

NEW YORK STATE SUPREME COURT
ERIE COUNTY

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ROBERT D. SCHUBRING,

Index No.: _____

Date Filed: November 6, 2019

Plaintiff,

-against-

SUMMONS

DIOCESE OF BUFFALO and BISHOP TURNER HIGH
SCHOOL,

Plaintiff designates Erie County
as the place of trial.

Defendants.

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The basis of venue is one
defendant's residence.

Child Victims Act Proceeding
22 NYCRR 202.72

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 plaintiff's attorneys 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: November 6, 2019

Respectfully Yours,

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NEW YORK STATE SUPREME COURT
ERIE COUNTY

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ROBERT D. SCHUBRING,

Index No.: _____/___

COMPLAINT

Plaintiff,

-against-

DIOCESE OF BUFFALO and BISHOP TURNER HIGH
SCHOOL,

Child Victims Act Proceeding
22 NYCRR 202.72

Defendants.

Plaintiff Robert D. Schubring, by and through his attorneys, the Marsh Law Firm PLLC and Pfau Cochran Vertetis Amala PLLC, respectfully alleges for his complaint the following:

I. INTRODUCTION

1. The Diocese of Buffalo (the “Diocese”) knew for decades that its priests, clergy, teachers, school administrators, employees, and volunteers were using their positions within the Diocese to groom and to sexually abuse children. Despite that knowledge, the Diocese failed to take reasonable steps to protect children from being sexually abused and actively concealed the abuse.

2. Since 2018, following decades of denial and cover-up, the Diocese of Buffalo began releasing the names of priests who were accused of sexually abusing children. While the Diocese of Buffalo has listed at least 80 priests with substantiated claims of sexual abuse of a minor, it has been reported that there are well over a 100 clergy in the Diocese of Buffalo who have faced allegations of sexually abusing a child. Based on the Diocese’s wrongful conduct, a reasonable person could and would conclude that it knowingly and recklessly disregarded the abuse of children and chose to protect its reputation and wealth over those who deserved protection. The result is not surprising: for decades hundreds, if not thousands, of children were

sexually abused by Catholic clergy and others who served the Diocese. The plaintiff in this lawsuit is one of many children who was sexually abused because of the Diocese's wrongful conduct.

II. PROCEEDING IN ACCORDANCE WITH CPLR 214-G AND 22 NYCRR 202.72

3. This complaint is filed pursuant to the Child Victims Act (CVA) 2019 Sess. Law News of N.Y. Ch. 11 (S. 2440), CPLR 214-G, and 22 NYCRR 202.72. The CVA opened a historic one-year one-time window for victims and survivors of childhood sexual abuse in the State of New York to pursue lapsed claims. Prior to the passage of the CVA, plaintiff's claims were time-barred the day he turned 22 years old. The enactment of the CVA allows victims and survivors of childhood sexual abuse, for the first time in their lives, to pursue restorative justice in New York State.

III. PARTIES

4. Plaintiff Robert D. Schubring is an adult male who currently resides in Mars, Pennsylvania.

5. Upon information and belief, the Diocese is currently a not-for-profit religious corporation organized under New York law with its principal office in Buffalo, New York.

6. Upon information and belief, at all relevant times the Diocese conducted business as the "Diocese of Buffalo" and/or "Buffalo Diocese."

7. Upon information and belief, at all relevant times the Diocese employed priests, school administrators, teachers, religious sisters, and/or others who served various Catholic institutions and families, including plaintiff Robert D. Schubring and his family.

8. Upon information and belief, Father William Stanton ("Father Stanton") was a priest employed by the Diocese to serve Catholic families, including plaintiff Robert D. Schubring and his family. During the time Father Stanton was employed by the Diocese, he used his position as a priest and assistant principal to groom and to sexually abuse plaintiff Robert D. Schubring.

9. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father Stanton used his position as a priest and assistant principal to sexually abuse plaintiff Robert D. Schubring, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

10. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Stanton used his position as a priest and assistant principal to sexually abuse plaintiff Robert D. Schubring, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

11. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the “Diocese.”

12. Upon information and belief, at all relevant times defendant Bishop Turner High School (“Bishop Turner”) was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

13. Upon information and belief, Bishop Turner is currently a not-for-profit religious corporation organized under New York law with its principal office in Buffalo, New York.

