

STATE OF NEW YORK
SUPREME COURT :: COUNTY OF ERIE

HK 1 DOE,

SUMMONS

Plaintiff,

Index No.:

vs.

THE DIOCESE OF BUFFALO, N.Y.
ST. AGATHA'S ROMAN CATHOLIC CHURCH
ST. AGATHA'S CATHOLIC SCHOOL
ST. JOHN THE EVANGELIST ROMAN CATHOLIC CHURCH


Defendants.

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 a summons, to serve a notice of appearance, on the plaintiff's attorney(s) within **20** days after the service of this summons, exclusive of the day of service, or within **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 basis of residence of plaintiff who resides in West Seneca, New York.

DATED: Buffalo, New York
December 16, 2019



Terrence P. Higgins
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STATE OF NEW YORK
 SUPREME COURT :: COUNTY OF ERIE

HK 1 DOE,

COMPLAINT

Plaintiff,

Index No.:

vs.

THE DIOCESE OF BUFFALO, N.Y.
 ST. AGATHA'S ROMAN CATHOLIC CHURCH
 ST. AGATHA'S CATHOLIC SCHOOL
 ST. JOHN THE EVANGELIST ROMAN CATHOLIC CHURCH

Defendants.

Plaintiff, above named, by his attorneys, The Higgins Kane Law Group, P.C., for his complaint against defendants alleges:

JURISDICTION

1. Plaintiff HK 1 Doe is a resident of the Town of West Seneca, County of Erie and State of New York.

2. This action is brought under the provisions of the Child Victims Act.

3. At the time of the incident set forth herein, plaintiff HK 1 Doe (hereinafter referred to as the "plaintiff") was a minor having been born in 1952.

4. Gerald Jasinski (hereinafter referred to as the "sexual predator/assaulter") is a resident of the Village of Midlothian, County of Chesterfield and State of Virginia.

5. Upon information and belief, and at all times herein mentioned, defendant The Diocese of Buffalo, N.Y. (hereinafter "Diocese") was and is a domestic not-for-profit corporation duly

organized and existing under and by virtue of the laws of the State of New York, and maintains an office for the transaction of business located within the County of Erie, State of New York.

6. Upon information and belief, and at all times herein mentioned, defendant St. Agatha's Roman Catholic Church (hereinafter referred to as "St. Agatha's"), located in Buffalo, New York, was and is a not-for-profit religious organization duly organized and existing under and by virtue of the laws of the State of New York, operating by and through defendant Diocese, and maintained and operated a church and rectory for the transaction of business located within the County of Erie, State of New York.

7. At all times material, defendant St. Agatha's was an organization authorized to conduct business in the State of New York, with its principal place of business for church and church-related matters at 51 Alamo Place, Buffalo, New York, and with a principal place of business for its school and related matters at 65 Abbott Road in Buffalo, New York. St. Agatha's includes, but it not limited to the St. Agatha's corporation and any other organizations and/or entities operating under the same or similar name with the same or similar principal places of business.

8. Upon information and belief, and at all times herein mentioned, defendant St. Agatha's Catholic School (also hereinafter referred to as "St. Agatha's"), located in Buffalo, New York, was and is a not-for-profit religious organization duly organized and

existing under and by virtue of the laws of the State of New York, operating by and through defendant Diocese, and maintained and operated a Catholic grammar school, including CYO programs, in South Buffalo, within the County of Erie, State of New York.

9. At all times material, St. Agatha's was under the direct authority, control, supervision and province of defendant Diocese of Buffalo. Defendants St. Agatha's includes any school affiliated with St. Agatha's. At all times material, the parish was under the direct control, authority, supervision and province of the defendant St. Agatha's and defendant Diocese of Buffalo.

10. Upon information and belief, and at all times herein mentioned, defendant St. John the Evangelist Roman Catholic Church (hereinafter referred to as "St. John's"), located in Sinclairville, New York, was and is a not-for-profit religious organization duly organized and existing under and by virtue of the laws of the State of New York, operating by and through defendant Diocese, and maintained a church and rectory for the transaction of business located within the County of Chautauqua, State of New York.

11. At all times material, defendant St. John's was an organization authorized to conduct business in the State of New York, with its principal place of business for church and church-related matters at Sinclairville, New York. St. John's includes, but is not limited to the St. John's corporation and any

other organizations and/or entities operating under the same or similar name with the same or similar principal places of business.

12. At all times material, St. John's was under the direct authority, control, supervision and province of defendant Diocese of Buffalo. At all times material, the parish was under the direct control, authority, supervision and province of the defendant St. John's and defendant Diocese of Buffalo.

13. Venue is proper per CPLR §503 in that Erie County is the principle place of business of defendant Diocese, St. Agatha's defendants, and plaintiff is a resident of Erie County.

FACTS

14. Defendants Diocese, St. Agatha's and St. John's are hereinafter collectively referred to as "the Roman Catholic Church".

