



Bernard Mach Assignment History

Year	Assignment	Location
1964	Ordination	Buffalo NY
1964-65	Missionary, St. Mary Church	East Arcade NY
1965-66	Parochial Vicar, Holy Cross Church & School	Buffalo NY
1966-68	Parochial Vicar, St. Vincent Church & School	North Evans NY
1968-77	Parochial Vicar, St. Gerard Church & School	Buffalo NY
1977-79	Parochial Vicar, St. John Vianney Church & School	Orchard Park NY
1979-80	Parochial Vicar, St. Vincent dePaul Church	Buffalo NY
1980-81	Parochial Vicar, Sacred Heart Church & School	Niagara Falls NY
1981-90	Pastor, Our Lady of Perpetual Help Church & School	Buffalo NY
1990-93	Pastor, St. Mary Church	Lockport NY
1993-94	Absent, On Leave	Whereabouts unknown
After 1994	Not indexed in any ecclesiastical directories	Whereabouts unknown
1999-03	Canonical status unknown; Several known addresses	Located in Florida
2004	Deceased	

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Summons & Complaints and all public documents subsequently completed and filed by Phillips & Paolicelli LLP. Address: 747 3rd Ave 6th floor, New York, NY 10017. Phone: (212) 388-5100.

Summons & Complaints relying on the research of James G. Faluszczyk:

NYS UCS Case Number	Alleged Perpetrator	Defendant #	Defendants	Plaintiff
808194/2020	Mach, Fr. Bernard	4	St. Gerard RC Church & School, St. Vincent de Paul, Holy Cross RC Church, & St. Mary Parish.	DOE, PB-44
E175007/2021	Mach, Fr. Bernard & Fr. Michael Freeman	7	St. Margaret RC Church et al.	DOE, PB-4
E170134/2019	Mach, Fr. Bernard & Fr. Michael Freeman	3	Diocese of Buffalo, RC Church of the Sacred Heart & St. Raphael RC Parish	PB 4 DOE

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE**

-----X

PB-44 DOE,

Plaintiff,

-against-

SUMMONS

INDEX No.:

ST. GERARD ROMAN CATHOLIC CHURCH, ST.
GERARD SCHOOL, ST. VINCENT DE PAUL
PARISH, HOLY CROSS ROMAN CATHOLIC
CHURCH, and ST. MARY’S PARISH,

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

Defendants.

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TO THE ABOVE NAMED DEFENDANTS:

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

Dated: New York, New York
July 31, 2020

PHILLIPS & PAOLICELLI, LLP
Attorneys for Plaintiff

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Attorneys for Plaintiff

To:

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1190 E Delavan Avenue
Buffalo, NY 14215

ST. GERARD SCHOOL
1190 E Delavan Avenue
Buffalo, NY 14215

ST. VINCENT DEPAUL PARISH
2050 South Creek Road
North Evans, NY 14047

HOLY CROSS ROMAN CATHOLIC CHURCH
345 Seventh Street
Buffalo, NY 14201

ST. MARY'S PARISH
417 West Main Street
Arcade, New York 14009

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-44 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. GERARD ROMAN CATHOLIC CHURCH, ST. GERARD SCHOOL, ST. VINCENT DE PAUL PARISH, HOLY CROSS ROMAN CATHOLIC CHURCH, and ST. MARY’S PARISH,</p> <p style="text-align: center;">Defendants.</p>
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COMPLAINT

Index No.:

Plaintiff PB-44 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-34 Doe was repeatedly sexually abused and assaulted by Defendant Reverend Bernard Mach (hereinafter “Fr. Mach”), who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants St. Gerard Roman Catholic Church, St. Gerard School, St. Vincent De Paul Parish, Holy Cross Roman Catholic Church, and St. Mary’s Parish (collectively herein “Defendants”), in conjunction with the Diocese of Buffalo, N.Y. (herein “Diocese”).
3. In or about 1968, when Plaintiff was about 13 years old, he was abused by Fr. Mach while a student and altar boy at St. Gerard Roman Catholic School and St. Gerard School.

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

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

6. In fact, the Roman Catholic Church, the Diocese of Buffalo, and Defendants have long known that substantial numbers of priests and nuns throughout history, and up to and including the present day, violate their vows or promises of celibacy and otherwise misbehave by soliciting sexual contact with parishioners and others, in particular with children like Plaintiff, who are entrusted to their spiritual care and guidance. Official Church documents dealing with this unspeakable misconduct span the centuries, many of which were and are well known to Defendants.

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. Mach, permitted the abuse to occur, failed to supervise Fr. Mach, failed to timely investigate Fr. Mach'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. Mach's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

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PARTIES

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

9. Plaintiff was born in 1955.

10. At all relevant times, Defendant St. Gerard Roman Catholic Church was a Roman Catholic Church, organized pursuant to the laws of the State of New York. According to publicly available information, St. Gerard Roman Catholic Church is no longer in operation. It was last operated in Erie County, New York, with its principal place of business at 1190 E Delavan Avenue, Buffalo, NY 14215. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Gerard Roman Catholic Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Gerard Roman Catholic Church.

