

**STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE**

---

DOROTHY M. DiFILIPPO,

Plaintiff,

**SUMMONS**

v.

Index No. \_\_\_\_\_

THE DIOCESE OF BUFFALO, N.Y.,  
795 Main Street  
Buffalo, New York 14202

IMMACULATE CONCEPTION ROMAN CATHOLIC  
CHURCH SOCIETY OF EAST AURORA, N.Y.,  
a/k/a IMMACULATE CONCEPTION SCHOOL  
f/k/a ST. CLARA'S ACADEMY,  
520 Oakwood Avenue  
East Aurora, New York 14052

Defendants.

**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 attorney(s) within twenty (20) days after the service of this summons, exclusive of the day of service [or within thirty (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.

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

Dated: February 25, 2020  
Hamburg, New York

  
Daniel J. Chiacchia, Esq.  
CHIACCHIA & FLEMING, LLP  
Attorneys for Plaintiff  
5113 South Park Avenue  
Hamburg, New York, 14075  
Telephone: (716) 648-3030

**STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE**

---

DOROTHY M. DiFILIPPO,

Plaintiff,

**COMPLAINT**

v.

THE DIOCESE OF BUFFALO, N.Y.,  
IMMACULATE CONCEPTION ROMAN CATHOLIC  
CHURCH SOCIETY OF EAST AURORA, N.Y.,  
a/k/a IMMACULATE CONCEPTION SCHOOL,  
f/k/a ST. CLARA’S ACADEMY,

Index No. \_\_\_\_\_

Defendants.

---

Plaintiff, DOROTHY DiFILIPPO, by her attorneys Chiacchia & Fleming, LLP, brings this action against THE DIOCESE OF BUFFALO, N.Y., IMMACULATE CONCEPTION ROMAN CATHOLIC CHURCH SOCIETY OF EAST AURORA, N.Y., a/k/a IMMACULATE CONCEPTION SCHOOL f/k/a ST. CLARA’S ACADEMY, and alleges, on personal knowledge as to herself and on information and belief as to all other matters, as follows:

**JURISDICTION AND VENUE**

1. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 and 302, in that each Defendant either resides in New York or conducts or, at relevant times conducted, activities in New York that give rise to the claims asserted herein.

2. Venue for this action is proper in the County of Erie pursuant to CPLR 503 in that one or more Defendant resides in this County and a substantial part of the events or omissions giving rise to the claims asserted herein occurred here.

3. This action is brought pursuant to CPLR § 214-G, as added by the New York

State Child Victims Act, which has revived claims of child sexual abuse for a period of one year beginning on August 14, 2019, six months after the effective date of the section (February 14, 2019). This action is timely.

### **PARTIES**

4. Plaintiff DOROTHY M. DiFILIPPO (“Plaintiff”), is an individual residing in Erie County, New York.

5. Defendant THE DIOCESE OF BUFFALO, N.Y. (“DIOCESE”) is a Roman Catholic diocese headquartered in Buffalo, New York, with its principal place of business located at 795 Main Street, Buffalo, NY. At all relevant times, Defendant DIOCESE operated schools for minor children, including, Immaculate Conception School and St. Clara’s Academy in the 1950s.

6. Upon information and belief, and at all relevant times hereinafter mentioned, Defendant IMMACULATE CONCEPTION ROMAN CATHOLIC CHURCH SOCIETY OF EAST AURORA, N.Y. (“IC CHURCH”) was and continues to be a Roman Catholic Church located at 520 Oakwood Drive, East Aurora, County of Erie, State of New York. Defendant IMMACULATE CONCEPTION SCHOOL f/k/a ST. CLARA’S ACADEMY (“IC SCHOOL”) was and continues to be a Roman Catholic School in Buffalo, New York which was managed, overseen, controlled, directed, and operated by the DIOCESE & IC CHURCH. In or about 1946, St. Clara’s changed its name to Immaculate Conception School.

### **FACTS COMMON TO ALL CLAIMS**

7. In or around 1946, when she was 6 years old, Plaintiff began matriculating at St. Clara’s Academy, a school within and under the auspices of Defendants DIOCESE and IC CHURCH.

8. During the times relevant to the allegations set forth herein, Father Harry Richard Strassberger ("FATHER STRASSBERGER"), was employed by Defendants DIOCESE and IC CHURCH as an assistant priest. Father Harry Richard Strassberger died in 1999.

9. Through his positions at, within, or for the Defendants DIOCESE, IC CHURCH and IC SCHOOL, FATHER STRASSBERGER was put in direct contact with Plaintiff, a parishioner at IC CHURCH and student at IC SCHOOL. It was under these circumstances that Plaintiff came to be under the direction and control of FATHER STRASSBERGER, who used his position of authority and trust over Plaintiff to sexually abuse, sexually assault and harass her.

