

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

<p>PB- 16 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>-against-</p> <p>THE DIOCESE OF BUFFALO, N.Y., ST. GREGORY THE GREAT ROMAN CATHOLIC CHURCH, and PAUL NOGARO,</p> <p style="text-align: center;">Defendants.</p>
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**SUMMONS**


Index No.:

**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  
              January 23, 2020

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*Attorneys for Plaintiffs*



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**THE DIOCESE OF BUFFALO, N.Y.**

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**ST. GREGORY THE GREAT ROMAN CATHOLIC CHURCH**

200 St. Gregory Court  
Williamsville, New York 14221

**PAUL NOGARO**

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Green Island, New York 14072

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STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

<p>PB- 16 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>-against-</p> <p>THE DIOCESE OF BUFFALO, N.Y., ST. GREGORY THE GREAT ROMAN CATHOLIC CHURCH, and PAUL NOGARO,</p> <p style="text-align: center;">Defendants.</p>
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**COMPLAINT**

Index No.:

Plaintiff PB-16 Doe, by his undersigned attorneys, for his Complaint, alleges on personal knowledge as to himself and on information and belief as to other matters, 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-16 Doe was sexually abused, assaulted and molested by Father Paul Nogaro (“Fr. Nogaro”) – a priest hired, retained, supervised, placed, directed and otherwise authorized to act by Defendants, the Diocese of Buffalo, N.Y., and St. Gregory the Great Roman Catholic Church.
3. Plaintiff was approximately 10 to 12 years old when Fr. Nogaro sexually abused him.
4. Despite years of refusal to publically address rampant child abuse by priests, Defendant the Diocese of Buffalo recently published a long list of priests with substantiated claims of sexual abuse of a minor.

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5. In fact, the Roman Catholic Church and Defendants have long known that substantial numbers of priests 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, in particular 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.

6. 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. Nogaro, permitted the abuse to occur, neglected to adequately supervise Fr. Nogaro, failed to timely investigate Fr. Nogaro's misconduct, failed to educate and train minors, parents, clergy members, and/or 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 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. Nogaro's sexual assault of Plaintiff and his consequential injuries and damages.

#### PARTIES

7. Plaintiff is an individual who resides in Erie County, New York.
8. Plaintiff was born in 1982.
9. Defendant The Diocese of Buffalo, N.Y. ("Diocese") is a New York not-for-profit corporation, organized pursuant to the laws of the State of New York, and which operated at all relevant times in Niagara County, New York, with its principal place of business at 795 Main Street, Buffalo, New York 14206.

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

11. At all relevant times, Defendant St. Gregory the Great Roman Catholic Church (“St. Gregory the Great”) was under the direct authority of the Defendant Diocese, and was a not-for-profit corporation organized pursuant to the laws of the State of New York, and located in Erie County, at 200 St. Gregory Court, Williamsville, New York 14201.

12. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and operated Defendant St. Gregory the Great.

13. At all relevant times, Defendant Diocese owned the premises where Defendant St. Gregory the Great is located.

14. Father Paul Nogaro (“Fr. Nogaro”) is a Roman Catholic Priest who resides in Erie County.

15. At all relevant times, Defendant Diocese oversaw, managed, controlled, directed and assigned priests, including Fr. Nogaro, to work in parishes, churches and schools that were under the authority of the Diocese, including St. Gregory the Great.

16. At all relevant time, Defendants assigned Fr. Nogaro to St. Gregory the Great and oversaw, managed, controlled, and directed his duties and conduct.

#### FACTUAL ALLEGATIONS

17. At all relevant times, Plaintiff was a parishioner and altar boy of Defendant St. Gregory the Great.

18. At all relevant times, Fr. Nogaro was a Roman Catholic priest employed by Defendant Diocese and Defendant St. Gregory the Great.

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19. At all relevant times, Fr. Nogaro was under the direct supervision and control of the Defendant Diocese and St. Gregory the Great. His assigned duties included, *inter alia*, serving as a priest and as pastor. His duties included interacting with, mentoring and counseling children, including altar boys, attending Defendant St. Gregory the Great.