14. Upon information and belief, at all relevant times Bishop Turner conducted business as “Bishop Turner High School,” “Bishop Turner,” “Bishop Turner School,” or “Bishop Turner High School.”

15. Bishop Turner is a Catholic high school located in Buffalo, New York.

16. Upon information and belief, Father William Stanton was a priest and assistant principal employed by Bishop Turner to serve Catholic families in its geographic jurisdiction, including plaintiff Robert D. Schubring and his family. During the time Father William Stanton

was employed by Bishop Turner, he used his position as a priest and assistant principal to groom and to sexually abuse plaintiff Robert D. Schubring.

17. To the extent that Bishop Turner was a different entity, corporation, or organization during the period of time during which Father Stanton used his position as a priest and assistant principal to sexually abuse Robert, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

18. To the extent Bishop Turner is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Stanton used his position as a priest and assistant principal to sexually abuse Robert, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

19. All such Bishop Turner-related entities, corporations, or organizations are collectively referred to herein as “Bishop Turner.”

IV. VENUE

20. Venue is proper because the Diocese is a domestic corporation authorized to transact business in New York with its principal office located in Erie County.

21. Venue is proper because Bishop Turner is a domestic corporation authorized to transact business in New York with its principal office located in Buffalo, New York.

22. Venue is proper because Erie is the county in which a substantial part of the events or omissions giving rise to plaintiff’s claim occurred.

V. STATEMENT OF FACTS AS TO PLAINTIFF ROBERT D. SCHUBRING

23. Upon information and belief, at all relevant times the Diocese was the owner of Bishop Turner and held itself out to the public as the owner of Bishop Turner.

24. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled Bishop Turner.

25. Upon information and belief, at all relevant times the Diocese employed priests, school administrators, teachers, religious sisters, and/or others who served Catholic families at Bishop Turner, including plaintiff Robert D. Schubring and his family.

26. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled Bishop Turner, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled Bishop Turner.

27. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at Bishop Turner.

28. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at Bishop Turner.

29. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of Bishop Turner, including the services of Father Stanton and the services of those who managed and supervised Father Stanton.

30. Upon information and belief, at all relevant times Bishop Turner owned a school.

31. Upon information and belief, at all relevant times Bishop Turner held itself out to the public as the owner of Bishop Turner.

32. Upon information and belief, at all relevant times Bishop Turner employed priests, school administrators, teachers, religious sisters, and/or others who served Catholic families, including plaintiff Robert D. Schubring and his family.

33. Upon information and belief, at all relevant times Bishop Turner, its agents, servants, and employees managed, maintained, operated, and controlled Bishop Turner, and held

out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled Bishop Turner.

34. Upon information and belief, at all relevant times Bishop Turner was responsible for and did the staffing and hiring at Bishop Turner.

35. Upon information and belief, at all relevant times Bishop Turner was responsible for and did the recruitment and staffing of volunteers at Bishop Turner.

36. Upon information and belief, at all relevant times Bishop Turner materially benefitted from the operation of Bishop Turner, including the services of Father Stanton and the services of those who managed and supervised Father Stanton.

37. Upon information and belief, at all relevant times Father Stanton was a priest of the Diocese.

38. Upon information and belief, at all relevant times Father Stanton was on the staff of, acted as an agent of, and served as an employee of the Diocese.

39. Upon information and belief, at all relevant times Father Stanton was acting in the course and scope of his employment with the Diocese.

40. Upon information and belief, at all relevant times Father Stanton was employed by the Diocese and assigned to Bishop Turner.

41. Upon information and belief, at all relevant times Father Stanton was a priest and assistant principal of Bishop Turner.

42. Upon information and belief, at all relevant times Father Stanton was on the staff of, was an agent of, and served as an employee of Bishop Turner.

43. Upon information and belief, at all relevant times Father Stanton was acting in the course and scope of his employment with Bishop Turner.

44. Upon information and belief, at all relevant times Father Stanton had an office on the premises of Bishop Turner.

45. When plaintiff Robert D. Schubring was a minor, he and his parents were members of the Diocese and Bishop Turner, including when plaintiff Robert was a student.

46. At all relevant times, the Diocese and Bishop Turner, their agents, servants, and employees, held Father Stanton out to the public, to Robert, and to his parents, as their agent and employee.

47. At all relevant times, the Diocese and Bishop Turner, their agents, servants, and employees, held Father Stanton out to the public, to Robert, and to his parents, as having been vetted, screened, and approved by those defendants.