10. On numerous occasions, during the years from approximately 1952 through 1953, while Plaintiff was a minor, FATHER STRASSBERGER, while acting as a priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer of the Defendants sexually assaulted, sexually abused and/or had sexual contact with Plaintiff in violation of the laws of the State of New York.

11. The abuse began when Plaintiff was approximately 12 years old and ended when she was approximately 13 years old.

12. On multiple occasions, FATHER STRASSBERGER would take Plaintiff for rides in his car and sexually assault, sexually abuse and/or have unpermitted sexual contact with Plaintiff.

13. FATHER STRASSBERGER would require Plaintiff be removed from her classrooms indicating that he needed her assistance with miscellaneous office tasks as a ruse to get her alone so he could sexually assault, sexually abuse and/or have unpermitted sexual contact with Plaintiff.

14. At all times material hereto, FATHER STRASSBERGER was under the direct

supervision, employ and/or control of Defendants.

15. All Defendants knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of FATHER STRASSBERGER who sexually abused Plaintiff.

16. Defendants had the responsibility to supervise and/or direct priests serving at Defendant IC CHURCH and IC SCHOOL, and specifically, had a duty not to aid a pedophile such as FATHER STRASSBERGER, by assigning, maintaining and/or appointing him to a position with access to minors.

17. All Defendants, individually, jointly and/or severally, violated various New York statutes, 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.

18. Plaintiff suffered personal physical and psychological injuries and damages as a result of FATHER STRASSBERGER's actions, as well as other damages related thereto, as a result of her childhood sexual abuse.

19. As a direct result of the Defendants' conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe emotional distress, physical manifestations of emotional distress, concentrating, low self-confidence, low self-respect, low self-esteem, feeling of worthlessness, feeling shameful and embarrassed, feeling alone and isolated, losing faith in God, feeling estranged from the church, feeling helpless and hopeless, relationship problems, trust issues, feeling confused and angry, the feeling that the good things have been ruined, feeling sad and depressed, feeling anxiety, crying, feeling dirty, used, and damaged, having flashbacks, and feeling that her innocence was stolen. Plaintiff was prevented

and will continue to be prevented from performing her normal daily activities and obtaining the full enjoyment of life. As a victim of FATHER STRASSBERGER's sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm he suffered as a result.

### **CAUSES OF ACTION**

#### **FIRST CAUSE OF ACTION Negligent Retention/Supervision/Direction**

20. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

21. The sexual abuse of children by adults, including priests and teachers, is foreseeable.

22. By establishing, staffing, and/or operating Defendant IC SCHOOL, encouraging the enrollment and instruction of Plaintiff at IC SCHOOL, accepting her as a student at IC SCHOOL, and holding it out to be a safe environment for learning and engaging in youth activities, Defendants entered into an express and/or implied duty to provide a reasonably safe environment for Plaintiff and assumed the duty to protect and care for her.

23. Defendants negligently retained, directed, and supervised FATHER STRASSBERGER when they knew or should have known that he posed a threat of sexual abuse to children.

24. Defendants knew or should have known of FATHER STRASSBERGER's propensity for the conduct which caused Plaintiff's injuries prior to the injuries' occurrence.

25. FATHER STRASSBERGER sexually assaulted, sexually abused and/or had unpermitted sexual contact with Plaintiff on Defendants' premises, including in the upstairs of the rectory.

26. Defendants owed a duty of care to all persons, including Plaintiff, who were likely to come within the influence of FATHER STRASSBERGER, in his role as a priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that FATHER STRASSBERGER did not abuse his authority as a priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer to injure minors by sexual assault, battery, and/or abuse.

27. At all times material hereto, Defendants' actions were willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of Plaintiff.

28. As a direct and proximate result, Plaintiff has suffered and will continue to suffer the injuries described herein.

29. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative, for compensatory damages, and for punitive damages, together with interest and costs.

**SECOND CAUSE OF ACTION**  
**Negligence/Gross Negligence**

30. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

31. Defendants knew, or were negligent in not knowing, that FATHER STRASSBERGER posed a threat of sexual abuse to children.

32. The acts of FATHER STRASSBERGER described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his employment, appointment, and/or agency with the Defendants.

33. Defendants owed Plaintiff, at the relevant times a minor, a duty to protect her from FATHER STRASSBERGER's sexual deviancy, both prior to and/or subsequent to FATHER

STRASSBERGER's misconduct.

34. Defendants' willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damage set forth herein at length.

35. Defendants:

- a. gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others;
- b. failed adequately to supervise the activities of FATHER STRASSBERGER;
- c. permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not their servants and/or agents and/or employees, upon premises or with instrumentalities under their control; and
- d. allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint, to occur.

