

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

JMH 100 DOE

Buffalo, New York 14228

Plaintiff,

vs.

THE DIOCESE OF BUFFALO, N.Y.

795 Main Street

Buffalo, New York 14203

Defendant.

SUMMONS

Index No.:

Filed in the Erie

County Clerk's

Office on: _____

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 summons is not served with a complaint, to serve a notice of appearance, on the Plaintiff's attorney within twenty (20) days after 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.

Erie County is designated as the place of trial on the basis of the residence of the Plaintiff who resides in Erie County, New York.

DATED: BUFFALO, NEW YORK
September 6, 2019

Yours Respectfully,

J. Michael Hayes, Esq.

Law Office of J. Michael Hayes

Attorneys for Plaintiff

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Buffalo, New York 14202

Telephone: (716) 852-1111

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

JMH 100 DOE,

Plaintiff,

**COMPLAINT
JURY TRIAL
DEMANDED**

vs.

Index No.:

THE DIOCESE OF BUFFALO, N.Y.,

Defendant.

The Plaintiff, JMH 100 DOE, by his attorney, J. MICHAEL HAYES, ESQ. for his complaint against the Defendant, THE DIOCESE OF BUFFALO, N.Y., herein alleges:

PARTIES

1. Presently and at all times herein mentioned, Plaintiff, JMH 100 DOE, is a resident of the County of Erie and State of New York. This filing under the above pseudonym is authorized pursuant to local court rules.

2. Upon information and belief, presently and at all times herein mentioned, Defendant, THE DIOCESE OF BUFFALO, N.Y., is a domestic religious corporation authorized and existing by virtue of Article 5 of the Religious Corporation Law of the State of New York with offices for the transaction of business located in the City of Buffalo, County of Erie and State of New York.

3. Plaintiff asserts trial preference pursuant to CPLR 3403(a)(7), as added by Section 4 of the Child Victims Act.

JURISDICTION

4. This Court has jurisdiction pursuant to CPLR 301 as Defendant's principal place of business is in Erie County, New York.

5. Venue is proper pursuant to CPLR 503 as Erie County, New York is Plaintiff's residence and Defendant's principal place of business is in Erie County, New York.

FACTS COMMON TO ALL CLAIMS

6. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., owned St. James Roman Catholic Church ("St. James Church"), located at 496 Terrace Boulevard, Depew, New York 14043, in or around the early and mid-1970s.

7. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., by and through the Bishop of the Diocese of Buffalo, managed, operated and/or controlled St. James Church, including, *inter alia*, the hiring of employees, employee supervision and employee assignments.

8. Upon information and belief, St. James Church was absorbed into Blessed Mother Teresa of Calcutta ("Blessed Mother Church") in a *de facto* merger or series of *de facto* mergers.

9. Upon information and belief, Blessed Mother Church assumed St. James Church's operations and business with a continuity of management, personnel, physical location and general business operation and continued the missions and ministry of St. James Church.

10. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., owned Catholic Charities of Buffalo ("Catholic Charities"), located at 741 Delaware Avenue, Buffalo, New York 14209, in or around the early and mid-1970s.

11. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., managed, operated and/or controlled Catholic Charities, including, *inter alia*, the hiring of employees, employee supervision and employee assignments.

12. Upon information and belief, at all times herein mentioned, Reverend Norbert F. Orsolits ("Reverend Orsolits") was a Roman Catholic priest and an officer, agent, representative, servant and/or employee of Defendant, THE DIOCESE OF BUFFALO, N.Y.

13. Upon information and belief, at all times herein mentioned, Reverend Orsolits was under the direction, supervision and/or control of Defendant, THE DIOCESE OF BUFFALO, N.Y. its Bishop(s), officers, agents, representatives, servants and/or employees.

14. Upon information and belief, at all times herein mentioned, Reverend Orsolits was an officer, agent, representative, servant and/or employee of Defendant, THE DIOCESE OF BUFFALO, N.Y., at St. James Church in or around the early and mid-1970s.

