



Edward Sobierajski Assignment History

Year	Assignment	Location
1961	Priesthood Ordination	Buffalo NY
1961-62	Missionary, St. Mary Church	East Arcade NY
1962	Chaplain, St. Vincent dePaul Health Camp	Angola NY
1962-70	Assistant, St. John Gualbert Church & School	Cheektowaga NY
1970-74	Parochial Vicar, St. Augustine Church & School	Depew NY
1974-75	Parochial Vicar, St. Barbara Church & School	Lackawanna NY
1975-78	Pastor, St. Matthias Church Mission, Our Lady of the Snows Church	French Creek NY Panama NY
1978-85	Pastor, Our Lady of Czestochowa Church & School	North Tonawanda NY
1985-92	Pastor, Resurrection Church & School	Cheektowaga NY
1992-93	Pastor, Our Lady of Czestochowa Church & School	Cheektowaga NY
1993-94	Resident, St John Gualbert Church & School Status uncertain	Cheektowaga NY
1994-96	Retired, residing in a private residence	Depew NY
1996-2016	Retired, residing at O'Hara Residence for Priests	Tonawanda NY
2016-2017	Retired to Brothers of Mercy assisted living	Clarence NY
2017	Died	

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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
806429/2020	Sobierajski, Fr. Edward J.		St. Mary RC Church Arcade NY.	PB-23 DOE

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-23 DOE,</p> <p style="text-align: right;">Plaintiff,</p> <p>vs.</p> <p>ST. MARY'S CHURCH, CATHOLIC, WYOMING COUNTY (d/b/a ST. MARY'S CHURCH),</p> <p style="text-align: right;">Defendants.</p>	<p>Index No.</p> <p><u>SUMMONS</u></p>
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Plaintiff designates the County of Erie as the place of trial. The basis of venue is Plaintiffs' residence.

TO THE ABOVE NAMED DEFENDANTS:

You are hereby summoned to answer in this action and to serve a copy of your answer, or, if the complaint is not served with 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: June 30, 2020
New York, New York

PHILLIPS & PAOLICELLI, LLP
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To:
**ST. MARY'S CHURCH, CATHOLIC, WYOMING COUNTY (d/b/a ST. MARY'S
CHURCH)**
6785 East Arcade Road
Arcade, NY 14009

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-23 DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. MARY'S CHURCH, CATHOLIC, WYOMING COUNTY (d/b/a ST. MARY'S CHURCH)</p> <p style="text-align: center;">Defendants.</p>
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COMPLAINT

Index No.:

Plaintiff PB-23 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-23 DOE (hereinafter Plaintiff) was sexually abused and assaulted by Fr. Edward Sobierajski, deceased, who was hired, retained, supervised, placed, directed, and otherwise authorized to act by Defendant St. Mary's Church, Catholic, Wyoming County (d/b/a St. Mary's Church), in conjunction with the Diocese of Buffalo, N.Y. ("Diocese of Buffalo" or "Diocese").
3. Defendants held Fr. Edward Sobierajski out as a clergyman capable of being entrusted with young children, including Plaintiff, and of safely supervising them in religious activities.
4. Fr. Edward Sobierajski's sexual abuse of Plaintiff occurred while he was acting in his assigned role on Defendants' behalf.

5. Plaintiff was between the ages of six and twelve years-old at the time of his abuse.

6. 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.

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

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

PARTIES

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

10. Plaintiff was born in 1950.

11. At all relevant times, Defendant St. Mary's Church, Catholic, Wyoming County (d/b/a St. Mary's Church) (hereinafter "St. Mary's Church"), was and still is a Roman Catholic

parish organized pursuant to the laws of the State of New York and located at 6785 East Arcade Road, Arcade, NY 14009

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

13. At all relevant times, the Diocese oversaw, managed, controlled, directed, and operated parishes, churches and schools within the Diocese.

14. At all relevant times, the Diocese oversaw, managed, controlled, directed, and assigned priests and other clergy to work in parishes, churches and schools of the Diocese.

15. At all relevant times, Fr. Sobierajski was a Roman Catholic priest employed by Defendant St. Mary's Church.

16. At all relevant times, Defendant St. Mary's Church owned the premises where the sexual abuse occurred.

FACTUAL ALLEGATIONS

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

18. From approximately 1956 through 1962 Plaintiff was in contact with Fr. Sobierajski, as a Roman Catholic priest under the control of Defendant.

19. At all relevant times, Fr. Sobierajski was under the direct supervision, employ, and control of Defendant, in conjunction with the Diocese of Buffalo.

20. By assigning Fr. Sobierajski to be in contact with children, Defendant gave Fr. Sobierajski complete access to minors, including Plaintiff, and empowered him to exercise complete authority over minors.

21. Fr. Sobierajski's duties and responsibilities included teaching, supervising, interacting with, mentoring, and counseling minor boys.

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

23. At all relevant times Defendants held Fr. Sobierajski out as a qualified religious leader, capable of supervising children on and off of church premises.

24. Defendant also authorized Fr. Sobierajski to have physical contact with minor boys, in a manner consistent with providing discipline, counseling, educational and spiritual guidance, and leadership.

25. Defendant required minors, like Plaintiff, to accept discipline and instruction from Fr. Sobierajski and other clergy, and to obey their instructions.

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 Fr. Sobierajski.

27. Fr. Sobierajski, acting in his capacity as a priest, and in furtherance of the business of Defendant, singled Plaintiff out for sexual abuse.

28. There, on church premises, Fr. Sobierajski sexually abused Plaintiff by engaging in unpermitted, forcible, and harmful sexual contact with Plaintiff.

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

30. The sexual crimes by Fr. Sobierajski referenced herein were willful, malicious and intentional, and resulted in injury to Plaintiff.

