



Franklin J. Tuchols Assignment History

Year	Assignment	Location
1971	Ordination	Buffalo, NY
1971-73	Parochial Vicar, St. Mary Church & School	Batavia, NY
1973-76	Parochial Vicar, St. Mary of Sorrows Church & School	Buffalo, NY
1976-1982	Marriage & Family Counselor, Catholic Charities of Buffalo; Residence; St. Mary of Sorrows C&S	Buffalo, NY
1982-83	Parochial Vicar, St. John the Evangelist Church & School	Buffalo, NY
1983-84	No assignment listed; In residence, Blessed Sacrament Church & School	Buffalo, NY
1984-95	Chaplain, Children's Hospital of Buffalo; In residence, Blessed Sacrament Church & School	Buffalo, NY
1995	Arrested and convicted of Cocaine possession in the neighborhood of Blessed Sacrament C&S	Buffalo, NY
1995-2000	Absent on Leave	Buffalo, NY
1995-97	In residence, Blessed Sacrament Church & School, while on leave	Buffalo, NY
1997-2000	Absent on Leave; No residence listed	Whereabouts unknown
2001-Present	Not listed in any ecclesiastical directories	Whereabouts unknown; Rumored to live in CT

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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. Faluszczak:

NYS UCS Case Number	Alleged Perpetrator	Defendant #	Defendants	Plaintiff
810245/2019	Tuchols, Fr. Franklin J, Fr. Paul Nogaro, "Fr. Mike", & Fr. Peter Popadick	4	Diocese of Buffalo, St. Mary of Sorrows Church & School & Bishop Fallon HS.	PB-1 DOE
805379/2021	Tuchols, Fr. Franklin J.; Nogaro, Fr. Paul, "Fr. Mike" & Popadick, Fr. Peter.	2	St. Mary of Sorrows Church & St. Jude the Apostle Church	DOE, PB-1

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-1-DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>THE DIOCESE OF BUFFALO, N.Y. A/K/A DIOCESE OF BUFFALO, ST. MARY OF SORROWS CHURCH, ST. MARY OF SORROWS SCHOOL, and BISHOP FALLON HIGH SCHOOL,</p> <p style="text-align: center;">Defendants.</p>

SUMMONS

Index No.:

TO THE ABOVE NAMED DEFENDANTS:

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

This action is brought in the County of Erie on the basis of the Plaintiff's residence.

Dated: New York, New York
August 14, 2019

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Yours, etc



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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-1-DOE,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>THE DIOCESE OF BUFFALO, N.Y. A/K/A DIOCESE OF BUFFALO, ST. MARY OF SORROWS CHURCH, ST. MARY OF SORROWS SCHOOL, and BISHOP FALLON HIGH SCHOOL,</p> <p style="text-align: center;">Defendants.</p>

COMPLAINT

Index No.:

PB-1-Doe, a victim of childhood sexual abuse, by and through his undersigned attorneys, as and for his Complaint, alleges as follows:

NATURE OF THE ACTION

1. This action is brought pursuant to the Child Victims Act, codified at CPLR 214-g.
2. Plaintiff "PB-1-Doe" was repeatedly sexually abused and assaulted while a student at Defendant St. Mary of Sorrows School and Defendant Bishop Fallon High School. Both of these Defendants are Roman Catholic schools that were under the authority of the Defendant Diocese of Buffalo ("Diocese"). Plaintiff's abusers included teachers and priests who were hired, retained, supervised, placed, directed and otherwise authorized to act by the Diocese.
3. The abuse of Plaintiff took place of over many years, beginning when Plaintiff was about 10 or 11 years old.
4. The Roman Catholic Church, and the Defendants specifically, have long known that substantial numbers of priests throughout history, and up to and including the present day,

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

JURISDICTION AND VENUE

6. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 in that the Defendants reside in New York.

7. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

8. Venue for this action is proper in the County of Erie pursuant to CPLR 503 in that Defendant Diocese resides in this County.

PARTIES

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

10. Plaintiff's date of birth is [REDACTED] 1957.

11. Defendant The Diocese of Buffalo ("Diocese") is a not for profit corporation with a principal place of business located at 795 Main Street, Buffalo, NY.