11. At all relevant times, Defendant St. Gerard School was a Roman Catholic School, organized pursuant to the laws of the State of New York. According to publicly available information, St. Gerard School is no longer in operation. Upon information and belief, it was last located in Niagara County, New York, with its principal place of business at 1190 E Delavan Avenue, Buffalo, NY 14215.

12. At all relevant times, Defendant St. Gerard School was under the direct authority, control and province of St. Gerard Roman Catholic Church.

13. At all relevant times, St. Gerard Roman Catholic Church and/or the Diocese of Buffalo, N.Y. owned the premises where Defendant St. Gerard School was located.

14. At all relevant times, Defendant St. Vincent De Paul Parish was and is a Roman Catholic School, organized pursuant to the laws of the State of New York. with its principal

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place of business at 2050 South Creek Road, North Evans, NY 14047. At all relevant times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Vincent De Paul Parish, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Vincent De Paul Parish.

15. At all relevant times, Defendant Holy Cross Roman Catholic Church 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 345 Seventh Street, Buffalo, NY 14201. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of Holy Cross Roman Catholic Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of Holy Cross Roman Catholic Church.

16. At all relevant times, Defendant St. Mary's Parish 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 417 West Main Street, Arcade, New York 14009. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Mary's Parish, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Mary's Parish.

17. At all relevant times, Defendants St. Gerard Roman Catholic Church, St. Gerard School, St. Vincent De Paul Parish, Holy Cross Roman Catholic Church, and St. Mary's Parish were and/or are still under the direct authority, control, and province of the Diocese of Buffalo.

FACTUAL ALLEGATIONS

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

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19. Fr. Mach was ordained a Roman Catholic priest in approximately 1964.

20. At the time he sexually abused Plaintiff Fr. Mach was employed by the Defendants St. Gerard Roman Catholic Church and St. Gerard School under the direct supervision, employ, and control of the Defendants St. Gerard Roman Catholic Church and St. Gerard School, in conjunction with the Diocese of Buffalo.

21. From approximately 1964 to 1965, Fr. Mach served as a priest at Defendant St. Mary's Parish. From approximately 1965 to approximately 1966, Fr. Mach served as a priest at Defendant Holy Cross Roman Catholic Church. From approximately 1966 to approximately 1968, Fr. Mach served as a priest at Defendant St. Vincent DePaul Church. From approximately 1968 to approximately 1977, Fr. Mach served as a priest at Defendants St. Gerard Roman Catholic Church and St. Gerard School. These Defendants each negligently retained Fr. Mach with knowledge of his propensity for the type of behavior which resulted in Plaintiff's injuries, and did not take steps to prevent his abuse of minors or to report him to the authorities.

22. In approximately 1993, Fr. Mach was accused of sodomizing a teenage boy in the rectory of the Church where he was assigned to. Around the same time, Fr. Mach was accused of sodomizing at least three other minor boys, along with another priest, Fr. John R. Aurelio. During the investigation, Fr. John R. Aurelio admitted to law enforcement that he and Fr. Mach had sodomized the minor boys in a home the two priests shared together decades earlier. Fr. Aurelio further stated he and Fr. Mach were just out of the seminary at the time.¹

23. In 1998, The Diocese of Buffalo settled the claims alleging sexual abuse by Fr. Mach.²

¹ Lou Michel, *Sources Say Priest Admits Abusing Boys with Rev. Mach*, BUFFALO NEWS (Dec. 21, 1993).

² *Suit against Priest Discontinued*, BUFFALO NEWS (Oct. 16, 1998).

24. In 2018, the Diocese of Buffalo named Fr. Mach in their list of priests credibly accused of sexual abusing minors.

25. In 2019, two CVA actions were brought against Defendant St. Gerard Roman Catholic Church alleging sexual abuse by their priests, including Fr. Mach. One such complaint alleges Fr. Mach aided Fr. Aurelio in sexually abusing the Plaintiff in that case.³

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

27. The Roman Catholic Bishop and Vicar General of Buffalo concealed the information about the danger Fr. Mach posed to minor children, in order that the Roman Catholic Bishop and Vicar General of Buffalo could assign Fr. Mach to work at parishes, including Defendants St. Gerard Roman Catholic Church, St. Gerard School, St. Vincent De Paul Parish, Holy Cross Roman Catholic Church, and St. Mary's Parish, and Defendants aided and abetted the Roman Catholic Bishop and Vicar General of Buffalo in concealing the information about the danger Fr. Mach posed to minor children.

28. At all relevant times, Plaintiff was a parishioner of St. Gerard Roman Catholic Church and St. Gerard School, and an altar boy.

29. Fr. Mach was assigned to the position of priest at St. Gerard Roman Catholic Church and St. Gerard School. His duties included interacting with children, including altar boys, students, and children attending Defendants St. Gerard Roman Catholic Church and St. Gerard School, and participating in the sacraments.

³ See Richard Brownell v. The Diocese of Buffalo, N.Y., et al., Index No. 810859/2019; AB 74 Doe v. The Diocese of Buffalo, N.Y., et al., 810252/2019.