15. Upon information and belief, at all times herein mentioned, Reverend Orsolits was acting within the scope of his agency, servitude and/or employment with Defendant, THE DIOCESE OF BUFFALO, N.Y.

16. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., through its officer, agent, representative, servant and/or employee Reverend Orsolits, sexually molested infant Plaintiff, JMH 100 DOE in or around the early to mid-1970s.

17. Upon information and belief, at all times herein mentioned, Reverend Orsolits was involved in a ski program and acting as an officer, agent, representative, servant and/or employee of Defendant, THE DIOCESE OF BUFFALO, N.Y., through St. James Church, in or around the early and mid-1970s.

18. Upon information and belief, at all times herein mentioned, Reverend Orsolits had and was provided with access to minor children through the aforementioned ski program of

Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees.

19. Upon information and belief, at all times herein mentioned, Reverend Orsolits was working and/or running a drug counseling and/or General Education Development (“GED”) program with Catholic Charities through Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees.

20. Upon information and belief, Reverend Orsolits was and is a serial pedophile.

21. Plaintiff, JMH 100 DOE, was under eighteen (18) years of age at all relevant times mentioned herein.

22. Upon information and belief, Plaintiff, JMH 100 DOE, was a member of a St. James Church ski trip with Reverend Orsolits in or around the early to mid-1970s, St. James Church being a church within and under the auspices of Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees.

23. Upon information and belief, the aforementioned ski trip was facilitated, directed and/or controlled by Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees.

24. Upon information and belief, Plaintiff, JMH 100 DOE, was enrolled in the drug counseling-GED combination program run by Catholic Charities and facilitated by Reverend Orsolits in or around the early to mid-1970s.

25. Upon information and belief, the drug counseling/GED combination program was facilitated, directed and/or controlled by Defendant, THE DIOCESE OF BUFFALO, N.Y. through its officer, agent, representative, servant and/or employee, Reverend Orsolits.

26. Upon information and belief, through his positions at, within, or for the Defendant, THE DIOCESE OF BUFFALO, N.Y., Reverend Orsolits was put into direct contact with infant Plaintiff.

27. Upon information and belief, it was under such circumstances that infant Plaintiff, JMH 100 DOE, came to be under the direction and control of Reverend Orsolits, who used his position of authority and trust over Plaintiff to sexually abuse, harass and molest him.

28. That in or around the early to mid-1970s, Reverend Orsolits, while acting as priest, counselor, officer, employee, agent, servant and/or volunteer of Defendant, THE DIOCESE OF BUFFALO, N.Y., did sexually assault, abuse and/or have sexual contact with infant Plaintiff, JMH 100 DOE.

29. Upon information and belief, Reverend Orsolits was a drug counselor acting as an officer, agent, representative, servant and/or employee of Defendant, THE DIOCESE OF BUFFALO, N.Y., for Plaintiff, JMH 100 DOE.

30. Upon information and belief, Reverend Orsolits did provide Plaintiff, JMH 100 DOE, with multiple drugs for the purposes of incapacitating him and lowering his resistances to sexual molestation.

31. Upon information and belief, Reverend Orsolits did have bodily contact and touching of infant Plaintiff, JMH 100 DOE, on more than one occasion.

32. Reverend Orsolits did fondle Plaintiff, JMH 100 DOE's genitalia, fondle Plaintiff's anus, masturbated Plaintiff, and performed oral sex on Plaintiff.

33. Upon information and belief, Reverend Orsolits's contact with Plaintiff, JMH 100 DOE, was extreme, outrageous, subjectively offensive to Plaintiff and objectively offensive to a reasonable person in the same or similar situation.

34. Upon information and belief, Reverend Orsolits intended to make such physical and sexual contact without the consent of infant Plaintiff, JMH 100 DOE, and did make such contact without infant Plaintiff's consent.

35. Plaintiff, JMH 100 DOE, was unable to give consent to engage in Reverend NORBERT F. ORSOLITS's sexual conduct with Plaintiff, as Plaintiff was a minor at all relevant times.