48. At all relevant times, Robert and his parents reasonably relied upon the acts and representations of the Diocese and Bishop Turner, their agents, servants, and employees, and reasonably believed that Father Stanton was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

49. At all relevant times, Robert and his parents trusted Father Stanton because the Diocese and Bishop Turner held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of Robert.

50. At all relevant times, Robert and his parents believed that the Diocese and Bishop Turner would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of Robert.

51. When Robert was a minor, Father Stanton sexually abused him.

52. Robert was sexually abused by Father Stanton when he was approximately 14 or 15 years old.

53. Based on the representations of the Diocese and Bishop Turner that Father Stanton was safe and trustworthy, Robert and his parents allowed Robert to be under the supervision of, and in the care, custody, and control of, the Diocese and Bishop Turner, including during the times when Robert was sexually abused by Father Stanton.

54. Based on the representations of the Diocese and Bishop Turner that Father Stanton was safe and trustworthy, Robert and his parents allowed Robert to be under the supervision of, and in the care, custody, and control of, Father Stanton, including during the times when Robert was sexually abused by Father Stanton.

55. Neither Robert nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, Bishop Turner, or Father Stanton if the Diocese or Bishop Turner had disclosed to Robert or his parents that Father Stanton was not safe and was not trustworthy, and that he in fact posed a danger to Robert in that Father Stanton was likely to sexually abuse Robert.

56. No parent of ordinary prudence in comparable circumstances would have allowed Robert to be under the supervision of, or in the care, custody, or control of, the Diocese, Bishop Turner, or Father Stanton if the Diocese or Bishop Turner had disclosed to Robert or his parents that Father Stanton was not safe and was not trustworthy, and that he in fact posed a danger to Robert in that Father Stanton was likely to sexually abuse him.

57. From approximately 1964 through 1965, Father Stanton exploited the trust and authority vested in him by defendants by grooming Robert to gain his trust and to obtain control over him as part of Father Stanton's plan to sexually molest and abuse Robert and other children.

58. Father Stanton used his position of trust and authority as a priest of the Diocese and of Bishop Turner to groom Robert and to sexually abuse him, including when Robert was under

the supervision of, and in the care, custody, or control of, the Diocese, Bishop Turner, and Father Stanton.

59. The sexual abuse of Robert by Father Stanton occurred at Bishop Turner, including in Father Stanton's office.

60. Father Stanton's sexual abuse of Robert occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and Bishop Turner, including during a visit to the health clinic at Bishop Turner.

61. Upon information and belief, prior to the times mentioned herein, Father Stanton was a known sexual abuser of children.

62. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father Stanton was a known sexual abuser of children.

63. Upon information and belief, at all relevant times, it was reasonably foreseeable to defendants, their agents, servants, and employees that Father Stanton's sexual abuse of children would likely result in injury to others, including the sexual abuse of Robert and other children by Father Stanton.

64. Upon information and belief, the defendants, their agents, servants, and employees, knew or should have known that Father Stanton was sexually abusing Robert and other children at Bishop Turner and elsewhere.

65. Upon information and belief, the Diocese and Bishop Turner, their agents, servants, and employees, knew or should have known before and during Father Stanton's sexual abuse of Robert that priests, school administrators, teachers, religious sisters, and/or other persons serving

the Diocese and Bishop Turner had used their positions with those defendants to groom and to sexually abuse children.

66. Upon information and belief, the Diocese and Bishop Turner, their agents, servants, and employees, knew or should have known before and during Father Stanton's sexual abuse of Robert that such priests, school administrators, teachers, religious sisters, and/or other persons could not be "cured" through treatment or counseling.

67. Upon information and belief, the Diocese and Bishop Turner, their agents, servants, and employees, concealed the sexual abuse of children by Father Stanton in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father Stanton would continue to molest children.

68. Upon information and belief, the Diocese and Bishop Turner, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father Stanton would use his position with the defendants to sexually abuse children, including Robert.

69. Upon information and belief, the Diocese and Bishop Turner, their agents, servants, and employees, disregarded their knowledge that Father Stanton would use his position with them to sexually abuse children, including Robert.

70. Upon information and belief, the Diocese and Bishop Turner, their agents, servants, and employees, acted in concert with each other or with Father Stanton to conceal the danger that Father Stanton posed to children, including Robert, so that Father Stanton could continue serving them despite their knowledge of that danger.