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

13. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and operated Defendant St. Mary of Sorrows Church and Defendant St. Mary of Sorrows School, a Roman Catholic elementary school then located at 30 Rich Street, Buffalo, NY.

14. At all relevant times, Defendant Diocese owned the premises where Defendant St. Mary of Sorrows Church and Defendant St. Mary of Sorrows School were located.

15. At all relevant times, Defendant Diocese oversaw, managed controlled, directed and operated Defendant Bishop Fallon High School, a Roman Catholic high school located in Buffalo, NY.

16. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and assigned priests and lay teachers to work in parishes, churches and schools that were under the authority of the Diocese, including Defendants St. Mary of Sorrows Church, St. Mary of Sorrows School and Bishop Fallon High School.

FACTUAL ALLEGATIONS

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

18. From approximately 1963 through 1973, Plaintiff attended Defendant St. Mary of Sorrows School.

19. At all relevant times, Fr. Joseph Franklin Tuchols ("Fr. Tuchols") was a Roman Catholic priest employed by Defendant Diocese and assigned to Defendants St. Mary of Sorrows Church and St. Mary of Sorrows School.

20. At all relevant times, Fr. Tuchols was under the direct supervision and control of the Defendant Diocese and Defendants St. Mary of Sorrows Church and St. Mary of Sorrows School. His assigned duties included, *inter alia*, serving as assistant priest under the then pastor, Fr. Welker. His duties also included interacting with, mentoring and counseling children.

21. At all relevant times, Fr. Paul Nogaro ("Fr. Nogaro") was a Roman Catholic priest employed by Defendant Diocese and assigned to Defendants St. Mary of Sorrows Church and/or St Mary of Sorrows School.

22. At all relevant times, Fr. Nogaro was under the direct supervision and control of Defendant Diocese and Defendants St. Mary of Sorrows Church and St. Mary of Sorrows School. His assigned duties included, *inter alia*, preparing boys in the parish for the Sacrament of Confirmation, and assisting the then pastor, Fr. Paul Durkin. His duties also included interacting with, mentoring and counseling children.

23. At all relevant times, a Roman Catholic priest known to Plaintiff as "Fr. Mike" was employed by Defendant Diocese and assigned to Defendant St. Mary of Sorrows Church and/or St Mary of Sorrows School.

24. At all relevant times, Fr. Mike was under the direct supervision and control of Defendant Diocese and Defendants St. Mary of Sorrows Church and School. He was assigned, *inter alia*, to coach wrestling, and otherwise interacted with, mentored and counseled children.

25. At all relevant times, Fr. Peter Popadick ("Fr. Popadick") was a Roman Catholic priest employed by Defendant Diocese and assigned to Defendant Bishop Fallon High School.

26. At all relevant times, Fr. Popadick was under the direct supervision and control of Defendant Diocese and Defendant Bishop Fallon High School. His assigned duties included,

inter alia, teaching Afro-American studies and coaching tennis, and otherwise interacting with, mentoring and counseling minor boys.

27. At all relevant times, Defendants authorized Fr. Tuchols, Fr. Nogaro, Fr. Mike and Fr. Popadick, to be alone with children, including Plaintiff, and to have unfettered and unsupervised access to them.

28. Defendants authorized Fr. Tucholz, Fr. Nogaro, Fr. Mike and Fr. Popadick to have physical contact with minors, in a manner consistent with providing discipline, counseling, educational and spiritual guidance, and leadership.

29. Defendants required students, like Plaintiff, to accept discipline and instruction from clergy and teachers, including Fr. Tuchols, Fr. Nogaro, Fr. Mike and Fr. Popadick, and to obey their orders.

30. Plaintiff was raised as a Catholic, and at all relevant times had developed a reverence, respect and/or fear of the Catholic Church and its clergy.

31. In or about 1972-1973, when Plaintiff was the captain of his wrestling team, Fr. Mike engaged in unpermitted, forcible and harmful sexual contact with Plaintiff. This sexual abuse, which was repeated, took place in the basement of Defendant St. Mary of Sorrows School.