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

21. Defendants authorized Fr. Nogaro to have contact with minors, in a manner consistent with providing instruction, counseling, educational and spiritual guidance, and leadership.

22. Defendants required parishioners, like Plaintiff, to accept instruction from clergy in their employ, including Fr. Nogaro, and to obey their orders.

23. 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.

24. When Plaintiff was approximately 10 to 12 years old, on or about 1992 to 1994, Fr. Nogaro engaged in unpermitted, forcible and harmful sexual contact with Plaintiff, and otherwise sexually abused him. This sexual abuse took place on the premises of Defendant St. Gregory the Great.

25. The conduct alleged herein would constitute a sexual offense as defined in article one hundred thirty of the penal law.

26. Plaintiff's relationship to Defendants as a vulnerable child and parishioner, 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 Fr. Nogaro.

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27. Defendants knew or should have known that Fr. Nogaro was a danger to minor boys like Plaintiff, before the sexual abuse of Plaintiff began.

28. 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. Over the centuries, various Popes passed Church decrees and legislation condemning such offenses, including a clerical crime known as “solicitation,” engaging in sexual contact with an adult or a child during administration of the sacrament of confession.

29. As such, at all relevant times, Defendants were well aware that errant sexual behavior by some priests was not only widespread but predictable.

30. 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.

31. 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 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 and programs.

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

33. Prior to the time of Plaintiff’s abuse by Fr. Nogaro, Defendants knew or should have known of other acts of child sexual abuse by Fr. Nogaro.

34. 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 by clergy in general, and the risks that Fr. Nogaro posed to Plaintiff.

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35. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited parishioners and others to send their children to St. Gregory the Great; they undertook custody of minor children, including Plaintiff; they recruited minor boys, including Plaintiff, to serve as altar boys; they promoted their facilities and programs as being safe for children, they held out their agents, including Fr. Nogaro, 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 Fr. Nogaro to spend time with, interact with, and recruit children.

36. 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.

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

38. 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 may continue to suffer loss of earnings and earning capacity; has incurred and may in the future incur expenses for medical and psychological treatment, and was otherwise damaged.

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39. To the extent that any Defendant pleads, or otherwise seeks 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

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

41. At all relevant times Defendants had a duty to exercise due care in hiring, appointing, assigning, retention, supervision and direction of its clergy, including Fr. Nogaro so as to protect minor children, including Plaintiff, who were likely to come into contact with, and/or under the influence or supervision of him, and to ensure that Fr. Nogaro did not use his assigned position to injure minors by sexual assault, contact or abuse.

42. Defendants were negligent and failed to use reasonable care in hiring, appointing, assigning, and retention, of Fr. Nogaro, failed to properly investigate his background and employment history, and/or hired, appointed and/or assigned Fr. Nogaro to Defendant St. Gregory the Great when Defendants knew or should have known of facts that would make him a danger to children; and Defendants were otherwise negligent.

43. Defendants were negligent and did not use reasonable care in their supervision and direction of Fr. Nogaro, failed to monitor his activities, failed to oversee the manner in which he carried out the duties to which Defendants assigned him, even though they knew or should have known that Fr. Nogaro posed a threat of sexual abuse to minors; allowed the

misconduct described above to occur; failed to investigate Fr. Nogaro's dangerous activities and remove him from their premises; and Defendants were otherwise negligent.

44. Fr. Nogaro 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. Nogaro.

45. At all relevant times, Fr. Nogaro acted in the course and scope of his employment with Defendants.

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

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

48. 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 that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction over this matter, together with interest and costs.

## **SECOND CAUSE OF ACTION**

### **NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT**

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

50. At all relevant times, Defendants affirmatively and/or impliedly represented to minor children, their families and the general public that clergy working in the Diocese, including Fr. Nogaro, did not pose a risk and/or that he did not have a history of sexually abusing children, and that children, including Plaintiff, would be safe in his care.

51. Defendants knew or should have known this representation was false and that employing Fr. Nogaro would give him unfettered access to children, including Plaintiff, and that Fr. Nogaro posed an unacceptable risk of harm to children.

