, Defendants are 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

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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

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

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

74. Defendants knew or disregarded the substantial probability that Msgr. Green, Fr. Fagowski, And Fr. Hatrick would cause severe emotional distress to Plaintiff.

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

76. By the 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

PREMISES LIABILITY

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

78. At all relevant times, Defendants owned, operated, and /or controlled the premises known as St. Augustine and St. Stephen's School, including the areas where the sexual abuse of Plaintiff occurred.

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

80. 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.

81. Defendants knowingly, willfully, recklessly, and/or 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 Msgr. Green, Fr. Fagowski, and Fr. Hatrick. Defendants thereby breached their duty of care of Plaintiff.

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82. 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.

83. 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

BREACH OF FIDUCIARY DUTY

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

85. 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.

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

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

88. 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.

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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.

SIXTH CAUSE OF ACTION

BREACH OF DUTY IN LOCO PARENTIS

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

91. 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.

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

93. 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.

94. 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.

SEVENTH CAUSE OF ACTION

BREACH OF STATUTORY DUTIES TO REPORT

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

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96. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420 and New York Education Law Article 23-B, Defendants had a statutory duty to report reasonable suspicion of abuse of children in their care.

97. Defendants breached their statutory duty by failing to report reasonable suspicion of abuse by Msgr. Green, Fr. Fagowski, And Fr. Hatrickof children in their care.

98. 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.

99. 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.

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

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

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Dated: July 7, 2020

Yours, etc.

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