32. In or about 1972-1973, when plaintiff was in the eighth grade, and preparing for Confirmation, Fr. Nogaro engaged in unpermitted, forcible and harmful sexual contact with Plaintiff.

33. In or about 1973-1974, Fr. Tuchols plied him with pills and alcohol, and engaged in unpermitted, forcible and harmful sexual contact with Plaintiff. This sexual abuse took place

in the rectory of Defendant St. Mary of Sorrows Church and in other churches and locations operated by the Diocese, and continued until after Plaintiff turned 18.

34. In or about 1973-1974, Fr. Popadick engaged in unpermitted, forcible and harmful sexual contact with Plaintiff. This abuse, which was repeated, took place on the premises of Bishop Fallon High School, in the gym showers after tennis practice.

35. In addition to the foregoing sexual abuse by several priests, Plaintiff was subjected to sexual molestation by lay teachers under the direction, supervision and control of Defendant Diocese and Defendants St. Mary of Sorrows Church and St. Mary of Sorrows School. These offending lay teachers included Thomas Krachowiak, who molested Plaintiff when he was about 10-11 years old, and Mr. Anderson, Plaintiff's seventh and eighth grade teacher, who repeatedly took Plaintiff to his home near St. Mary of Sorrows School, and molested him.

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

37. Defendants knew or should have known that the aforementioned priests and lay teachers were dangers to minor boys like Plaintiff, before the sexual abuse of Plaintiff occurred.

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

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

40. 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. Tuchols, Fr. Mike, Father Nogaro and Fr. Popadick posed to Plaintiff.

41. Prior to the time of Plaintiff's abuse Defendants knew or should have known of numerous acts of sexual assault committed by clergy members within the Archdiocese 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.

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

43. Prior to the time of Plaintiff's abuse by each of the above-described priests and lay teachers, Defendants knew or should have known of acts of child sexual abuse by these individuals.

44. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited children and parents to send their children to St. Mary of Sorrows and Bishop Fallon High School; 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 the priests and lay teachers described herein, as safe to work with and around minors, they encouraged parents and children to spend time with their agents; and/or authorized their agents, including the priests and lay teachers described herein, to spend time with, interact with, and recruit children.

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

Plaintiff; Plaintiff's parents entrusted Plaintiff to Defendants' care, and expected that Plaintiff would be safe and properly supervised in an environment free from harm and abuse; Plaintiff was a vulnerable minor, and unable to protect himself; and Defendants affirmatively assumed a position of empowerment over Plaintiff.

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

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

COUNT I

NEGLIGENT HIRING, RETENTION, SUPERVISION, AND DIRECTION

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

49. At all relevant times Defendants had a duty to exercise due care in hiring, appointing, assigning, retention, supervision and direction of its priests and lay teachers, including Fr. Tuchols, Fr. Mike, Fr. Nogaro, Fr., Popadick, Thomas Krachowiak and Mr. Anderson, so as to protect minor children, including Plaintiff, who were likely to come into contact with, and/or under the influence or supervision of these individuals, and to ensure that

these individuals did not use their assigned positions to injure minors by sexual assault, contact or abuse.

50. Defendants were negligent and failed to use reasonable care in hiring, appointing, assigning, and retention, of Fr. Tuchols, Fr. Mike, Fr. Nogaro, Fr., Popadick, Thomas Krachowiak and Mr. Anderson, failed to properly investigate their backgrounds and employment history, and/or hired, appointed and/or assigned them to St. Mary of Sorrows Church and School and Bishop Fallon High School, when Defendants knew or should have known of facts that would make them a danger to children; and Defendants were otherwise negligent.

51. Defendants were negligent and did not use reasonable care in their supervision and direction of Fr. Tuchols, Fr. Mike, Fr. Nogaro, Fr., Popadick, Thomas Krachowiak and Mr. Anderson, 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 these individuals posed a threat of sexual abuse to minors; allowed the misconduct described above to occur and continue; failed to investigate these priests' and lay teachers' dangerous activities and remove them from their premises; and Defendants were otherwise negligent.

