



## Lynn Shumway Assignment History

Year	Assignment	Location
1947	Born	Niagara Falls NY
2002	Deacon, St. Stephen Church & School	Grand Island NY
2003	Priesthood ordination	Buffalo NY
2003-2005	Parochial Vicar, St. Christopher Church & School	Tonawanda NY
2005-2008	Pastor, St. John de LaSalle	Niagara Falls NY
2008-2017	Senior Parochial Vicar, St. Stephen Church & School	Grand Island NY
2017-2019	Retired to private residence	Lewiston NY
2019	Died (as per published obituary)	

© James Faluszczak. The above information was assembled using publicly-sourced information and alleges nothing but priestly assignment and general whereabouts within a given timeframe. This inclusion of information and manner of presentation is proprietary and requires citation. Additional information is welcome and can be sent [here](#).

For research purposes only. Courtesy of New York State Unified Court System eTrack.  
Available here: <https://iapps.courts.state.ny.us/webcivil/etrackLogin>



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:

<b>NYS UCS Case Number</b>	<b>Alleged Perpetrator</b>	<b>Defendant #</b>	<b>Defendants</b>	<b>Plaintiff</b>
804044/2021	Shumway, Fr. Lynn M.	2	St. Christopher Church & St. John de LaSalle Church.	DOE, PB-22
806767/2020	Shumway, Fr. Lynn M.	2	St. Stephen RC Church & School.	PB-22 DOE

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

<p>PB-22 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. CHRISTOPHER PARISH and ST. JOHN DE LASALLE CHURCH,</p> <p style="text-align: center;">Defendants.</p>
---

**SUMMONS**

Index No.:

**TO THE ABOVE NAMED DEFENDANTS :**

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

DATED: New York, New York  
March 26, 2021

Phillips & Paolicelli, LLP  
***Attorneys for Plaintiffs***

*/s/ Diane Paolicelli*

By: Diane Paolicelli  
Michael DeRuve  
747 Third Avenue, 6<sup>th</sup> Floor  
New York, New York 10027  
212-388-5100  
[dpaolicelli@p2law.com](mailto:dpaolicelli@p2law.com)  
[mderuve@p2law.com](mailto:mderuve@p2law.com)

Paul K. Barr  
Fannizzi & Barr, P.C.  
2303 Pine Avenue  
Niagara Falls, NY 14301  
716-284-8888

pbarr@fanizziandbarr.com

TO:

ST. CHRISTOPHER PARISH

2660 Niagara Falls Boulevard

Tonawanda, NY 14150

ST. JOHN DE LASALLE CHURCH

8477 Buffalo Avenue

Niagara Falls, NY 14304

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

<p>PB-22 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. CHRISTOPHER PARISH and ST. JOHN DE LASALLE CHURCH,</p> <p style="text-align: center;">Defendants.</p>
---

**COMPLAINT**

Index No.:

Plaintiff PB-22 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-22 Doe was repeatedly sexually abused and assaulted by Father Lynn M. Shumway (hereinafter “Fr. Shumway”), who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants, St. Christopher Parish and St. John de LaSalle Church (collectively herein “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.<sup>1</sup> The present complaint is a related action.
4. In or about 2009, when Plaintiff was in the 6th grade, he was abused by Fr. Shumway while a parishioner at St. Stephen’s Church and a student at St. Stephen’s School.

<sup>1</sup> PB-22 Doe v. St. Stephen’s Roman Catholic Church et. al, Index No. 806767/2020.

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

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

7. 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.

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

### **PARTIES**

9. Plaintiff is an individual residing in the State of New York. At the time of the events complained of, he was a minor residing in Erie County, New York.

10. Plaintiff was born in 1997.

11. At all relevant times, St. Christopher Parish is and 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 2660 Niagara Falls Boulevard, Tonawanda, NY 14150. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Christopher Parish, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Christopher Parish.

