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

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

NYS UCS Case Number	Alleged Perpetrator	Defendant #	Defendants	Plaintiff
524119/2020	McCue, Fr. Webster	2	Diocese of Brooklyn & St. Joseph Catholic Church	Steven Castro

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

<p>STEVEN CASTRO,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ROMAN CATHOLIC DIOCESE OF BROOKLYN, N.Y.; ST. JOSEPH'S ROMAN CATHOLIC CHURCH;</p> <p style="text-align: center;">Defendants.</p>
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SUMMONS

Index No.:

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

TO THE ABOVE NAMED DEFENDANTS:

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

DATED: New York, New York
December 3, 2020

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TO:
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ST. JOSEPH'S ROMAN CATHOLIC CHURCH
43-19 30th Ave., Queens, NY, 11103

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

<p>STEVEN CASTRO,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ROMAN CATHOLIC DIOCESE OF BROOKLYN, N.Y.; ST. JOSEPH'S ROMAN CATHOLIC CHURCH;</p> <p style="text-align: center;">Defendants.</p>
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COMPLAINT

Index No.:

Plaintiff Steven Castro, 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 Steven Castro was repeatedly sexually abused and assaulted by Father Webster McCue, who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants, Roman Catholic Diocese of Brooklyn, NY, and St. Joseph's Roman Catholic Church.
3. Plaintiff was about 10 years old at the time of his abuse.
4. The Roman Catholic Church and Defendants have long known that substantial numbers of priests and other clergyman throughout history, and up to and including the present day, violate their vows or promises of celibacy and otherwise misbehave by soliciting sexual contact with parishioners and others, in particular with children like Plaintiff, who are entrusted

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

5. 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 Father McCue, permitted the abuse to occur, failed to supervise Father McCue, failed to timely investigate Father McCue's misconduct, acted to protect their own self-interest to the detriment of innocent children, and are otherwise responsible for Father McCue's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

PARTIES

6. Plaintiff is an individual currently residing in Queens, County, NY. At all times relevant to this lawsuit Plaintiff resided in Queens County, NY.

7. Plaintiff was born in 1968.

8. Defendant Roman Catholic Diocese of Brooklyn, NY (hereinafter "Diocese") is, and at all relevant times was, a non-profit organization or entity, which includes but is not limited to civil corporations, decision-making entities, officials, and employees, authorized to conduct business and doing business at 310 Prospect Park West, Brooklyn, NY 11215.

9. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and operated parishes, churches and schools within the Diocese, including Defendant St. Joseph's Roman Catholic Church.

10. Defendant St. Joseph's Roman Catholic Church (hereinafter "St. Joseph's") is, and at all relevant times was, a non-profit organization or entity, which includes but is not

limited to civil corporations, decision-making entities, officials, and employees, authorized to conduct business and doing business in the State of New York.

11. At all relevant times, Defendant St. Joseph's was a Roman Catholic Church organized pursuant to the laws of the State of New York and located at 43-19 30th Ave., Queens, NY, 11103.

12. At all relevant times, Defendant St. Joseph's was under the direct supervision of Defendant Diocese.

13. At all relevant times, Defendant Diocese owned the premises where St. Joseph's was located.

14. At all relevant times, Defendant Diocese oversaw, managed controlled, directed and operated St. Joseph's.

15. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and assigned priests and other clergy to work in parishes, churches and schools of the Diocese, including St. Joseph's.

FACTUAL ALLEGATIONS

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

17. In approximately 1978 Plaintiff attended after school classes at St. Joseph's in preparation for receiving his First Communion Sacrament. Plaintiff was a student at nearby PS 70 in Queens, NY.

18. At all relevant times, Father Webster McCue was a Roman Catholic Priest at St. Joseph's employed by Defendant Diocese.

19. At all relevant times, Father McCue was under the direct supervision, employ, and control of the Defendants.

20. At all relevant times the Plaintiff and his family were parishioners at St. Joseph's.

21. Prior to or during the time that Plaintiff was a parishioner at St. Joseph's and prior to or during the time he was taking classes in preparation for First Communion, Defendants assigned Father McCue to be a Priest at St. Joseph's.

22. By assigning Father McCue to the role of Priest, Defendants gave Father McCue complete access to minors, including Plaintiff, and empowered him to discipline, punish, reprimand, chastise, expel and otherwise exercise complete authority over minors.

23. Father McCue's duties and responsibilities included supervising, interacting with, mentoring and counseling minor boys and instructing them in religious practices.

24. In the performance of these duties, Defendants authorized Father McCue to be alone with minor boys, including Plaintiff, and to have unfettered and unsupervised access to them on Defendants' property.