52. Fr. Tuchols, Fr. Mike, Fr. Nogaro, Fr., Popadick, Thomas Krachowiak and Mr. Anderson would not have been in a position to sexually abuse Plaintiff had Defendants not been negligent in the hiring, retention, supervision, and direction of these employees.

53. At all relevant times, the aforementioned priests and lay teachers acted in the course and scope of their employment with Defendants.

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

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

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

COUNT II

NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

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

58. At all relevant times, Defendants affirmatively and/or impliedly represented to minor children, their families and the general public that clergy and lay teachers working in the Diocese, including Fr. Tuchols, Fr. Mike, Fr. Nogaro, Fr., Popadick, Thomas Krachowiak and Mr. Anderson, 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.

59. Defendants knew or should have known this representation was false and that employing Fr. Tuchols, Fr. Mike, Fr. Nogaro, Fr., Popadick, Thomas Krachowiak and Mr. Anderson and giving them unfettered access to children, including Plaintiff, posed an unacceptable risk of harm to children.

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

61. 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.

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

63. Upon information and belief, Defendants covered up acts of abuse by Fr. Tuchols, Fr. Mike, Fr. Nogaro, Fr., Popadick, Thomas Krachowiak and/or Mr. Anderson and concealed facts concerning their sexual misconduct from Plaintiff and his family.

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

65. Defendants failed to warn Plaintiff and his parents that Fr. Tuchols, Fr. Mike, Fr. Nogaro, Fr., Popadick, Thomas Krachowiak and Mr. Anderson posed a risk of child sexual assault.

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

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

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

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

COUNT III

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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

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

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

73. Defendants knew or disregarded the substantial probability that Fr. Tuchols, Fr. Mike, Fr. Nogaro, Fr., Popadick, Thomas Krachowiak and/or Mr. Anderson would cause severe emotional distress to Plaintiff.

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

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

COUNT IV

PREMISES LIABILITY

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

77. At all relevant times, Defendants owned, operated, and /or controlled the premises known as St. Mary of Sorrows Church, St. Mary of Sorrows School, and Bishop Fallon High School, including the areas where the sexual abuse of Plaintiff occurred.

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

79. 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.

80. Defendants willfully, recklessly, and negligently failed to provide a reasonably safe premises that were free from the presence of sexual predators and/or the assault by the occupants of the premises, including Fr. Tuchols, Fr. Mike, Fr. Nogaro, Fr., Popadick, Thomas Krachowiak and Mr. Anderson. Defendants thereby breached their duty of care of Plaintiff.

81. 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.

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

COUNT V

BREACH OF FIDUCIARY DUTY

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

84. 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.

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

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

87. 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.

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

COUNT VI

BREACH OF DUTY IN LOCO PARENTIS

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

90. 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.

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

92. 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.

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

COUNT VII

BREACH OF STATUTORY DUTIES TO REPORT

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, Defendants had a statutory duty to report reasonable suspicion of abuse of children in their care.

96. Defendants breached their statutory duty by failing to report reasonable suspicion of abuse by Fr. Tuchols, Fr. Mike, Fr. Nogaro, Fr., Popadick, Thomas Krachowiak and/or Mr. Anderson of children in their care.

97. 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.

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

WHEREFORE, Plaintiff prays for judgment as follows:

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

JURY TRIAL DEMANDED

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

Dated: New York, New York
August 14, 2019

Yours, etc.,



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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-1 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. MARY’S ROMAN CATHOLIC CHURCH A/K/A RESURRECTION PARISH, and ASCENSION ROMAN CATHOLIC CHURCH A/K/A ST. JUDE THE APOSTLE PARISH,</p> <p style="text-align: right;">Defendants.</p>

SUMMONS

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

TO THE ABOVE NAMED DEFENDANTS:

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

DATED: New York, New York
April 22, 2021

Phillips & Paolicelli, LLP
Attorneys for Plaintiffs

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Attorneys for Plaintiff

TO:

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303 East Main Street
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ASCENSION ROMAN CATHOLIC CHURCH A/K/A ST. JUDE THE APOSTLE PARISH
800 Niagara Falls Boulevard
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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

<p>PB-1 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>ST. MARY’S ROMAN CATHOLIC CHURCH A/K/A RESURRECTION PARISH, and ASCENSION ROMAN CATHOLIC CHURCH A/K/A ST. JUDE THE APOSTLE PARISH,</p> <p style="text-align: center;">Defendants.</p>

COMPLAINT

Index No.:

Plaintiff PB-1 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-1 Doe was repeatedly sexually abused and assaulted by Father Joseph Franklin Tuchols (hereinafter “Fr. Tuchols”), Father Paul Nogaro (hereinafter “Fr. Nogaro), Father “Mike” (hereinafter “Fr. Mike”), and Father Peter Popadick (hereinafter “Fr. Popadick”), who were hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants, St. Mary’s Roman Catholic Church a/k/a Resurrection Parish and Ascension Roman Catholic Church a/k/a St. Jude the Apostle Parish (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.¹ The present complaint is a related action.

¹ *PB-1 Doe v. Diocese of Buffalo et. al*, Index No. 810245/2019.

4. During a period of years covering approximately 1967-1974, when Plaintiff was about 10-17 years old, he was abused by Fr. Tuchols, Fr. Nogaro, Fr. Mike, and Fr. Popadick while a student at St. Mary of Sorrows School and Bishop Fallon High School.

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

6. At all relevant times, Fr. Popadick was hired, retained, supervised, placed, directed and otherwise authorized to act by the Defendant Ascension Roman Catholic Church a/k/a St. Jude the Apostle Parish, in conjunction with the Diocese of Buffalo.

7. 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.

8. 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.

9. 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. Tuchols and Fr. Popadick, permitted the abuse to occur, failed to supervise Fr. Tuchols and Fr. Popadick, failed to timely investigate Fr. Tuchols

and Fr. Popadick'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. Tuchols and Fr. Popadick's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

PARTIES

10. 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.

11. Plaintiff was born on November 6, 1957.

12. At all relevant times, St. Mary's Roman Catholic Church was a Roman Catholic Church, organized pursuant to the laws of the State of New York. It was operated in Genesee County, New York, with its principal place of business at 18 Ellicott Street, Batavia, NY 14020. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of St. Mary's Roman Catholic Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of St. Mary's Roman Catholic Church.

13. On or about 2009, St. Mary's Roman Catholic Church merged with St. Joseph Roman Catholic Church and adopted the name of the Resurrection Parish, a Roman Catholic Church organized pursuant to the laws of the State of New York. It is operated in Genesee County, New York, with its principal place of business at 303 East Main Street, Batavia, NY 14020. Upon information and belief, Defendant Resurrection Parish assumed some or all of the liabilities and/or assets of Defendant St. Mary's Roman Catholic Church.

14. At all relevant times, Ascension Roman Catholic Church was a Roman Catholic Church, organized pursuant to the laws of the State of New York. It was operated in Niagara County, New York, with its principal place of business at 168 Robinson Street, North Tonawanda, NY 14120. At all relevant and material times, the Roman Catholic Bishop of Buffalo, New York was the President of Ascension Roman Catholic Church, and the Roman Catholic Vicar General of Buffalo, New York was the Vice-President of Ascension Roman Catholic Church.

15. On or about 2007, Ascension Roman Catholic Church merged with and adopted the name of St. Jude the Apostle Parish, a Roman Catholic Church organized pursuant to the laws of the State of New York. It is operated in Genesee County, New York, with its principal place of business at 800 Niagara Falls Boulevard, North Tonawanda, NY 14120. Upon information and belief, Defendant St. Jude the Apostle Parish assumed some or all of the liabilities and/or assets of Defendant Ascension Roman Catholic Church.

16. At all relevant times, Defendants St. Mary's Roman Catholic Church a/k/a Resurrection Parish and Ascension Roman Catholic Church a/k/a St. Jude the Apostle Parish were and/or are still under the direct authority, control, and province of the Diocese of Buffalo.