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30. In the performance of his duties, Defendants St. Gerard Roman Catholic Church and St. Gerard School authorized Fr. Mach to be alone with minor boys, including Plaintiff, and to have unfettered and unsupervised access to them on Defendants' property.

31. Defendants St. Gerard Roman Catholic Church and St. Gerard School required parishioners and students, like Plaintiff, to accept and obey guidance, discipline, and instruction from Fr. Mach and other clergy members.

32. By assigning Fr. Mach to the role of priest, Defendants St. Gerard Roman Catholic Church and St. Gerard School gave Fr. Mach complete unfettered access to minors, including Plaintiff, and empowered him to groom, guide, discipline, and otherwise exercise complete authority over minors.

33. 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. Mach.

34. In or about 1968, around Plaintiff's seventh grade year at Defendant St. Gerard School, Fr. Mach, acting in his capacity as priest, and in furtherance of the business of Defendants, used his position as priest to gain the confidence and trust of Plaintiff to manipulate and/or coerce Plaintiff into gratifying his sexual desires.

35. On multiple occasions, Fr. Mach engaged in unpermitted, forcible and harmful sexual contact with Plaintiff on church grounds and elsewhere.

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

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

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

39. 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 Defendant Fr. Mach posed to Plaintiff.

40. Prior to the time of Plaintiff's abuse by Fr. Mach, 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.

41. The sexual abuse of Plaintiff by Fr. Mach was foreseeable.

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

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

44. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited children and parents to send their children to their facilities,; they undertook custody of minor children, including Plaintiff at Defendant St. Gerard Roman Catholic Church and School; they promoted their facilities and programs as being safe for children, they held out their agents, including Fr. Mach, as safe to work with and around minor boys, they encouraged parents and

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children to spend time with their agents; and/or authorized their agents, including Fr. Mach, to spend time with, interact with, and recruit children.

45. Defendants St. Gerard Roman Catholic Church and School, 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 these Defendants affirmatively assumed a position of empowerment over Plaintiff.

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

47. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and 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.

48. 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.

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FIRST CAUSE OF ACTION**NEGLIGENT HIRING, RETENTION, SUPERVISION, AND DIRECTION**

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

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

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

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

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

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

55. Defendants were negligent and did not use reasonable care in their supervision and direction of Fr. Mach, failed to monitor their activities, failed to oversee the manner in which

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they carried out the duties to which Defendants assigned them, even though they knew or should have known that Fr. Mach posed a threat of sexual abuse to minors; allowed the misconduct describe above to occur and continue; failed to investigate Fr. Mach dangerous activities and remove him from their premises; and Defendants were otherwise negligent.

56. Fr. Mach 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. Mach.

57. At all relevant times, Defendant Fr. Mach acted in the course and scope of his employment with Defendants St. Gerard Roman Catholic Church and School.

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

59. 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.

60. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount to be determined at trial, in an amount that exceeds the jurisdictional limit of the lower courts of this State, together with interest and costs.

SECOND CAUSE OF ACTION

NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

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

62. Defendants were negligent and did not use reasonable care in their training, if any, of minors and/or their parents about the risk of sexual abuse in their institution and facilities, to identify signs of sexual abuse, grooming behaviors, or sexual predators, and to report any

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

63. Defendants were negligent and did not use reasonable care in their training, if any, of adult staff about the risk of sexual abuse in their institution 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.

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

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

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

67. 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.

68. By failing to disclose the identities, histories and information about sexually abusive clergy in their employ, including Fr. Mach, Defendants unreasonably deprived the

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families of children entrusted to their care, including Plaintiff, of the ability to protect their children.

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

70. 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.

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

72. 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.

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

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

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

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

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

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

79. 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

(only as to Defendants St. Gerard Roman Catholic Church and St. Gerard School)

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

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

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

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83. 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.

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

85. 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.

86. 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

(only as to Defendants St. Gerard Roman Catholic Church and St. Gerard School)

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

88. 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.

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

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

91. 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.

92. 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

(only as to Defendants St. Gerard Roman Catholic Church and St. Gerard School)

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

94. 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.

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

96. 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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97. 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

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

99. 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.

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

101. 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.

102. 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.

EIGHTH CAUSE OF ACTION

AIDING AND ABETTING FRAUD

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

104. The Roman Catholic Bishop and Vicar General of Buffalo fraudulently

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concealed from the parishioners of Defendants St. Gerard Roman Catholic Church, St. Gerard School, St. Vincent De Paul Parish, Holy Cross Roman Catholic Church, and St. Mary's Parish information that would have shown that Fr. Mach was a danger to minor children.

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

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

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

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

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

WHEREFORE, Plaintiff prays for judgment as follows:

- a. Awarding Plaintiff compensatory damages for his injuries, in an amount to be determined at trial;

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- 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

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

Dated: July 31, 2020

Yours, etc.