36. Upon information and belief, at all times herein mentioned and prior thereto, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, counselors, servants and/or employees, knew, reasonably should have known, knowingly condoned and/or covered up, the inappropriate and unlawful sexual activities of Reverend Orsolits and his proclivities toward molestation and sexual assault of young children.

37. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, had the duty and responsibility to monitor, supervise, direct and/or control priests working with or for Catholic Charities and/or St. James Church.

38. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, had a duty not to aid a pedophile such as Reverend Orsolits, by assigning, maintaining and/or appointing him to a position with access to minors.

39. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, counselors, servants and/or employees, violated its duty to the public generally and minors specifically, including infant Plaintiff, JMH 100 DOE, by knowingly exposing them to sexual predators, such as Reverend Orsolits.

40. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., individually, jointly and/or severally, violated various New York statutes in effect at all relevant times mentioned herein including, but not limited to, N.Y. Soc. Serv. Law §§ 413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

41. Plaintiff, JMH 100 DOE, suffered severe personal physical and psychological injuries and damages as a result of the actions of Defendant, THE DIOCESE OF BUFFALO, N.Y., as well as other damages related thereto, as a result of his childhood sexual abuse consistent with offenses as defined by Article 130 of the Penal Law.

42. Plaintiff, JMH 100 DOE, asserts his revival action pursuant to the New York State Child Victims Act, CPLR 214-g.

43. The limitation of liability set forth in CPLR Article 16 is not applicable to the claims of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR 1602.

44. Plaintiff, JMH 100 DOE, demands a jury trial for all claims.

AS AND FOR A FIRST CAUSE OF ACTION

45. Plaintiff repeats and realleges those allegations set forth in Paragraphs “1” through “44” of the Complaint with the same force and effect as fully set forth herein at length.

46. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, knew and/or reasonably should have known, that Reverend Orsolits posed a threat of sexual abuse to children.

47. Upon information and belief, at all times herein mentioned and prior thereto, Reverend Orsolits had previously committed and had been accused of sexual abuse of young children by other individuals.

48. Upon information and belief, in a 2018 interview with *The Buffalo News*, Reverend Orsolits admitted to sexually abusing dozens of teenage boys in the 1970s and 1980s.

49. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, servants, representatives and/or employees, knew of, should have known or had reason to know of Reverend Orsolits's abusive and sexual predatory behavior prior to his sexual exploitation, abuse and molestation of Plaintiff, JMH 100 DOE.

50. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, counselors, servants and/or employees, failed to report Reverend Orsolits's sexual abuse(s) to civil and criminal authorities.

51. Upon information and belief, if Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, had reported Reverend Orsolits's prior sexual abuse(s) to civil and criminal authorities, Plaintiff, JMH 100 DOE, would not have been abused by Reverend Orsolits.

52. Upon information and belief, instead of reporting the incidents of sexual misconduct both prior and subsequent to Plaintiff's molestation, Defendant, THE DIOCESE OF BUFFALO,

N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, reassigned Reverend Orsolits to different parishes and communities.

53. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, sent Reverend Orsolits for “counseling and treatment” at an out-of-state facility.

54. Upon information and belief, when Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, sent Reverend Orsolits to Southdown Institute, located at 18798 Old Yonge St, Holland Landing, ON L9N 0L1, Canada, for “counseling and treatment”.

55. Upon information and belief, some Catholic priests sent to “counseling and treatment” facilities were sent for “reconditioning” and to “reform” their behavior based on past sexual misconduct with minors, such as Plaintiff, JMH 100 DOE.

56. Upon information and belief, predatory clergy, including Reverend Orsolits, were sent to the aforementioned out-of-state “counseling and treatment” facilities as a device employed by Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, to literally both cover up clergy abuses of child victims and avoid civil or criminal review and sanctions.

57. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, did not meet its obligation and responsibility to protect Plaintiff and other infant parishioners and students prior to Reverend Orsolits’s contact with Plaintiff, JMH 100 DOE.

58. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, counselors, servants and/or employees, knowingly, willfully and intentionally concealed the conduct of Reverend Orsolits and other chronic pedophile priests and protected them from prosecution while simultaneously exposing Reverend Orsolits and other sexual predators to infants, including Plaintiff, JMH 100 DOE.