12. At all relevant times, St. John de LaSalle Church was and is a Roman Catholic Church, organized pursuant to the laws of the State of New York. It is operated in Niagara County, New York, with its principal place of business 8477 Buffalo Avenue, Niagara Falls, NY 14304. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. John de LaSalle Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. John de LaSalle.

13. At all relevant times, Defendants St. Christopher Parish and St. John de LaSalle Church were and/or are still under the direct authority, control, and province of the Diocese of Buffalo.

### **FACTUAL ALLEGATIONS**

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

15. Fr. Shumway was ordained a Roman Catholic priest in approximately 2003.

16. At the time he sexually abused Plaintiff, Fr. Shumway was employed by and under the direct supervision and control the Diocese, the St. Stephen's Roman Catholic Church, and the St. Stephen's Parochial School. The facts concerning his abuse are set forth in the earlier filed companion action. *See fn. 1, supra.*

17. Briefly stated in or about 2009, Fr. Shumway, 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.

18. Fr. Shumway engaged in unpermitted, forcible and harmful sexual contact with Plaintiff.

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

20. Prior to the sexual abuse of Plaintiff, from approximately 2003-2005, Fr. Shumway served as a Priest and Parochial Vicar at St. St. Christopher Church. From approximately 2005-2008, Fr. Shumway served as a Pastor at Defendant St. John de LaSalle Church. These Defendants each negligently retained Fr. Shumway with knowledge of his propensity for the type of behavior which resulted in Plaintiff's injuries, and did not take steps to prevent his abuse of minors or to report him to the authorities.

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

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

23. Fr. Shumway was assigned to the position of priest at St. Christopher Parish and St. John de LaSalle Church. His duties included interacting with children, including altar boys, students, and children attending Defendants St. Christopher Parish and St. John de LaSalle Church, and participating in the sacraments.

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

25. Defendants St. Christopher Parish and St. John de LaSalle Church required parishioners and students, to accept and obey guidance, discipline, and instruction from Fr. Shumway and other clergy members.

26. By assigning Fr. Shumway to the role of priest and Parochial Vicar, St. Christopher Parish and St. John de LaSalle Church gave Fr. Shumway complete unfettered access to minors, and empowered him to groom, guide, discipline, and otherwise exercise complete authority over minors.

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

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

29. 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 Defendant Fr. Shumway posed to Plaintiff.

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

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

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

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

34. 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. Shumway, 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. Shumway, to spend time with, interact with, and recruit children.

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

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

37. To the extent that any 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**

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

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

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

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

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

43. Defendants were negligent and failed to use reasonable care in hiring, appointing, assigning, and retention, of Fr. Shumway, 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.

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

45. Fr. Shumway 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. Shumway.

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

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

48. 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**

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

50. 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.

51. 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.

52. At all relevant times, Defendants affirmatively and/or impliedly represented to minor children, their families and the general public that clergy, including Fr. Shumway, did not

pose a risk and/or that they did not have a history of sexually abusing children, and that children, would be safe in their care.

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

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

55. 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.

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

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

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

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

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

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

### **THIRD CAUSE OF ACTION**

#### **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

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

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

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

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

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

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

**FOURTH CAUSE OF ACTION**

**BREACH OF STATUTORY DUTIES TO REPORT**

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

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

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

71. 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.

72. 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**

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

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



concealed from the parishioners of Defendants information that would have shown that Fr. Shumway was a danger to minor children.

75. Defendants had information that would have shown Fr. Shumway 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. Shumway posed to parishioners.

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

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

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

79. By reason of the foregoing, 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**

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

Dated: March 26, 2021

Yours, etc.