PHILLIPS & PAOLICELLI, LLP

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF NIAGARA

<p>PB-4 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. MARGARET ROMAN CATHOLIC CHURCH; ST. LAWRENCE ROMAN CATHOLIC CHURCH; ST. MARY’S ROMAN CATHOLIC CHURCH A/K/A ST. MARY’S PARISH; HOLY CROSS ROMAN CATHOLIC CHURCH; ST. GERARD’S ROMAN CATHOLIC CHURCH; ST. JOHN VIANNEY ROMAN CATHOLIC CHURCH; ST. VINCENT DE PAUL ROMAN CATHOLIC CHURCH A/K/A SAINT JOHN PAUL II PARISH COMMUNITY,</p> <p style="text-align: center;">Defendants.</p>
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SUMMONS

Plaintiff designates the County of Niagara 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 19, 2021

Phillips & Paolicelli, LLP
Attorneys for Plaintiffs

/s/ Diane Paolicelli

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TO:

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1395 Hertel Avenue
Buffalo, NY 14216

ST. LAWRENCE ROMAN CATHOLIC CHURCH
1520 E Delavan Ave
Buffalo, NY 14215

ST. MARY'S ROMAN CATHOLIC CHURCH A/K/A ST. MARY'S PARISH
417 W. Main Street
Arcade, NY 14009

HOLY CROSS ROMAN CATHOLIC CHURCH
345 Seventh Street
Buffalo, NY 14201

ST. GERARD'S ROMAN CATHOLIC CHURCH
1190 E Delavan Avenue
Buffalo, NY 14215

ST. JOHN VIANNEY ROMAN CATHOLIC CHURCH
2950 Southwestern Boulevard
Orchard Park, N.Y. 14127

ST. VINCENT DE PAUL ROMAN CATHOLIC CHURCH A/K/A SAINT JOHN PAUL II
PARISH COMMUNITY
2052 Lakeview Road
Lakeview, NY 14085

STATE OF NEW YORK
SUPREME COURT: COUNTY OF NIAGARA

<p>PB-4 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. MARGARET ROMAN CATHOLIC CHURCH; ST. LAWRENCE ROMAN CATHOLIC CHURCH; ST. MARY’S ROMAN CATHOLIC CHURCH A/K/A ST. MARY’S PARISH; HOLY CROSS ROMAN CATHOLIC CHURCH; ST. GERARD’S ROMAN CATHOLIC CHURCH; ST. JOHN VIANNEY ROMAN CATHOLIC CHURCH; ST. VINCENT DE PAUL ROMAN CATHOLIC CHURCH A/K/A SAINT JOHN PAUL II PARISH COMMUNITY,</p> <p style="text-align: center;">Defendants.</p>
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COMPLAINT

Index No.:

Plaintiff PB-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 PB-4 Doe (“Doe”) was repeatedly sexually abused and assaulted by Father Michael Freeman (hereinafter “Fr. Freeman”), who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants, St. Margaret’s Roman Catholic Church of Buffalo, N.Y. and St. Lawrence Roman Catholic Church of Buffalo, N.Y., in conjunction with the Diocese of Buffalo, N.Y. Additionally, Plaintiff was repeatedly sexually abused and assaulted by Father Bernard Mach (hereinafter “Fr. Mach”), who was hired, retained,

supervised, placed, directed and otherwise authorized to act by Defendants, St. Mary's Roman Catholic Church a/k/a St. Mary's Parish, Holy Cross Roman Catholic Church, St. Gerard's Roman Catholic Church, St. John Vianney Roman Catholic Church and St. Vincent de Paul Roman Catholic Church a/k/a St. John Paul II Parish Community (All Defendants collectively are referred to herein as "Defendants"), 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. At all relevant times, Fr. Freeman and Fr. Mach were hired, retained, supervised, placed, directed and otherwise authorized to act by the Defendants, in conjunction with the Diocese of Buffalo.

5. Despite years of refusal to 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. Freeman and Fr. Mach.

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

¹ PB-4 *Doe v. Diocese of Buffalo et. al*, Index No. E170134/2019.

to protect Plaintiff from sexual abuse by Fr. Freeman and Fr. Mach, permitted the abuse to occur, failed to supervise Fr. Freeman and Fr. Mach, failed to timely investigate Fr. Freeman's and Fr. Mach'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. Freeman's and Fr. Mach's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

PARTIES

8. Plaintiff is an individual residing in the State of Oregon. At the time of the events complained of, plaintiff was a minor residing in Niagara County, N.Y.

9. Plaintiff was born on 1964.

10. At all relevant times, St. Margaret's Roman Catholic Church of Buffalo, N.Y. was 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 1395 Hertel Avenue, Buffalo, NY 14216. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Margaret's Roman Catholic Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Margaret's Roman Catholic Church.

11. At all relevant times, St. Lawrence Roman Catholic Church of Buffalo, N.Y. was 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 1520 E Delavan Ave,

Buffalo, NY 14215. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Lawrence Roman Catholic Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Lawrence Roman Catholic Church.