25. Defendants also authorized Father McCue to have physical contact with minor boys, in a manner consistent with providing discipline, counseling, educational and spiritual guidance, and leadership.

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, including Father McCue.

27. In or around the year 1978, when Plaintiff was 10 years old, Plaintiff attended after school classes to prepare for his First Communion. Father McCue taught these classes along with several other priests. The classes lasted for several months.

28. On multiple occasions, on school premises, Father McCue engaged in unpermitted, forcible, and harmful sexual contact with Plaintiff.

29. The unlawful sexual contact, which included anal penetration, was in violation of New York Penal Law Article 130.

30. Defendants knew or should have known that Father McCue was a danger to minor boys like Plaintiff before he sexually abused Plaintiff.

31. Father McCue is a known abuser of minors like Plaintiff and has been accused of sexual abuse by other minors. Father McCue passed away in 1991. He appears on Defendant Diocese's list of "Diocese of Brooklyn Clergy who were deceased and/or resigned prior to a finding of credibility."¹

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

33. Upon information and belief, not only were Defendants 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.

34. Father McCue himself was transferred from parish to parish prior to his sexual abuse of Plaintiff. Upon information and belief, Father McCue was assigned to St. Boniface's Church in the Brooklyn Diocese from 1961 to 1964, then transferred to St. Matthew's Church in the Brooklyn Diocese from 1965 to 1969. Father McCue was then transferred again to St. Joseph's Church where he was assigned from 1970-1982.²

¹ <https://dioceseofbrooklyn.org/sex-abuse-crisis-response/list/>

² <https://www.andersonadvocates.com/accused/father-webster-j-mccue/>

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

36. Prior to the time of Plaintiff's abuse by Father McCue, 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 by Father McCue was foreseeable.

38. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited children, including Plaintiff, and parents to send their children to mass and religious instruction at St. Joseph's; 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 Father McCue, 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 Father McCue, to spend time with, interact with, and recruit children.

39. Defendants owed Plaintiff a heightened, fiduciary duty of care because it 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.

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

41. 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 limits of lower courts in this State.

42. To the extent that any Defendant pleads, or otherwise seeks to rely upon Article 16 of the New York Civil Practice Law and Rules (CPLR) to have fault apportioned to another allegedly culpable party, Plaintiff expressly states that Defendant's conduct falls within one or more of the subdivisions of CPLR 1602.

FIRST CAUSE OF ACTION

NEGLIGENT HIRING, RETENTION, SUPERVISION, AND DIRECTION

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

44. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Father McCue was not fit to work with or around children.

45. Defendants, by and through their agents, servants, and/or employees, became aware or should have become aware of Father McCue's propensity to commit sexual abuse and of the risk to Plaintiff's safety, prior to the time that Plaintiff was abused.

46. Defendants negligently retained Father McCue with knowledge of Father McCue's propensity for the type of behavior which resulted in Plaintiff's injuries.

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

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

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

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

51. At all relevant times, Father McCue acted in the course and scope of his employment with Defendants.

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

53. As a direct and proximate result of Father McCue's sexual abuse and misconduct, Plaintiff suffered grave injury, including physical, psychological and emotional injury as described above.

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

SECOND CAUSE OF ACTION

NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

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

56. 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 Father McCue, 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.

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

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

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

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

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

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

63. 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.

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

65. Upon information and belief, Defendants covered up acts of abuse by Father McCue, and concealed facts concerning Father McCue's sexual misconduct from Plaintiff and his family.

66. Defendants failed to warn Plaintiff and his parents that Father McCue 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.

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 liable to Plaintiff for compensatory and punitive damages, in an amount to be determined at trial, together with interest and costs.

THIRD CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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 Father McCue 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 is liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interest and costs.

FOURTH CAUSE OF ACTION

PREMISES LIABILITY

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

78. At all relevant times, Defendants owned, operated, and /or controlled the premises known as St. Joseph's Church, 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, knowingly, recklessly, and negligently failed to provide a reasonably safe premises that was free from the presence of sexual predators and/or the assault by the occupants of the premises, including Father McCue. Defendants thereby breached its duty of care of 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 liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interest and costs.

FIFTH CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY

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. Defendant was 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 liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interest and costs.

SIXTH CAUSE OF ACTION

BREACH OF DUTY IN LOCO PARENTIS

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 its duty to act *in loco parentis*.

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

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

SEVENTH CAUSE OF ACTION

BREACH OF STATUTORY DUTIES TO REPORT

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

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 knowingly and willfully breached their statutory duty by failing to report reasonable suspicion of abuse by Father McCue of children in its care.

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

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

WHEREFORE, Plaintiff prays for judgment as follows:

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

JURY TRIAL DEMANDED

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

Dated: December 3, 2020

Yours, etc.

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