59. Upon information and belief, the knowledge of Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, of Reverend Orsolits's abuses and subsequent continued employment of him allowed Reverend Orsolits to continue his crimes and victimization of minors, including the ones perpetrated against Plaintiff, JMH 100 DOE.

60. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, counselors, servants and/or employees, kept files of priests whom they knew or should have known to have engaged in pedophilia in a secret records depository hidden from outsiders, including employees of Defendant, THE DIOCESE OF BUFFALO, N.Y., as well as parishioners, civil authorities and criminal authorities.

61. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, counselors, servants and/or employees, did knowing and intentionally conspire to conceal and cover up Reverend Orsolits and other priests' criminal predatory abuses.

62. Upon information and belief, a former secretary of Bishop Richard Malone, acting as a whistleblower, publicly disclosed personnel files and other documentation detailing predatory

behaviors and sex abuse by clergy, some still employed and funded by THE DIOCESE OF BUFFALO, N.Y.

63. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., through its Bishop, had previously only acknowledged accusations against forty-two (42) clergy; the whistleblower's documentation revealed that a truer number of known Diocesan priests accused of abuse as of 2017 was at least two-hundred two (202).

64. Upon information and belief, Reverend Orsolits is one of the priests that Defendant, THE DIOCESE OF BUFFALO, N.Y., has known and acknowledged as having engaged in wrongful contact with minors.

65. Upon information and belief, the aforementioned actions of Defendant, THE DIOCESE OF BUFFALO, N.Y., were extreme, willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of Plaintiff, JMH 101 DOE.

66. As a result of the foregoing, including the aforementioned negligence, gross negligence, the knowing and intentional retention of known pedophile priests, the intentional concealment of their abuses, the intentional and knowing transfer of priests because of sexual assaults previously committed, Plaintiff, JMH 100 DOE, sustained severe personal physical and psychological injuries, medical expenses and lost wages, which have negatively harmed and impacted him over the entire course of his life all to his damage in a sum in excess of the jurisdictional limits of all the lower courts of the State of New York together with such other punitive and exemplary damages as may be appropriate.

AS AND FOR A SECOND CAUSE OF ACTION

67. Plaintiff repeats and realleges those allegations set forth in Paragraphs "1" through "66" of the Complaint with the same force and effect as fully set forth herein at length.

68. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., through its Bishop(s), officers, agents, representatives, servants and/or employees, negligently hired, retained, directed, and/or supervised Reverend Orsolits when they knew or should have known that he posed a threat of sexual abuse to children.

69. Upon information and belief, the sexual abuse of children by adults in the school, counseling and/or church environments, including extracurricular activities, is and was foreseeable.

70. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, entered into an express and/or implied duty and/or contract to provide a reasonably safe environment for Plaintiff, JMH 100 DOE.

71. Upon information and belief, at all times herein mentioned, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, assumed the duty to protect and care for Plaintiff, JMH 100 DOE, by establishing, staffing, and/or operating Catholic Charities' GED and drug counselling program, encouraging the enrollment and instruction of Plaintiff, JMH 100 DOE, accepting him as a student, and holding out the school as a safe environment for learning and engaging in youth activities.

72. Upon information and belief, at all times herein mentioned, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, assumed the duty to protect and care for Plaintiff, JMH 100 DOE, by establishing,

staffing, and/or operating St. James Church, encouraging Plaintiff, JMH 100 DOE, to participate in church activities and holding out the church as a safe environment for engaging in youth activities.

73. Upon information and belief, at all times herein mentioned and prior thereto, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, caused, permitted and facilitated Reverend Orsolits's continued access to children, including Plaintiff, JMH 100 DOE, knowing that Reverend Orsolits was a child abuser and permitting him to continue his molestation practices both before and after the events alleged herein.

74. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, knew of Reverend Orsolits's activities and proclivities toward child abuse, covered up his molestations and criminal behaviors, did not provide a safe environment for minor children in their purview, and failed to mitigate or remedy harms done by Reverend Orsolits.