15. Upon information and belief, at all times herein mentioned, the sexual predator/assaulter, Father Jasinski, was hired and employed by the Roman Catholic Church, and the Roman Catholic Church conferred upon him the religious title "Father".

16. Upon information and belief, and at all times herein mentioned, the sexual predator/assaulter was assigned to St. Agatha's as a priest by the Diocese, and was acting as its agent, employee or representative, including through its CYO program.

17. Upon information and belief, and at all times herein mentioned, the sexual predator/assaulter was assigned to St. John's as a priest by the Diocese, and was acting as its agent, employee or representative.

18. Upon information and belief, at all times herein mentioned the sexual predator/assaulter was under the direction, supervision and control of the defendant Roman Catholic Church.

19. That on or about May 17, 1969, the sexual predator/assaulter sexually assaulted, raped, and committed battery upon minor plaintiff at St. John's rectory in Sinclairville, New York, and said sexual assault, rape, and battery constituted sexual offenses as defined in Article 130 of the Penal Law by the sexual predator/assaulter.

20. The sexual crimes by the sexual predator/assaulter herein were willful, malicious and intentional and resulted in injury to the plaintiff.

21. As a direct result of the sexual predator/assaulter's conduct described herein, the plaintiff has suffered, and continues to suffer, great physical and emotional pain and suffering of mind and body, shock, emotional distress, physical manifestations of emotional distress, flashbacks, embarrassment, loss of self-esteem, disgrace, humiliation, loss of faith and trust, and will incur expenses for medical psychological treatment, treatment and counseling.

22. This action falls within one or more of the exceptions set forth in CPLR §1602.

23. As a result of the foregoing, the plaintiff has sustained damages exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

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

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST
DEFENDANT ROMAN CATHOLIC CHURCH HEREIN:**

NEGLIGENCE

25. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs 1 through 24 of this complaint with the same force and effect as if fully set forth herein.

26. Upon information and belief, the Roman Catholic Church trained, selected and approved the sexual predator/assaulter as a priest, placing him in a position of authority and power over plaintiff and other minors at St. Agatha's and St. John's.

27. Defendant Roman Catholic Church knew or reasonably should have known of the propensities of the sexual predator/assaulter to commit sexual crimes of assault, battery, rape and other sexual offenses against the plaintiff and other children/minors.

28. Defendant Roman Catholic Church knew or reasonably should have known of the propensities of the sexual predator/assaulter to

groom and spend inappropriate time and attention away from other adults with male children/minors, and to sexually abuse, attack and assault minors for his own gratification.

29. Upon information and belief, prior to the sexual assault/rape/sodomy set forth herein, defendant Roman Catholic Church was aware and was otherwise on actual notice that a significant number of its employees working as priests, were sexually abusing and/or sexually assaulting and/or sexually molesting and/or raping children/minors.

30. Upon information and belief, the aforesaid sexual assault/rape/sodomy and resultant injuries and damages to plaintiff were caused as a result of the negligence, carelessness and recklessness of defendant Roman Catholic Church in the training, selecting, screening, retention, supervising, empowering and assignment of the sexual predator/assaulter.

31. Father Jasinski groomed relationships with minors through spending time and attention on them, building and exploiting trust, and then abusing that trust for sexual gratification.

32. During and through these activities, plaintiff, as a minor, was dependent on defendants and Father Jasinski. Father Jasinski invited plaintiff and two others to defendants' rectory at St. John the Evangelist in Sinclairville, New York, to fish and spend the night.

33. On or about May 17, 1969, when plaintiff was 17 years old, Father Jasinski provided him alcohol, directed him to a bed in the rectory, and later raped/sodomized plaintiff in said rectory, thereby committing unpermitted, illegal and non-consensual sexual assault.

34. Plaintiff's relationship to defendants and Father Jasinski, as a minor was one in which plaintiff trusted and was subject to the ongoing influence of defendants and Father Jasinski.

35. The culture of the Catholic Church over plaintiff, created fear, shame, shock and humiliation of this sexual attack and created tremendous pressure on plaintiff not to report the abuse plaintiff suffered.

36. Defendants knew or should have known that Father Jasinski was a danger to children/minors before Father Jasinski sexually assaulted plaintiff.

37. Prior to the sexual abuse of plaintiff, defendants learned or should have learned that Father Jasinski was not fit to work with minors. Defendants, by and through their agents, servants and/or employees, became aware, or should have become aware of Father Jasinski's propensity to commit sexual abuse and of the risk to plaintiff's safety. At the very least, defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at Catholic institutions within the Diocese were safe.

38. Defendants knew or should have known that there was a risk of sex abuse for minors participating in Catholic programs and activities within the Diocese. At the very least, defendants knew or should have known that they did not have sufficient information about whether or not there was a risk of sex abuse for minors participating in Catholic programs and activities within the Diocese.