36. At all times material hereto, with regard to the allegations contained herein, FATHER STRASSBERGER was under the direct supervision, employ and/or control of Defendants.

37. At all times material hereto, Defendants' actions were willful, wanton, malicious, reckless, and outrageous in their disregard for the rights and safety of Plaintiff, which amounted to conduct equivalent to criminality.

38. As a direct and/or indirect result of said conduct, Plaintiff has suffered the injuries and damages described herein.



39. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to the Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

**THIRD CAUSE OF ACTION**  
**Breach of Fiduciary Duty**

40. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

41. Through his positions at the Defendants, FATHER STRASSBERGER was put in direct contact with Plaintiff, then a minor student at IC SCHOOL, specifically being assigned to teach her religious instruction, including religious training, spiritual guidance and/or counseling expounded by the Roman Catholic Church. It was under these circumstances that Plaintiff came to be under the direction and control of FATHER STRASSBERGER who used his position of authority and trust over Plaintiff to sexually abuse and harass her.

42. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and all the Defendants herein.

43. Pursuant to their fiduciary relationship, Defendants were entrusted with the well-being, care, and safety of Plaintiff.

44. Pursuant to their fiduciary relationship, Defendants assumed a duty to act in the best interests of Plaintiff.

45. Defendants breached their fiduciary duties to Plaintiff.

46. At all times material hereto, Defendants' actions and/or inactions were willful, wanton, malicious, reckless, and outrageous in their disregard for the rights and safety of Plaintiff.

47. As a direct result of said conduct, Plaintiff has suffered injuries and damages

described herein.

48. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

**FOURTH CAUSE OF ACTION**  
**Breach of Non-Delegable Duty**

49. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

50. Plaintiff, when she was a minor, was placed in the care of all of the Defendants for the purposes of, *inter alia*, providing plaintiff with a safe environment to receive a lay education and spiritual instruction, training, guidance and/or counseling. There existed a non-delegable duty of trust between Plaintiff and Defendants.

51. Plaintiff was a vulnerable child when placed within the care of the Defendants.

52. As a consequence, the Defendants were in the best position to prevent Plaintiff's abuse, and to learn of FATHER STRASSBERGER's repeated sexual abuse of Plaintiff and stop it.

53. By virtue of the fact that Plaintiff was sexually abused as a parishioner and student, Defendants breached their non-delegable duty to Plaintiff.

54. At all times material hereto FATHER STRASSBERGER was under the direct supervision, employ and/or control of the Defendants.

55. As a direct result of said conduct, Plaintiff has suffered injuries and damages described herein.

56. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest

and costs.

**FIFTH CAUSE OF ACTION  
Fraudulent Concealment**

57. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

58. Defendant allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint, to occur.

59. Defendants knew or should have known of FATHER STRASSBERGER's propensity for the conduct which caused Plaintiff's injuries prior to the injuries' occurrence.

60. Defendants had a duty to report any reasonable suspicion of child abuse.

61. Defendants owed a duty of care to all persons, including Plaintiff, who were likely to come within the influence of FATHER STRASSBERGER, in his role as a priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that FATHER STRASSBERGER did not abuse his authority as a priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer to injure minors by sexual assault, battery, and/or abuse.

62. Defendants breached their duty by knowingly and willfully failing to report reasonable suspicion of abuse by FATHER STRASSBERGER of children in their care.

63. Defendants breached their duty by knowingly and willfully failing to disclose reasonable suspicions of abuse by FATHER STRASSBERGER of children in their care to current or prospective students.

64. By knowingly and willfully failing to inform other current and prospective students of the abuse of FATHER STRASSBERGER, Defendant intended to defraud other current and prospective students.

65. When Plaintiff chose to attend Defendant IC SCHOOL, she reasonably relied upon the Defendants' representation that Defendants would look out for Plaintiff's well-being, care, and safety.

66. While attending Defendant IC SCHOOL, Plaintiff was sexually abused by FATHER STRASSBERGER and has suffered injuries and damages described herein.

67. At all times material hereto, said Defendants' actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

68. As a direct result of Defendants' conduct, Plaintiff has suffered the injuries and damages described herein.

69. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

**SIXTH CAUSE OF ACTION  
Negligent Infliction of Emotional Distress**

70. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

71. As described aforesaid, the actions of Defendants, their predecessors and/or successors, agents, servants and/or employees were conducted in a negligent and/or grossly negligent manner.

72. Defendants' actions endangered Plaintiff's safety and caused her to fear for her own safety.

73. As a direct and proximate result of Defendants' actions, which included but were not limited to, negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries

and damages described herein, including but not limited to, mental and emotional distress.

74. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

**SEVENTH CAUSE OF ACTION**  
**Intentional Infliction of Emotional Distress**

75. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

76. During the time period from approximately 1952 through 1953, Defendants allowed FATHER STRASSBERGER unrestricted access to Plaintiff and willfully and/or intentionally ignored suspicious behavior and/or complaints against FATHER STRASSBERGER of sexual assault, sexual abuse and sexual contact.

77. During the time period referenced above, Defendants willfully and/or intentionally ignored Plaintiff's safety by requiring Plaintiff to be under the supervision of FATHER STRASSBERGER by herself during school hours.

78. Defendants were deliberately indifferent to the risk of sexual assault, sexual abuse, and sexual contact posed to Plaintiff by being alone with FATHER STRASSBERGER.

79. Defendants willfully and/or intentionally created a hostile and unsafe school environment that no child would be able to tolerate.

80. Defendants, in order to avoid embarrassment, scandal, and negative publicity, intended to cause Plaintiff shame, humiliation and extreme emotional distress so she would stay silent, and not report the abuse.

81. Defendants behaved in a manner toward Plaintiff that was so outrageous as to

exceed all reasonable bounds of decency.

82. Defendants knew with substantial certainty or should have known that their behavior would cause Plaintiff to be a victim of sexual assault, sexual abuse and sexual contact.

83. Defendants knew with substantial certainty or should have known that their behavior would cause severe emotional distress to Plaintiff.

84. The foregoing acts of Defendants caused Plaintiff physical, mental and emotional distress.

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

**EIGHTH CAUSE OF ACTION**  
**Breach of Duty *in Loco Parentis***

86. Plaintiff repeats and realleges each and every allegation set forth in foregoing paragraphs as if fully set forth herein.

87. Plaintiff when she was a minor was entrusted by her parents to the control of Defendants for the purposes of *inter alia*, providing Plaintiff with a lay education and spiritual instruction, training, counseling and/or spiritual guidance as expounded by the Roman Catholic Church. Defendants owe – and owed -- a duty to students entrusted to them to adequately supervise them to prevent foreseeable injuries to their students. As a result, Defendants owed a duty to Plaintiff *in loco parentis*.

88. Defendants breached their duty *in loco parentis*.

89. At all times material hereto, said Defendants' actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

90. As a direct result of Defendants' conduct, Plaintiff has suffered the injuries and damages described herein.

91. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

#### **NINTH CAUSE OF ACTION**

##### **Breach of Statutory Duty to Report Abuse under Soc. Serv. Law §§ 413, 420**

92. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

93. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420, Defendants had a statutorily imposed duty to report reasonable suspicion of abuse of children in their care.

94. Defendants breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by FATHER STRASSBERGER of children in their care.

95. As a direct and/or indirect result of said conduct, Plaintiff has suffered injuries and damages described herein.

96. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

#### **TENTH CAUSE OF ACTION**

##### **Debts for Willful and Malicious Injury Nondischargeable**

97. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

98. Pursuant to Section 523(a)(6) of the Bankruptcy Code, any debt “for willful and malicious injury by the debtor to another entity or to the property of another entity” is

nondischargeable.

99. Defendants allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint, to occur.

100. Defendants breached their duty by knowingly and willfully failing to report reasonable suspicion of abuse by FATHER STRASSBERGER of children in their care.

101. Defendants knowingly, willingly, and intentionally failed to report reasonable suspicion of abuse by FATHER STRASSBERGER of children in their care.

102. Defendants' intentional act of nondisclosure allowed FATHER STRASSBERGER to continue abusing children in Defendants' care, an injury that Defendants were substantially certain would occur.

103. This intentional act necessarily produced the harm that resulted.

104. Defendants' actions endangered Plaintiff's safety and caused her to fear for her own safety.

105. As a direct and proximate result of Defendants' actions, which included but were not limited to, negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

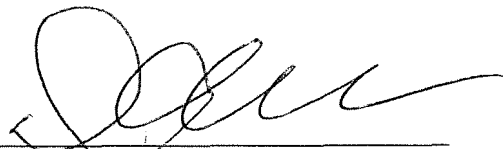
106. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

**WHEREFORE**, Plaintiff respectfully requests judgment against Defendants herein in sums which exceed the jurisdictional limit of all lower courts which would otherwise have jurisdiction in this action, including compensatory damages, punitive damages, prejudgment interest to the extent permitted by law; costs, disbursements and fees of this action, including



attorneys' fees, to the extent permitted by law; and any other relief as the Court deems just and proper.

Dated: February 25, 2020  
Hamburg, New York



---

Daniel J. Chiacchia, Esq.  
**CHIACCHIA & FLEMING, LLP**  
Attorneys for Plaintiff  
5113 South Park Avenue  
Hamburg, New York 14075  
Telephone: (716) 648-3030