12. At all relevant times, St. Mary's Roman Catholic Church A/K/A St. Mary's Parish of Arcade, N.Y. was a Roman Catholic Church, organized pursuant to the laws of the State of New York. It is operated in Wyoming County, New York, with its principal place of business at 417 W. Main Street, Arcade, NY 14009. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Mary's Roman Catholic Church a/k/a, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Mary's Roman Catholic Church A/K/A St. Mary's Parish.

13. At all relevant times, Holy Cross Roman Catholic Church of Buffalo, N.Y. was 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 345 Seventh Street, Buffalo, NY 14201. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of Holy Cross Roman Catholic Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of Holy Cross Roman Catholic Church.

14. At all relevant times, Defendant St. Gerard Roman Catholic Church was a Roman Catholic Church, organized pursuant to the laws of the State of New York. According to publicly available information, St. Gerard Roman Catholic Church is no longer in operation. It was last operated in Erie County, New York, with its principal place of business at 1190 E Delavan Avenue, Buffalo, NY 14215. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Gerard Roman Catholic Church, and the Roman

Catholic Vicar General of Buffalo, New York was the Vice-President of St. Gerard Roman Catholic Church.

15. At all relevant times, St. John Vianney Roman Catholic Church of Orchard Park, N.Y. was 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 2950 Southwestern Boulevard, Orchard Park, N.Y. 14127. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. John Vianney Roman Catholic Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. John Vianney Roman Catholic Church

16. At all relevant times, St. Vincent De Paul Roman Catholic Church of Niagara Falls, N.Y. was a Roman Catholic Church, organized pursuant to the laws of the State of New York. It was operated in Niagara County, New York, with a principal place of business at 1040 Cayuga Drive, Niagara Falls, N.Y. 14304. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Vincent De Paul Roman Catholic Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Vincent De Paul Roman Catholic Church

17. On or about 2011, St. Vincent de Paul of Niagara Falls, N.Y. merged with Our Lady of Perpetual Help Parish and formed a new parish known as Saint John Paul II Parish Community. Saint John Paul II Parish Community is a Roman Catholic Parish, 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 2052 Lakeview Road, Lake View, NY 14085. Upon information and belief, Defendant Saint John Paul II Parish assumed some or all of the liabilities and/or assets of Defendant St. Vincent de Paul Roman Catholic Church

18. At all relevant times, Defendants St. Margaret's Roman Catholic Church, St. Lawrence Roman Catholic Church, St. Mary's Roman Catholic Church a/k/a St. Mary's Parish, Holy Cross Roman Catholic Church, St. Gerard's Roman Catholic Church, St. John Vianney Roman Catholic Church and St. Vincent De Paul Roman Catholic Church a/k/a St. John Paul II Parish Community were and/or are still under the direct authority, control, and province of the Diocese of Buffalo.

FACTUAL ALLEGATIONS

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

20. Fr. Freeman was ordained a Roman Catholic priest in approximately 1972.

21. Fr. Mach was ordained a Roman Catholic priest in approximately 1964.

22. At the times they sexually abused Plaintiff, Fr. Freeman and Fr. Mach were employed by the Diocese and the Roman Catholic Church of the Sacred Heart 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.*

23. Briefly stated, beginning in or about 1980 and continuing until approximately 1982, Fr. Freeman and Fr. Mach, acting in their capacities as priests, and in furtherance of the business of Defendants and others, used their positions as priests to gain the confidence and trust of Plaintiff to manipulate and/or coerce Plaintiff into gratifying their sexual desires.

24. On multiple occasions, Fr. Freeman and Fr. Mach engaged in unpermitted, forcible and harmful sexual contact with Plaintiff.

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

26. Prior to the sexual abuse of Plaintiff, from approximately 1972 to 1975, Fr. Freeman served as a priest and parochial Vicar at Defendant St. Margaret's Roman Catholic Church. From approximately 1975 to approximately 1976, Fr. Freeman served as a priest and parochial Vicar at Defendant St. Lawrence Roman Catholic Church. These Defendants each negligently retained Fr. Freeman 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.

27. Prior to the sexual abuse of Plaintiff, from approximately 1964-1965, Fr. Mach served as a priest and parochial Vicar at Defendant St. Mary's Roman Catholic Church A/K/A St. Mary's Parish. From approximately 1965-1966, Fr. Mach served as priest and Parochial Vicar at Defendant Holy Cross Roman Catholic Church. From approximately 1966 to 1977, Fr. Mach served as a priest and parochial Vicar at Defendant St. Gerard's Roman Catholic Church. From approximately 1977 to 1979, Fr. Mach served as a priest and parochial Vicar at Defendant St. John Vianney Roman Catholic Church. From approximately 1979 to 1980, Fr. Mach served as a priest and parochial Vicar at Defendant St. Vincent De Paul Roman Catholic Church a/k/a St. John Paul II Parish Community. These Defendants each negligently retained Fr. Mach 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.

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

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

30. Prior to Plaintiff's abuse at Sacred Heart Church, Fr. Freeman 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 Defendants St. Margaret's Roman Catholic Church and St. Lawrence Roman Catholic Church and participating in the sacraments.