39. Defendants knew or should have known that defendants had numerous agents who had sexually molested children/minors to whom they gained access through their church positions. Defendants knew or should have known that child molesters have a high rate of recidivism. Defendants knew or should have known that some of the leaders and people working in and for Catholic institutions within the Diocese were dangerous and that there was a specific danger of child sex abuse for minors exposed to such persons, including many priests, and including Gerald Jasinski.

40. Instead, defendant negligently deemed that Father Jasinski was fit to work with children/minors, and/or that any previous problems were fixed or cured, and/or that Father Jasinski would not sexually assault and/or otherwise injure children/minors.

41. Defendants owed plaintiff a duty of reasonable care because they had superior knowledge about the risk that Father Jasinski posed to plaintiff, the risk of abuse in general in and

related to their programs and/or the risks that their facilities posed to minor children.

42. Defendants owed a duty to plaintiff to protect plaintiff from harm because defendants' actions created a foreseeable risk of harm to plaintiff. As a vulnerable minor exposed to Father Jasinski through the programs and activities defendants offered to minors, plaintiff was a foreseeable victim. As a vulnerable minor who Father Jasinski had access to through defendants' facilities and programs, plaintiff was a foreseeable victim.

43. Defendants also breached their duty to plaintiff by actively maintaining and employing Father Jasinski in a position of power and authority through which Father Jasinski had access to minors including plaintiff, and power and control over minors, including plaintiff.

44. Each defendant breached its duties to plaintiff. Defendants failed to use ordinary care in determining whether their facilities were safe and/or determining whether they had sufficient information to represent their facilities as safe. Defendants' breach of their duties include, but are not limited to: failure to protect plaintiff from a known danger, failure to have sufficient policies and procedures to prevent sex abuse by priests, failure to properly implement policies and procedures to prevent such sex abuse, failure to take reasonable measure to make sure that policies and procedures to prevent minor sex abuse were working,

failure to adequately inform families and children of the risks of minor sex abuse, failure to investigate risks of minor sex abuse, failure to properly train the employees at institutions and programs within defendants' geographical confines, failure to train parishioners within defendants' geographical confines about the risk of sexual abuse, failure to have any outside agency test their safety procedures, failure to protect minors exposed to its priests from sex abuse, failure to adhere to the applicable standard of care for child/minor safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, leaders and people as safe, failure to train their employees properly to identify signs of improper conduct, grooming and minor sexual abuse by fellow employees, failure by relying upon mental health professionals, and/or failure by relying on people who claimed that they could treat priest sexual predators/molesters.

45. Defendants also breached their duty to plaintiff by failing to warn plaintiff and others of the risk that Father Jasinski posed and the risks of minor sexual abuse in Catholic institutions. They also failed to warn them about any of the knowledge that defendants had about child sexual abuse.

46. The acts of defendant Roman Catholic Church constitute negligence, carelessness, lack of reasonable care and diligence,

and reckless disregard for the safety of plaintiff and other children/minors.

47. As a result of the foregoing, plaintiff has sustained damages exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST
DEFENDANT ROMAN CATHOLIC CHURCH HEREIN:**

48. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs 1 through 47 of this complaint with the same force and effect as if fully set forth herein.

49. Upon information and belief, the aforesaid sexual assault/rape/sodomy and resultant injuries to plaintiff was caused as a result of the negligence, carelessness and recklessness of the defendant Roman Catholic Church in the retaining of the sexual predator/assaulter.

50. The acts of defendant Roman Catholic Church constitute reckless disregard for the safety of plaintiff and other children/minors.

51. As a result of the foregoing, plaintiff has sustained damages exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A THIRD CAUSE OF ACTION AGAINST
DEFENDANT, THE ROMAN CATHOLIC CHURCH HEREIN:**

52. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs 1 through 51 of this complaint with the same force and effect as if fully set forth herein.

53. Upon information and belief, the aforesaid sexual assault/rape/sodomy and resultant injuries to plaintiff were caused as a result of the negligence, carelessness and recklessness of defendant Roman Catholic Church in supervising the sexual predator/assaulter.

54. The acts of defendant Roman Catholic Church constitute reckless disregard for the safety of plaintiff and other children/minors.

55. As a result of the foregoing, plaintiff has sustained damages exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A FOURTH CAUSE OF ACTION AGAINST
DEFENDANT, THE ROMAN CATHOLIC CHURCH HEREIN:**

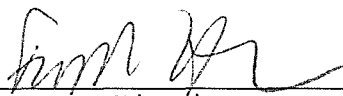
56. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs 1 through 55 of this complaint with the same force and effect as if fully set forth herein.

57. Upon information and belief, the aforesaid sexual assault/rape/sodomy and resultant injuries to plaintiff were caused

by the gross negligence, wanton disregard for safety of minors and recklessness of defendants such that punitive damages against such defendants are warranted herein.

WHEREFORE, plaintiff demands judgment against defendants, either jointly or severally, in the First, Second, Third and Fourth Causes of Action in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction and for such other, further or different relief as the Court may deem just and proper, together with the costs and disbursements of the action.

DATED: Buffalo, New York
December 16, 2019



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