**PHILLIPS & PAOLICELLI, LLP**

/s/ Diane Paolicelli

By: Diane Paolicelli  
[dpaolicelli@p2law.com](mailto:dpaolicelli@p2law.com)  
Michael DeRuve  
[mderuve@p2law.com](mailto:mderuve@p2law.com)  
747 Third Avenue, Sixth Floor  
New York, New York 10017  
212-388-5100

and

Paul K. Barr  
2303 Pine Avenue  
Niagara Falls, NY 14301  
716-284-8888  
[pbarr@fanizziandbarr.com](mailto:pbarr@fanizziandbarr.com)

*Attorneys for Plaintiff*

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

<p>PB-22 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. STEPHEN’S ROMAN CATHOLIC CHURCH, and ST. STEPHEN’S PAROCHIAL SCHOOL,</p> <p style="text-align: center;">Defendants.</p>
---

**SUMMONS**

Index No.:

**TO THE ABOVE NAMED DEFENDANTS:**

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

DATED: New York, New York  
July 8, 2020

Phillips & Paolicelli, LLP  
*Attorneys for Plaintiffs*

/s/ Diane Paolicelli

By: Diane Paolicelli  
Michael DeRuve  
747 Third Avenue, 6<sup>th</sup> Floor  
New York, New York 10027  
212-388-5100  
[dpaolicelli@p2law.com](mailto:dpaolicelli@p2law.com)  
[mderuve@p2law.com](mailto:mderuve@p2law.com)

Paul K. Barr  
Fannizzi & Barr, P.C.  
2303 Pine Avenue

{00052613}

Niagara Falls, NY 14301  
716-284-8888  
pbarr@fanizziandbarr.com

TO:

ST. STEPHEN'S ROMAN CATHOLIC CHURCH  
2100 Baseline Road  
Grand Island, NY 14072.

ST. STEPHEN'S PAROCHIAL SCHOOL  
2080 Baseline Road  
Grand Island, NY 14072.

{00052613}

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

<p>PB-22 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. STEPHEN’S ROMAN CATHOLIC CHURCH, and ST. STEPHEN’S PAROCHIAL SCHOOL,</p> <p style="text-align: center;">Defendants.</p>
---

**COMPLAINT**

Index No.:

Plaintiff PB-22 Doe, by and through his undersigned attorneys, as and for his Verified 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-22 Doe was repeatedly sexually abused and assaulted by Lynn M. Shumway, who was hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants St. Stephen’s Roman Catholic Church and St. Stephen’s Parochial School, (herein collectively “Defendants”), in conjunction with the Diocese of Buffalo, N.Y., (“Diocese of Buffalo” or “Diocese”).
3. Plaintiff was about twelve years old at the time of his abuse in or about 2009.
4. Despite years of refusal to publically address rampant child abuse by priests and nuns, The Diocese of Buffalo recently published a long list clergy in their employ who were credibly accused of molesting children.
5. In fact, the Roman Catholic Church, the Diocese of Buffalo, and Defendants have long known that substantial numbers of priests and nuns throughout history, and up to and

{00052613}

including the present day, violate their vows or promises of celibacy and otherwise misbehave by soliciting sexual contact with parishioners and others, in particular with children like Plaintiff, who are entrusted to their spiritual care and guidance. Official Church documents dealing with this unspeakable misconduct span the centuries, many of which were and are well known to Defendants.

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

#### **PARTIES**

7. Plaintiff is an individual residing in Erie County, New York.
8. Plaintiff was born in 1997.
9. At all relevant times, Defendant St. Stephen's Roman Catholic Church (herein "St. Stephen's Church") was and is a Roman Catholic Church, organized pursuant to the laws of the State of New York, and which operated at all relevant times in Erie County, New York, with its principal place of business at 2100 Baseline Road, Grand Island, NY 14072.

{00052613}

10. At all relevant times, Defendant St. Stephen's Parochial School (herein "St. Stephen's School") was and is a Roman Catholic School, 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 2080 Baseline Road, Grand Island, NY 14072.

11. At all relevant times, Defendant St. Stephen's School was and still is under the direct authority, control and province of St. Stephen's Church.

12. At all relevant times, St. Stephen's Church owned the premises where Defendant St. Stephen's School was located.

13. At all relevant times, Defendant St. Stephen's Church was and still is under the direct authority, control and province of the Diocese.