31. Prior to Plaintiff's abuse at Sacred Heart Church, Fr. Mach was assigned to the position of priest at St. Mary's Roman Catholic Church a/k/a St. Mary's Parish, Holy Cross Roman Catholic Church, St. Gerard's Roman Catholic Church, St. John Vianney Roman Catholic Church and St. Vincent De Paul Roman Catholic Church a/k/a St. John Paul II Parish Community. His duties included interacting with children, including altar boys, students, and children attending Defendants St. Mary's Roman Catholic Church a/k/a St. Mary's Parish, Holy Cross Roman Catholic Church, St. Gerard's Roman Catholic Church, St. John Vianney Roman Catholic Church and St. Vincent De Paul Roman Catholic Church a/k/a St. John Paul II Parish Community and participating in the sacraments.

32. In the performance of their duties, Defendants authorized Fr. Freeman and Fr. Mach to be alone with minor boys, and to have unfettered and unsupervised access to them on Defendants' property.

33. Defendants St. Margaret's Roman Catholic Church, St. Lawrence Roman Catholic Church, St. Mary's Roman Catholic Church A/K/A St. Mary's Parish, Holy Cross Roman Catholic Church, St. Gerard's Roman Catholic Church, St. John Vianney Roman Catholic Church and St. Vincent De Paul Roman Catholic Church a/k/a St. John Paul II Parish Community required parishioners and students, to accept and obey guidance, discipline, and instruction from Fr. Freeman, Fr. Mach and other clergy members.

34. By assigning Fr. Freeman and Fr. Mach to the roles of priests and parochial Vicars, Defendants Defendants St. Margaret's Roman Catholic Church, St. Lawrence Roman Catholic Church, St. Mary's Roman Catholic Church A/K/A St. Mary's Parish, Holy Cross Roman Catholic Church, St. Gerard's Roman Catholic Church, St. John Vianney Roman Catholic Church and St. Vincent De Paul Roman Catholic Church a/k/a St. John Paul II Parish Community gave Fr. Freeman and Fr. Mach complete unfettered access to minors, and empowered them to groom, guide, discipline, and otherwise exercise complete authority over minors.

35. 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. Freeman and Fr. Mach.

36. The Vatican and other church authorities addressed the problem of clergy sex abuse on countless occasions prior to Fr. Freeman's and Fr. Mach'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.

37. Defendants 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 Fr. Freeman and Fr. Mach posed to Plaintiff.

38. Prior to the time of Plaintiff's abuse by Fr. Freeman and Fr. Mach 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.

39. The sexual abuse of Plaintiff by Fr. Freeman and Fr. Mach was foreseeable.

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

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

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

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

44. 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.

45. 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

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

47. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Fr. Freeman and/or Fr. Mach were not fit to work with or around children.

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

49. Defendants negligently retained Fr. Freeman and/or Fr. Mach with knowledge of their propensity for the type of behavior which resulted in Plaintiff's injuries.

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

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

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

53. Fr. Freeman and Fr. Mach 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. Freeman and/or Fr. Mach.

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

55. 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.

56. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount to be determined at trial, in an amount that exceeds the jurisdictional limit of the lower courts of this State, together with interest and costs.

SECOND CAUSE OF ACTION

NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

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

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

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

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

61. Defendants knew or should have known this representation was false and that employing clergy, including Fr. Freeman and Fr. Mach 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 Fr. Freeman and/or Fr. Mach and concealed facts concerning Fr. Freeman's and Fr. Mach'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. By failing to disclose the identities, histories and information about sexually abusive clergy in their employ, including Fr. Freeman and Fr. Mach, Defendants unreasonably deprived the families of children entrusted to their care, including Plaintiff, of the ability to protect their children.

65. Defendants failed to warn Plaintiff and his parents that Fr. Freeman and/or Fr. Mach posed a risk of child sexual assault.

66. 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.

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

68. 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.

69. 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

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

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

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

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

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

75. 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

BREACH OF STATUTORY DUTIES TO REPORT

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

77. 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.

78. Defendants willfully and/or knowingly breached their statutory duty by failing to report reasonable suspicion of abuse by Fr. Freeman and/or Fr. Mach of children in their care.

79. 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.

80. 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

AIDING AND ABETTING FRAUD

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

82. The Roman Catholic Bishop and Vicar General of Buffalo fraudulently

concealed from the parishioners of Defendants information that would have shown that Fr. Freeman and Fr. Mach were a danger to minor children.

83. Defendants had information that would have shown Fr. Freeman and/or Fr. Mach were a danger to minor children. Defendants assisted the Roman Catholic Bishop and Vicar General of Buffalo in fraudulently concealing information from the parishioners about the danger Fr. Freeman and/or Fr. Mach posed to parishioners.

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

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

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

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

WHEREFORE, Plaintiff prays for judgment as follows:

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

JURY TRIAL DEMANDED

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

Dated: May 19, 2021

Yours, etc.