FACTUAL ALLEGATIONS

17. Plaintiff repeats and re-alleges all preceding paragraphs of this Complaint.
18. Fr. Tuchols was ordained a Roman Catholic priest in approximately 1971.
19. At the time he sexually abused Plaintiff, Fr. Tuchols was employed by the Diocese, St. Mary of Sorrows Church and St. Mary of Sorrows School, and under their direct

supervision, employ, and control. The facts concerning his abuse are set forth in the earlier filed companion action. *See fn. 1, supra.*

20. Briefly stated between the years of approximately 1973-1974, Fr. Tuchols, 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.

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

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

23. Prior to the sexual abuse of Plaintiff, in or about 1971-1973 Fr. Tuchols served as Parochial Vicar at St. St. Mary's Roman Catholic Church a/k/a Resurrection Parish. This Defendant negligently retained Fr. Tuchols 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.

24. Fr. Popadick was ordained a Roman Catholic priest in approximately 1971.

25. At the time he sexually abused Plaintiff, Fr. Popadick was employed by the Diocese and Bishop Fallon High School, and under their direct supervision, employ, and control. The facts concerning his abuse are set forth in the earlier filed companion action. *See fn. 1, supra.*

26. Briefly stated between the years of approximately 1973-1974, Fr. Popadick, 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.

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

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

29. Prior to the sexual abuse of Plaintiff, in or about 1971-1972, Fr. Popadick served as Parochial Vicar at Ascension Church a/k/a St. Jude the Apostle Parish. This Defendant negligently retained Fr. Popadick 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.

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

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

32. Fr. Tuchols was assigned to the position of priest at St. Mary's Roman Catholic Church a/k/a Resurrection Parish. His duties included interacting with children, including altar boys, students, and children attending Defendant St. Mary's Roman Catholic Church a/k/a Resurrection Parish, and participating in the sacraments.

33. Fr. Popadick was assigned to the position of priest at Ascension Roman Catholic Church a/k/a St. Jude the Apostle Parish. His duties included interacting with children, including altar boys, students, and children attending Defendant Ascension Roman Catholic Church a/k/a St. Jude the Apostle Parish, and participating in the sacraments.

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

35. Defendants St. Mary's Roman Catholic Church a/k/a Resurrection Parish and Ascension Roman Catholic Church a/k/a St. Jude the Apostle Parish required parishioners and students to accept and obey guidance, discipline, and instruction from Fr. Tuchols and Fr. Popadick and other clergy members.

36. By assigning Fr. Tuchols and Fr. Popadick to the role of priest and parochial Vicar, Defendants gave Fr. Tuchols and Fr. Popadick complete unfettered access to minors, and empowered them to groom, guide, discipline, and otherwise exercise complete authority over minors.

37. 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. Tuchols and Fr. Popadick.

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

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

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

41. The sexual abuse of Plaintiff by Fr. Tuchols and Fr. Popadick was foreseeable.

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

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

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

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

46. 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.

47. 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

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

49. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Fr. Tuchols and Fr. Popadick were not fit to work with or around children.

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

51. Defendants negligently retained Fr. Tuchols and Fr. Popadick with knowledge of their propensity for the type of behavior which resulted in Plaintiff's injuries.

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

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

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

55. Fr. Tuchols and Fr. Popadick 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. Tuchols and Fr. Popadick.

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

57. As a direct and proximate result of 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.

SECOND CAUSE OF ACTION

NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

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

60. 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.

61. 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.

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

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

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

65. 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.

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

67. Defendants failed to warn Plaintiff and his parents that Fr. Tuchols and Fr. Popadick posed a risk of child sexual assault.

68. 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.

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

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 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

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

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

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

75. Defendants knew or disregarded the substantial probability that Fr. Tuchols and Fr. Popadick would cause severe emotional distress to Plaintiff.

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

77. 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

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

79. 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.

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

81. 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.

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.

FIFTH CAUSE OF ACTION

AIDING AND ABETTING FRAUD

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

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

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

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

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

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

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

89. 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

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

Dated: April 22, 2021

Yours, etc.

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