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

53. 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.

54. 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.

55. Upon information and belief, Defendants covered up acts of abuse by Fr. Nogaro, and concealed facts concerning his sexual misconduct from Plaintiff and his family.

56. 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.

57. Defendants failed to warn Plaintiff and his parents that Fr. Nogaro posed a risk of child sexual assault.

58. 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.

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

60. 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.

61. 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 that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction over this matter, together with interest and costs.

### **THIRD CAUSE OF ACTION**

#### **NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS**

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

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

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

65. Defendants knew or disregarded the substantial probability that Fr. Nogaro would cause severe emotional distress to Plaintiff.

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

67. 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 that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction over this matter, together with interest and costs.

#### **FOURTH CAUSE OF ACTION**

##### **PREMISES LIABILITY**

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

69. At all relevant times, Defendants owned, operated, and /or controlled the premises of Defendant St. Gregory the Great, including the areas where the sexual abuse of Plaintiff occurred.

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

71. 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.

72. Defendants willfully, recklessly, and negligently failed to provide reasonably safe premises that were free from the presence of sexual predators and/or the assault by the occupants of the premises, including Fr. Nogaro. Defendants thereby breached their duty of care to Plaintiff.

73. 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.

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74. 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 that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction over this matter, together with interest and costs.

**FIFTH CAUSE OF ACTION**

**BREACH OF FIDUCIARY DUTY**

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

76. 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.

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

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

79. 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.

80. 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 that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction over this matter, together with interest and costs.

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**SIXTH CAUSE OF ACTION**

**BREACH OF DUTY IN LOCO PARENTIS**

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

82. 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.

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

84. 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.

85. 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 that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction over this matter, together with interest and costs.

**SEVENTH CAUSE OF ACTION**

**BREACH OF STATUTORY DUTIES TO REPORT**

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

87. 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.

88. Defendants breached their statutory duty by failing to report reasonable suspicion of abuse by Fr. Nogaro of children in their care.

89. 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.

90. 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 that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction over this matter, together with interest and costs.

### EIGHTH CAUSE OF ACTION

#### BATTERY

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

92. Defendant Fr. Nogaro, with intent to do so, engaged in sexual and unlawful acts with Plaintiff which amounted to a series of harmful and offensive contacts to Plaintiff's person.

93. At all relevant times, Plaintiff was a minor and did not consent to these sexual and unlawful acts.

94. As a direct and proximate result of Defendant Fr. Nogaro's sexual and unlawful acts, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

95. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interest and costs.



**NINTH CAUSE OF ACTION****ASSAULT**

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

97. Defendant Fr. Nogaro, with intent to do so, engaged in sexual and unlawful acts with Plaintiff, which created a reasonable apprehension in Plaintiff of immediate harmful or offensive contact to Plaintiff's person.

98. At all relevant times, Plaintiff was a minor and did not consent to these sexual and unlawful acts.

99. As a direct and proximate result of Defendant Fr. Nogaro's sexual and unlawful acts, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

100. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus interest and costs.

**TENTH CAUSE OF ACTION****INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

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

102. Defendant Fr. Nogaro engaged in sexual and unlawful acts with Plaintiff with intent to cause, or with reckless disregard for the probability of causing, Plaintiff to suffer severe emotional distress.

103. Defendant Fr. Nogaro's conduct was both extreme and outrageous in character, beyond all possible bounds of decency, atrocious and intolerable in a civilized world.

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104. Defendant Fr. Nogaro committed these sexual and unlawful acts maliciously, fraudulently, and oppressively with the wrongful intention of injuring Plaintiff and in disregard to Plaintiff's rights.

105. As a direct and proximate result of Defendant Fr. Nogaro's conduct, Plaintiff suffered severe emotional distress including psychological and emotional injury as described above.

106. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory and punitive damages in an amount to be determined at trial, plus 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 Plaintiff's 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**

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

Dated: New York, New York

January 23, 2020

Phillips & Paolicelli, LLP  
*Attorneys for Plaintiffs*



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