31. Fr. Sobierajski threatened Plaintiff to ensure Plaintiff stayed silent about the abuse.

32. In addition to these threats, Plaintiff's relationship to Defendants as a vulnerable child, and the culture of the Catholic Church which Defendant endorsed, put pressure on Plaintiff not to report Fr. Sobierajski's abuse or his threats.

33. Defendant knew or should have known that Fr. Sobierajski was a danger to minor boys like Plaintiff before he sexually abused Plaintiff.

34. At all relevant times, Fr. Sobierajski used his position at, within, or for, Defendants, and the implicit representations made by them about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create opportunities to be alone with and abuse Plaintiff.

35. Defendants knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up the inappropriate and unlawful sexual misconduct of Fr. Sobierajski.

36. Defendants had a duty to Plaintiff to ensure that Defendants did not offer opportunities for pedophiles to approach and assault vulnerable minors.

37. Defendants knew and/or should have known that Fr. Sobierajski used his position with Defendant to harm minors, including Plaintiff, and to form an acquaintance that could be, and was, used to provide opportunities for sexual abuse.

38. Defendants knew or should have known that Fr. Sobierajski was a danger to minors, like Plaintiff, before Fr. Sobierajski sexually abused Plaintiff.

39. Defendants knew or should have known that allowing Fr. Sobierajski to have unsupervised and unlimited access with children, particularly vulnerable children like Plaintiff, posed an unacceptable risk of child sex abuse.

40. At all relevant times, Defendants were well aware that errant sexual behavior by some clergy was not only widespread but predictable.

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

42. Defendant owed Plaintiff a duty of reasonable care because it had superior knowledge about the risks their facilities posed to minor children, the risk of abuse in general, and the risks that Fr. Sobierajski posed to Plaintiff.

43. Prior to the time of Plaintiff's abuse by Fr. Sobierajski, Defendant knew or should have known of numerous acts of sexual assault committed by clergy members within the parish, school, church, 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.

44. The sexual abuse of Plaintiff by Fr. Sobierajski was foreseeable.

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

46. Defendant owed Plaintiff a reasonable duty of care because they affirmatively solicited children and parents to send their children to St. Mary's; undertook custody of minor children, including Plaintiff; promoted their facilities and programs as being safe for children, held out their agents, including Fr. Sobierajski, as safe to work with and around minor boys, encouraged parents and children to spend time with their agents; and/or authorized their agents, including Fr. Sobierajski, to spend time with, interact with, and recruit children.

47. Defendant 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 Defendant's 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.

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

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

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

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

52. At all relevant times, there existed a fiduciary relationship of trust, confidence and reliance between Plaintiff and Defendants.

53. The entrustment of Plaintiff to the care and supervision of the Defendants while Plaintiff was a vulnerable child, imposed upon these Defendants a fiduciary non-delegable duty to act in the best interests of Plaintiff.

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

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

56. At all relevant times, Plaintiff was a vulnerable child entrusted to the care of Defendants, and was under the supervision and control of these Defendants, such that these Defendants owed him a duty to act in loco parentis and to prevent foreseeable injuries.

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

58. 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.

59. 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.

60. As a result of the foregoing, Plaintiff has sustained general and special damages in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

61. As a result of the foregoing, Plaintiff claims punitive damages in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

COUNT I

NEGLIGENT HIRING, RETENTION, SUPERVISION, AND DIRECTION

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

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

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

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

66. At all relevant times Defendant had a duty to exercise due care in hiring, appointing, assigning, retention, supervision and direction of Fr. Sobierajski, 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. Sobierajski did not use their assigned positions to injure minors by sexual assault, contact, or abuse.

67. Defendant were negligent and failed to use reasonable care in hiring, appointing, assigning, and retention of Fr. Sobierajski, failed to properly investigate their backgrounds and employment histories, and/or hired, appointed, and/or assigned them when Defendant knew or should have known of facts that would make them a danger to children; and Defendant was otherwise negligent.

68. Defendant were negligent and did not use reasonable care in their supervision and direction of Fr. Sobierajski, failed to monitor his activities, failed to oversee the manner in which

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

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

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

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

72. Plaintiff suffered grave injury as a result of Fr. Sobierajski's sexual abuse and misconduct, including physical, psychological and emotional injury as described above.

73. By the reason of the foregoing, Defendant is 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.

COUNT II

NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

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

75. At all relevant times, Defendant affirmatively and/or impliedly represented to minor children, their families and the general public that clergy, including Fr. Sobierajski, did

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

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

77. Defendant was 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 and facilities, to identify signs of sexual abuse, grooming behaviors, or sexual predators, and to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused.

78. Defendant was 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 their statutory duty to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused.

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

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

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

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

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

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

85. By the reason of the foregoing, Defendant is 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.

COUNT III

PREMISES LIABILITY

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

87. At all relevant times, Defendant owned, operated, and /or controlled the premises where the sexual abuse of Plaintiff occurred.

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

89. Defendant 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.

90. Defendant willfully, recklessly, and negligently failed to provide reasonably safe premises free from the presence of sexual predators and/or the assault by the occupants of the premises, including Fr. Sobierajski. Defendant thereby breached its duty of care of Plaintiff.

91. Defendants thereby breached their duty of care to Plaintiff.

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

93. By reason of the foregoing, Defendant is 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.

COUNT IV

BREACH OF STATUTORY DUTIES TO REPORT

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

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

96. Defendant breached their statutory duty by knowingly and willfully failing to report reasonable suspicion of abuse by Fr. Sobierajski of children in their care.

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

98. By reason of the foregoing, Defendant is 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

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

Dated: June 30, 2020

Yours, etc.

PHILLIPS & PAOLICELLI, LLP

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