PHILLIPS & PAOLICELLI, LLP

/s/ Diane Paolicelli

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Attorneys for Plaintiff

STATE OF NEW YORK
SUPREME COURT: COUNTY OF NIAGARA

<p>PB-4 Doe, a childhood victim of sexual assault,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>THE DIOCESE OF BUFFALO, N.Y., INC, ROMAN CATHOLIC CHURCH OF THE SACRED HEART, and ST. RAPHAEL ROMAN CATHOLIC 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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STATE OF NEW YORK
SUPREME COURT: COUNTY OF NIAGARA

<p>PB-4 Doe, a childhood victim of sexual assault,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>THE DIOCESE OF BUFFALO, N.Y., INC, ROMAN CATHOLIC CHURCH OF THE SACRED HEART, and ST. RAPHAEL ROMAN CATHOLIC PARISH,</p> <p style="text-align: center;">Defendants.</p>
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COMPLAINT

Index No.:

Plaintiff PB-4 Doe, by his undersigned attorneys, for his Complaint, alleges on personal knowledge as to himself and on information and belief as to other matters, 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-4 Doe was sexually abused, assaulted and molested by Father Michael Freeman (“Fr. Freeman”) and Father Bernard Mach (“Fr. Mach”) -- priests hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants, the Diocese of Buffalo, N.Y. and the Roman Catholic Church of the Sacred Heart in Niagara Falls.
3. The sexual abuse of Plaintiff began when he was about 15 years old and continued for approximately two years.
4. 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 expressly includes both Fr. Freeman and Fr. Mach, who victimized many children.

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5. 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, in particular 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 Fr. Freeman and Fr. Mach, permitted the abuse to occur, neglected to adequately supervise Fr. Freeman and Fr. Mach, failed to timely investigate Fr. Freeman's and Fr. Mach's misconduct, acted to protect their own self-interest to the detriment of innocent children, and are otherwise responsible for Fr. Freeman's and Fr. Mach's sexual assault of Plaintiff and his consequential injuries and damages.

PARTIES

7. Plaintiff is an individual who resides in the State of Oregon. At the time of the events complained of, he was a minor residing in Niagara County, N.Y.

8. Plaintiff was born in 1964.

9. Defendant The Diocese of Buffalo, N.Y., Inc. ("Diocese") is a New York not-for-profit corporation, organized pursuant to the laws of the State of New York, and which operated at all relevant times in Niagara County, New York, with its principal place of business at 795 Main Street, Buffalo, New York 14206.

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

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11. Defendant Roman Catholic Church of the Sacred Heart (“Sacred Heart”) was a not-for-profit corporation organized pursuant to the laws of the State of New York and at all relevant times was located in Niagara County, N.Y., at 1112 South Ave, Niagara Falls, New York 14305.

12. Defendant St. Raphael Roman Catholic Parish (“St. Raphael”) is and was a not-for-profit corporation organized pursuant to the laws of the State of New York, and at all relevant times was and is located at 3840 Macklem Avenue, Niagara Falls, New York 14305.

13. In or about March 2008, Defendant Sacred Heart merged with another parish within the Diocese, known as St. Teresa of the Infant Jesus. The two merged parishes formed St. Raphael. Upon information and belief, St. Raphael assumed some or all of the liabilities and/or assets of Sacred Heart.

14. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and operated Defendant Sacred Heart and Defendant St. Raphael.

15. At all relevant times, Defendant Diocese owned the premises where Defendant Sacred Heart and Defendant St. Raphael were located.

16. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and assigned priests and lay teachers to work in parishes, churches and schools that were under the authority of the Diocese, including Defendant Sacred Heart and Defendant St. Raphael.

FACTUAL ALLEGATIONS

17. At all relevant times, Plaintiff and his family were parishioners of Defendant Sacred Heart.

18. At all relevant times, Fr. Freeman was a Roman Catholic priest employed by Defendant Diocese and assigned to Defendant Sacred Heart.

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19. At all relevant times, Fr. Freeman was under the direct supervision and control of the Defendant Diocese and Defendant Sacred Heart. His assigned duties included, *inter alia*, serving as priest and as pastor. His duties also included interacting with, mentoring and counseling children.

20. In or about November 1981, Fr. Freeman was abruptly transferred away from Sacred Heart. Freeman was replaced by Father Bernard Mach (“Mach”).

21. At all relevant times, Fr. Mach was a Roman Catholic priest employed by Defendant Diocese and assigned to Defendant Sacred Heart.

22. At all relevant times Fr. Mach was under the direct supervision and control of Defendant Diocese and Defendant Sacred Heart. Fr. Mach’s assigned duties included, *inter alia*, serving as priest and associate pastor. His duties also included interacting with, mentoring and counseling children.

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

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

25. Defendants required students, like Plaintiff, to accept discipline and instruction from clergy in their employ, including Fr. Freeman and Fr. Mach, and to obey their orders.

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. Beginning in or about 1980, and repeatedly during the approximate period that Plaintiff was in 9th and/or 10th grades, Fr. Freeman engaged in unpermitted, forcible and harmful

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sexual contact with Plaintiff, and otherwise sexually abused him. This sexual abuse took place in the Sacred Heart rectory and/or other areas owned by Defendants.