75. Upon information and belief, at all times herein mentioned and prior thereto, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, counselors, servants and/or employees, knew and/or should have known that Reverend Orsolits and other employees targeted and shared infants for child sexual abuse, failed to stop or report these crimes and abuses, and/or intentionally withheld information of same from both criminal and civil authorities as well as the victims' families.

76. Upon information and belief, Plaintiff, JMH 100 DOE, has incurred medical expenses for his own care and treatments over the course of his lifetime for harms caused and/or contributed to by the sexual assault perpetrated upon him by Defendant, THE DIOCESE OF BUFFALO, N.Y., through its employee, Reverend Orsolits.

77. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, was put on notice of Reverend Orsolits's improper and inappropriate actions with other minor children, and knew or should have known of Reverend Orsolits's improper and inappropriate actions with Plaintiff, JMH 100 DOE.

78. Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, owed a duty of care to all persons, including Plaintiff, JMH 100 DOE, who were likely to come within the influence and contact of Reverend Orsolits in his role in Defendant's employ and to ensure that Reverend Orsolits did not abuse his authority under Defendant's employ.

79. Upon information and belief, the actions of Defendant, THE DIOCESE OF BUFFALO, N.Y., were willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of Plaintiff, JMH 100 DOE.

80. As a result of the foregoing, Plaintiff, JMH 100 DOE, sustained severe personal physical and psychological injuries, medical expenses and lost wages, which have negatively harmed and impacted him over the entire course of his life all to his damage in a sum in excess of the jurisdictional limits of all the lower courts of the State of New York together with such other punitive and exemplary damages as may be appropriate.

AS AND FOR A THIRD CAUSE OF ACTION

81. Plaintiff repeats and realleges those allegations set forth in Paragraphs "1" through "80" of the Complaint with the same force and effect as fully set forth herein at length.

82. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, knew or reasonably should have known that the failure to properly monitor, control, direct, advise, supervise and hire Reverend Orsolits, the agent, servant and/or employee who sexually abused Plaintiff, JMH 100 DOE, would and did proximately result in physical and severe emotional distress to Plaintiff.

83. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, knew or reasonably should have known that the sexual abuse and other improper conduct against Plaintiff, JMH 100 DOE, would and did proximately result in physical and severe emotional distress to Plaintiff.

84. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, had the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiff, JMH 100 DOE, being sexually abused by Reverend Orsolits.

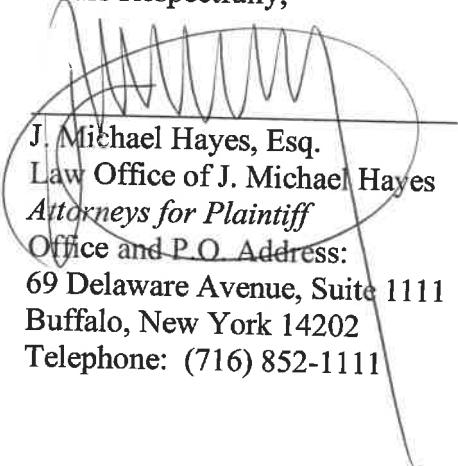
85. Upon information and belief, despite said knowledge, power and duty, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop(s), officers, agents, representatives, servants and/or employees, failed to act so as to stop, prevent and prohibit the improper conduct that resulted in Reverend Orsolits sexually abusing Plaintiff, JMH 100 DOE.

86. As a result of the foregoing, Plaintiff, JMH 100 DOE, sustained severe personal physical and psychological injuries, medical expenses and lost wages, which have negatively harmed and impacted him over the entire course of his life all to his damage in a sum in excess of the jurisdictional limits of all the lower courts of the State of New York together with such other punitive and exemplary damages as may be appropriate.

WHEREFORE Plaintiff demands judgment in excess of the jurisdictional limits of all the lower courts of the State of New York State of New York together with such other compensatory, punitive and exemplary damages, costs, disbursements and for such other relief as is just and proper and equitable.

DATED: BUFFALO, NEW YORK
September 6, 2019

Yours Respectfully,



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