

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF CATTARAUGUS

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HW 4 ROE, Being a Victim of Child Sexual Abuse,

Plaintiff,

v.

JAMES DARTS, JR.  
38014 Lawanda Loop  
Zephyrhills, Florida 33542,

Defendant.

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**SUMMONS**

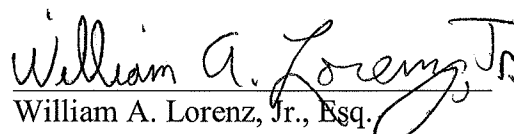
**Index No.:**

TO THE ABOVE-NAMED DEFENDANT:

**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 a Summons, to serve a Notice of Appearance, on Plaintiff's attorney within **twenty** (20) days after the service of this Summons, exclusive of the day of service, or within **thirty** (30) days after completion of service where service is made in any other manner than by personal delivery within the State. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

This action is brought in CATTARAUGUS COUNTY based upon the location of the incident.

DATED: August 13, 2019  
Amherst, New York

  
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SUPREME COURT : COUNTY OF CATTARAUGUS

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Plaintiff,

**COMPLAINT**

**Index No.:**

v.

JAMES DARTS, JR.,

Defendant.

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Plaintiff HW 4 ROE, Being a Victim of Child Sexual Abuse, by and through her attorneys, HOGANWILLIG, PLLC, as and for her Verified Complaint against Defendant JAMES DARTS, JR. herein, alleges as follows:

1. At all times hereinafter mentioned, Plaintiff was and still is a resident of the County of Cattaraugus, and State of New York.
2. Plaintiff is filing under a pseudonym publicly, but their identity can be confidentially disclosed to Defendant in discovery not to be filed publicly.
3. Upon information and belief, and at all times hereinafter mentioned, Defendant was and is a resident of the County of Pasco, State of Florida who, during the time period of the incidents alleged herein, resided in the County of Cattaraugus and State of New York.

**FACTS COMMON TO ALL CLAIMS**

4. Plaintiff, then an infant, resided with her parents in the County of Cattaraugus, State of New York in the mid-1980s, specifically in Great Valley.
5. Upon information and belief, Defendant was then-infant Plaintiff's neighbor in Great Valley, County of Cattaraugus, State of New York in the mid-1980s.

6. Beginning in approximately 1985, when Plaintiff was approximately ten (10) years old, Plaintiff was the victim of sexual harassment, sexual abuse, and violence by or at the direction of Defendant.

7. The incidents experienced by then-infant Plaintiff over a period of approximately one (1) year included, but are not limited to, the following:

- A. Defendant began “grooming” then-infant Plaintiff by coming over to Plaintiff’s house as one of the friends of Plaintiff’s brother.
- B. On numerous occasions, Defendant forced then-infant Plaintiff to perform oral sex on Defendant in various locations inside Plaintiff’s parent’s home.
- C. On numerous occasions, Defendant forcibly raped then-infant Plaintiff in various locations inside Plaintiff’s parent’s house.

8. Upon information and belief, then-infant Plaintiff revealed the abuse to a counselor at Plaintiff’s school in or about 1986.

9. Upon information and belief, Plaintiff’s parents called the Salamanca Police/Cattaraugus County Sheriff’s Department to investigate Plaintiff’s claims of abuse against Defendant in or about 1986.

10. Venue is proper in Cattaraugus County based upon the location of the incidents.

11. This action is brought pursuant to CPLR § 214-G, as added by the New York Child Victims Act, which has revived claims of child sexual abuse for a period of one year beginning on August 14, 2019, six months after the effective date of the section (February 14, 2019). This action is timely commenced.

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANT:**  
**ASSAULT**

12. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "11" as though more fully set forth herein.

13. Defendant's actions in sexually abusing then-infant Plaintiff over a period of approximately one (1) year placed Plaintiff in apprehension of an imminent harmful and offensive bodily contact.

14. That the aforesaid assaults were unwarranted, unjustified, and unprovoked by Plaintiff and without her consent, as Plaintiff did not and could not give consent.

15. That by reason of the foregoing actions of Defendant, Plaintiff sustained injuries and damages, with accompanying pain and suffering and was greatly injured emotionally and mentally, and was subject to humiliation and embarrassment, all to her damage in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANT:**  
**BATTERY**

16. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "15" as though more fully set forth herein.

17. Defendant's actions in sexually abusing then-infant Plaintiff over a period of approximately one (1) year constitute Defendant intentionally making offensive bodily contact with Plaintiff.

18. That the aforesaid offensive bodily contact was unwarranted, unjustified, and unprovoked by Plaintiff and without her consent, as Plaintiff did not and could not give consent as an infant.

19. By reason of the foregoing, Plaintiff sustained injuries and damages, with accompanying pain and suffering and was greatly injured emotionally and mentally, and was subject to humiliation and embarrassment, all to her damage in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANT:  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

20. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "19" as though more fully set forth herein.

21. Defendant intentionally and recklessly touched Plaintiff on the aforementioned occasions over a period of one (1) year, including forced sexual intercourse.

22. Defendant's actions in sexually abusing then-infant Plaintiff over a period of approximately one (1) year were extreme, outrageous, shocking, and exceeding all reasonable bounds of decency.

23. That the aforesaid conduct was done with the intention of causing Plaintiff severe emotional distress.

24. By reason of the foregoing, Plaintiff sustained injuries and damages, with accompanying pain and suffering and was greatly injured emotionally and mentally, and was subject to humiliation and embarrassment, all to her damage in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANT:  
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

25. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "24" as though more fully set forth herein.

26. Defendant owed a duty to Plaintiff not to sexually abuse her when he was invited over to Plaintiff's house as a guest.

27. Defendant intentionally and recklessly breached that duty by touching Plaintiff on the aforementioned occasions over a period of one (1) year, including by forced sexual intercourse.

28. Defendant's conduct in repeatedly sexually abusing then-infant Plaintiff unreasonably endangered Plaintiff's physical safety and caused Plaintiff to fear for her own safety over the period of abuse lasting approximately one (1) year.

29. Plaintiff suffered several emotional and mental suffering and distress due to Defendant's actions, as well as fear for her own physical safety.

30. By reason of the foregoing, Plaintiff sustained injuries and damages, with accompanying pain and suffering and was greatly injured emotionally and mentally, and was subject to humiliation and embarrassment, all to her damage in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANT:  
PUNITIVE DAMAGES**

31. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "30" as though more fully set forth herein.

32. Defendant's actions in being violent, sexually harassing, and/or committing other misconduct against Plaintiff is tantamount to a wanton and conscious disregard for the safety of Plaintiff, and warrants the imposition of punitive damages.

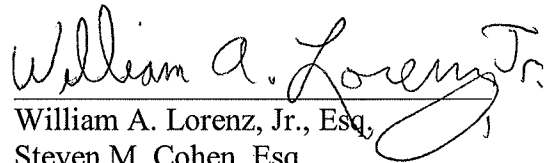
33. By reason of the malicious, intentional, willful, and/or negligent conduct of Defendant herein, and by such other acts that were morally reprehensible, Defendant's conduct evidenced a callous disregard for the safety of Plaintiff, and said acts constituted a wanton, reckless

and/or malicious disregard for the rights of others and, as a result thereof, Plaintiff demands punitive damages.

34. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

**WHEREFORE**, Plaintiff demands judgment against Defendant in an amount which exceeds the jurisdictional limits of all other courts which might otherwise have jurisdiction, and for such other and further relief to Plaintiff as this Court deems just and proper.

DATED: August 13, 2019  
Amherst, New York



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