28. Beginning in or about 1981 – 1982, during the approximate period when plaintiff was in the 11th and/or 12th grades, Fr. Mach engaged in unpermitted, forcible and harmful sexual contact with Plaintiff, and otherwise sexually abused him. This sexual abuse took place in the Sacred Heart rectory and/or other areas owned by Defendants.

29. In his efforts to groom Plaintiff into sexual submission, Fr. Mach illegally plied Plaintiff, a minor, with alcohol.

30. Fr. Mach threatened Plaintiff never to divulge his sexual misconduct, or Plaintiff would “go to hell.”

31. Plaintiff’s relationship to Defendants as a vulnerable child, and the culture of the Catholic Church which Defendants endorsed, put pressure on Plaintiff not to report the sexual molestation and abuse he endured at the hands of clergy and lay teachers in Defendants’ employ.

32. Defendants knew or should have known that Fr. Freeman and Fr. Mach were dangers to minor boys like Plaintiff, before the sexual abuse of Plaintiff occurred.

33. 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. Over the centuries, various Popes passed Church decrees and legislation condemning such offenses, including a clerical crime known as “solicitation,” engaging in sexual contact with an adult or a child during administration of the sacrament of confession.

34. As such, at all relevant times, Defendants were well aware that errant sexual behavior by some priests was not only widespread but predictable.

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35. 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.

36. 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.

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

38. Prior to the time of Plaintiff's abuse by Fr. Freeman and Fr. Mach, Defendants knew or should have known of acts of child sexual abuse by each of these individuals.

39. In March, 2018, the Diocese admitted publically that both Fr. Freeman and Fr. Mach were among the many Diocesan priests "with substantiated claims of sexual abuse of a minor."

40. In fact, Freeman admitted to sexually violating children in at least five of his six ministry assignments, which began in 1972.

41. Nevertheless, the Diocese never notified law enforcement officials of Fr. Freeman's and/or Fr. Mach's illegal activities, and, upon information and belief, permitted each of them to remain in active ministry for years despite knowing of their predatory and criminal behavior.

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

43. 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. Freeman and Fr. Mach posed to Plaintiff.

44. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited parents and their children to join Sacred Hearth Parish and participate in services and activities at Sacred Heart Church; they undertook custody of minor children, including Plaintiff; they promoted their facilities and programs as being safe for children, they held out their agents, including Fr. Freeman and Fr. Mach as safe to work with and around minors, they encouraged parents to have their children spend time with their agents; and/or authorized their agents, including Fr. Freeman and Fr. Mach to spend time with, interact with, and recruit children.

45. Defendants owed Plaintiff a heightened, fiduciary duty of care because they held themselves out as being able to provide a safe and secure environment for children, including Plaintiff; Plaintiff'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.

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

47. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and continues to suffer loss of spirituality; has suffered and will continue

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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.

COUNT I

NEGLIGENT HIRING, RETENTION, SUPERVISION, AND DIRECTION

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

49. 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. Freeman and Fr. Mach, 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. Freeman and Fr. Mach did not use their assigned positions to injure minors by sexual assault, contact or abuse.

50. Defendants were negligent and failed to use reasonable care in hiring, appointing, assigning, and retention, of Fr. Freeman and Fr. Mach, failed to properly investigate their background and employment history, and/or hired, appointed and/or assigned Fr. Freeman and Fr. Mach to Defendant Sacred Heart when Defendants knew or should have known of facts that would make them a danger to children; and Defendants were otherwise negligent.

51. Defendants were negligent and did not use reasonable care in their supervision and direction of Fr. Freeman and Fr. Mach, failed to monitor their activities, 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 Fr. Freeman and Fr. Mach each posed a threat of sexual abuse to minors; allowed the misconduct described above to occur; failed to investigate Fr.

Freeman and Fr. Mach's dangerous activities and remove them from their premises; and Defendants were otherwise negligent.

52. Fr. Freeman 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. Freeman.

53. Fr. Mach 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. Mach.

54. At all relevant times, Fr. Freeman and Fr. Mach acted in the course and scope of their employment with Defendants.

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

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

57. 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

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

59. 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. Freeman and Fr. Mach, 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.

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

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

62. 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.

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

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

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

66. Defendants failed to warn Plaintiff and his parents that Fr. Freeman and Fr. Mach each posed a risk of child sexual assault.

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

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

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

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

COUNT III

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 Fr. Freeman and/or Fr. Mach would cause severe emotional distress to Plaintiff.

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 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

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 of Defendant Sacred Heart, 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 students, like Plaintiff, whose presence was reasonably anticipated.

81. 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. Freeman and Fr. Mach. Defendants thereby breached their duty of care to Plaintiff.

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 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

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 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.

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.

89. 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

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 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

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

96. 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.

97. Defendants breached their statutory duty by failing to report reasonable suspicion of abuse by Fr. Freeman and by Fr. Mach of children in their care.

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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 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.

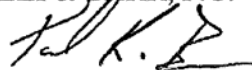
JURY TRIAL DEMANDED

100. 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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