#### **FACTUAL ALLEGATIONS**

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

15. At all relevant times, Plaintiff was a parishioner of St. Stephen's Church.

16. At all relevant times, Plaintiff was a student at Defendant St. Stephen's School.

17. At all relevant times, Father Lynn M. Shumway ("Fr. Shumway") was a Roman Catholic priest employed by Defendants, in conjunction with the Diocese of Buffalo. At all relevant times, Fr. Shumway was under the direct supervision, employ, and control of Defendant St. Stephen's Church and Defendant St. Stephen's School, in conjunction with the Diocese of Buffalo. Fr. Shumway was assigned to the position of Senior Parochial Vicar at St. Stephen's Church. His duties included interacting with children, including altar boys and children attending Defendants St. Stephen's Church and St. Stephen's School, and participating in the sacraments.

{00052613}

18. By assigning Fr. Shumway to the role of priest, Defendants gave Fr. Shumway complete unfettered access to minors, including Plaintiff, and empowered him to groom, guide, discipline, and otherwise exercise complete authority over minors.

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

20. Defendants required parishioners and students, like Plaintiff, to accept and obey guidance, discipline, and instruction from Fr. Shumway and other clergy members.

21. 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. Shumway.

22. In or about 2009, during Plaintiff's sixth grade year at Defendant St. Stephen's Church, Fr. Shumway, acting in his capacity as priest and vicar, and in furtherance of the business of Defendants, sought Plaintiff out after services and lured Plaintiff to the church bathroom or other secluded area.

23. There, on Church grounds, Fr. Shumway engaged in unpermitted, forcible and harmful sexual contact with Plaintiff.

24. 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 Fr. Shumway's abuse or threats.

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

26. The Vatican and other church authorities addressed the problem of clergy sex abuse on countless occasions prior to Fr. Shumway's abuse of Plaintiff, and communicated as

{00052613}



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.

27. 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. Shumway posed to Plaintiff.

28. Prior to the time of Plaintiff's abuse by Fr. Shumway, 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. The sexual abuse of Plaintiff by Fr. Shumway was foreseeable.

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

30. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited children and parents to send their children to St. Stephen's 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. Shumway, 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. Shumway, to spend time with, interact with, and recruit children.

31. 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

{00052613}

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.

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

33. 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.

34. 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**

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

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

{00052613}

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

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

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

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

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

{00052613}

42. Fr. Shumway 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. Shumway.

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

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

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

46. 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**

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

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

{00052613}

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

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

51. 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.

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

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

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

{00052613}

55. 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.

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

57. 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.

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

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

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

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

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

{00052613}

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

64. 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**

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

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

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

68. 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.

69. 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. Shumway. Defendants thereby breached their duty of care of Plaintiff.

{00052613}

70. 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.

71. 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**

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

73. 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.

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

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

76. 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.

{00052613}



77. 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***

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

79. 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.

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

81. 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.

82. 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**

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

{00052613}

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

85. Defendants willfully and knowingly breached their statutory duty by failing to report reasonable suspicion of abuse by Fr. Shumway of children in their care.

86. 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.

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

**WHEREFORE**, Plaintiff prays for judgment as follows:

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

**JURY TRIAL DEMANDED**

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

{00052613}

Dated: July 8, 2020

Yours, etc.

**PHILLIPS & PAOLICELLI, LLP**

/s/ Diane Paolicelli

By: Diane Paolicelli  
dpaolicelli@p2law.com  
Michael DeRuve  
mderuve@p2law.com  
747 Third Avenue, Sixth Floor  
New York, New York 10017  
212-388-5100

Paul K. Barr  
Fanizzi & Barr, P.C.  
2303 Pine Avenue  
Niagara Falls, NY 14301  
716-284-8888  
pbarr@fanizziandbarr.com

*Attorneys for Plaintiff*

{00052613}