71. Upon information and belief, the Diocese and Bishop Turner, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including Robert, and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

72. Upon information and belief, the Diocese and Bishop Turner, their agents, servants, and employees, concealed the sexual abuse of children by priests, school administrators, teachers, religious sisters, and/or others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests, school administrators, teachers, religious sisters, and/or other persons would continue to molest children.

73. By reason of the wrongful acts of the Diocese and Bishop Turner as detailed herein, Robert sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Robert has and/or will become obligated to expend sums of money for treatment.

VI. CAUSES OF ACTION AS TO PLAINTIFF ROBERT D. SCHUBRING

A. FIRST CAUSE OF ACTION – NEGLIGENCE

74. Plaintiff Robert D. Schubring repeats and re-alleges all of his allegations above and below.

75. The Diocese and Bishop Turner had a duty to take reasonable steps to protect plaintiff Robert D. Schubring, a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

76. The Diocese and Bishop Turner also had a duty to take reasonable steps to prevent Father Stanton from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including Robert.

77. The Diocese and Bishop Turner were supervising Robert, and had care, custody, and control of Robert, when he was a student and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

78. These circumstances created a special relationship between the Diocese and Robert, and between Bishop Turner and Robert, which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

79. The Diocese and Bishop Turner breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Stanton from harming Robert, including sexually abusing him.

80. In breaching their duties, including hiring, retaining, and failing to supervise Father Stanton, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Robert, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Robert and other children who were under their supervision and in their care, custody, and control, the Diocese and Bishop Turner created a risk that Robert would be sexually abused by Father Stanton. The Diocese and

Bishop Turner through their actions and inactions created an environment that placed Robert in danger of unreasonable risks of harm under the circumstances.

81. In breaching their duties, including hiring, retaining, and failing to supervise Father Stanton, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Robert, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Robert and other children who were under their supervision and in their care, custody, and control, the Diocese and Bishop Turner acted willfully and with conscious disregard for the need to protect Robert. The Diocese and Bishop Turner through their actions and inactions created an environment that placed Robert in danger of unreasonable risks of harm under the circumstances.

82. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of Robert.

83. As a direct and proximate result of the acts and omissions of the Diocese and Bishop Turner, Father Stanton groomed and sexually abused Robert, which has caused Robert to suffer general and special damages as more fully described herein.

B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

84. Plaintiff Robert D. Schubring repeats and re-alleges all of his allegations above and below.

85. The Diocese and Bishop Turner engaged in reckless, extreme, and outrageous conduct by providing Father Stanton with access to children, including plaintiff Robert D. Schubring, despite knowing that he would likely use his position to groom and to sexually abuse them, including Robert. Their misconduct was so shocking and outrageous that it exceeds the

reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

86. As a result of this reckless, extreme, and outrageous conduct, Father Stanton gained access to Robert and sexually abused him.

87. The Diocese and Bishop Turner knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Robert did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

VII. CPLR 1603 – NO APPORTIONMENT OF LIABILITY

88. Pursuant to CPLR 1603, the foregoing causes of action are exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(2), CPLR 1602(5), 1602(7) and 1602(11), thus precluding defendants from limiting their liability by apportioning some portion of liability to any joint tortfeasor.

VIII. PRAYER FOR RELIEF

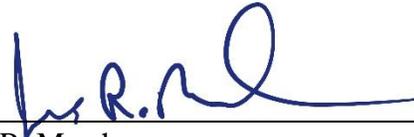
89. Plaintiff Robert D. Schubring demands judgment against the defendants named in his causes of action, together with compensatory and punitive damages to be determined at trial, and the interest, cost and disbursements pursuant to his causes of action, and such other and further relief as the Court deems just and proper.

90. Plaintiff Robert D. Schubring specifically reserves the right to pursue additional causes of action, other than those outlined above, that are supported by the facts pleaded or that may be supported by other facts learned in discovery.

Dated: November 6, 2019

Respectfully Yours,

MARSH LAW FIRM PLLC

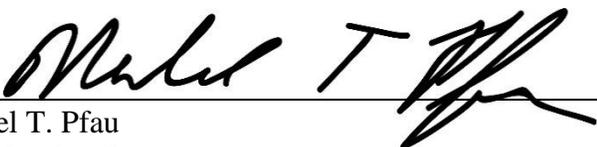
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