

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

MICHAEL STRUZIK,

Plaintiff,

v.

THE DIOCESE OF BUFFALO, N.Y.; ST. JOSEPH'S ROMAN
CATHOLIC CHURCH OF NIAGARA FALLS, N.Y.; and HOLY
FAMILY OF JESUS, MARY, AND JOSEPH ROMAN CATHOLIC
CHURCH OF NIAGARA FALLS, N.Y.,

Defendants.

[Please see Attached Rider for Defendants' Addresses]

Index No.

SUMMONS

Date Index No. Purchased:
February 21, 2020

To the above named Defendant(s)

[Empty rectangular box for defendant name]

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 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.

The basis of venue is one or more Defendant resides in Erie County, New York, which is located in Erie County, New York.

Dated: New York, New York
February 21, 2020

SIMMONS HANLY CONROY LLC

Paul J. Hanly, Jr.
Attorneys for Plaintiff
112 Madison Avenue, 7th Floor
New York, NY 10016
(212) 784-6401 Telephone
(212) 213-5949 Facsimile
phanly@simmonsfirm.com

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RIDER TO SUMMONS

Defendant/Counsel	Service Address
THE DIOCESE OF BUFFALO, N.Y.	795 Main Street, Buffalo, Erie County, New York c/o Randall D. White, Esq., Connors LLP, 1000 Liberty Building, 424 Main Street, Buffalo, NY 14202
ST. JOSEPH'S ROMAN CATHOLIC CHURCH OF NIAGARA FALLS, N.Y.	1413 Pine Avenue, Niagara Falls, Niagara County, New York
HOLY FAMILY OF JESUS, MARY, AND JOSEPH ROMAN CATHOLIC CHURCH OF NIAGARA FALLS, N.Y.	1413 Pine Avenue, Niagara Falls, Niagara County, New York

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COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Michael Struzik, by his attorneys Simmons Hanly Conroy LLC and the Law Offices of Mitchell Garabedian, brings this action against The Diocese of Buffalo, N.Y.; St. Joseph’s Roman Catholic Church of Niagara Falls, N.Y.; and Holy Family of Jesus, Mary, and Joseph Roman Catholic Church of Niagara Falls, N.Y., and alleges, on personal knowledge as to himself 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 the Defendants reside in New York.
2. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.
3. Venue for this action is proper in the County of Erie pursuant to CPLR 503 in that one or more of the Defendants reside in this County and a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this County.

PARTIES

4. Plaintiff Michael Struzik (“Plaintiff”) is an individual residing in Saugus,

Massachusetts.

5. Defendant The Diocese of Buffalo, N.Y. ("Diocese of Buffalo") is a religious corporation organized pursuant to the New York Religious Corporations Law, with its principal office at 795 Main Street, Buffalo, Erie County, New York. The Diocese of Buffalo is a Roman Catholic diocese. At all relevant times, the Diocese of Buffalo created, oversaw, supervised, managed, controlled, directed and operated parishes or churches of the Diocese of Buffalo, including during all relevant times, St. Joseph's Roman Catholic Church of Niagara Falls, N.Y.; and Holy Family of Jesus, Mary, and Joseph Roman Catholic Church of Niagara Falls, N.Y.

6. Defendant St. Joseph's Roman Catholic Church of Niagara Falls, N.Y. ("St. Joseph's") was a Roman Catholic parish within and under the authority of the Diocese of Buffalo and was a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 1413 Pine Avenue, Niagara Falls, Niagara County, New York. At all relevant times, the Diocese of Buffalo created, oversaw, supervised, managed, controlled, directed and operated St. Joseph's.

7. Defendant Holy Family of Jesus, Mary, and Joseph Roman Catholic Church of Niagara Falls, N.Y. ("Holy Family") is a Roman Catholic parish within and under the authority of the Diocese of Buffalo and is a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 1413 Pine Avenue, Niagara Falls, Niagara County, New York. At all relevant times, the Diocese of Buffalo created, oversaw, supervised, managed, controlled, directed and operated Holy Family. As a result of a corporate merger, Defendant Holy Family is the legal successor to Defendant St. Joseph's.

FACTS COMMON TO ALL CLAIMS

8. Plaintiff and his family were parishioners of and attended Holy Trinity Church in Niagara Falls, New York when Plaintiff was a minor child. When Plaintiff was a minor child, some of Plaintiff's friends were parishioners of and attended St. Joseph's.

9. During the times relevant to the allegations set forth herein, Father Robert Conlin ("Father Conlin") was assigned by Defendant Diocese of Buffalo to be a priest at St. Joseph's, where some of Plaintiff's friends were parishioners. Father Conlin died in 1997.

10. Through his positions at, within, or for Defendants Diocese of Buffalo and St. Joseph's, Father Conlin was put in direct contact with Plaintiff's friends and, subsequently, with Plaintiff, a minor parishioner of the Diocese of Buffalo.

11. In approximately 1964 when Plaintiff was approximately sixteen years of age, Father Conlin began inviting Plaintiff and Plaintiff's friends to spend time with Father Conlin in the St. Joseph's rectory. On at least one such occasion, Plaintiff and Father Conlin were alone together in the St. Joseph's rectory.

12. Father Conlin used this encounter, gained through his positions at the Diocese of Buffalo and St. Joseph's which granted him access to Plaintiff when Plaintiff was approximately sixteen years of age, to sexually assault, sexually abuse, and/or have sexual contact with the Plaintiff in violation of the laws of the State of New York.

Defendants' Responsibility for the Abuse Committed by Father Conlin

13. At all times material hereto, Father Conlin was under the management, supervision, employ, direction and/or control of Defendants Diocese of Buffalo and St. Joseph's.

14. Through his positions at, within, or for Defendants Diocese of Buffalo and St. Joseph's, Father Conlin was put in direct contact with Plaintiff.

15. Father Conlin used his position at, within, or for Defendants Diocese of Buffalo and St. Joseph's, and the implicit representations made by them about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create an opportunity to be alone with, and to sexually touch, Plaintiff.

16. Defendants Diocese of Buffalo and St. Joseph's had the duty to reasonably manage, supervise, control and/or direct priests who served at St. Joseph's, and

specifically, had a duty not to aid pedophiles such as Father Conlin by assigning, maintaining, and/or appointing them to positions with access to minors.

17. Defendants Diocese of Buffalo and St. Joseph's knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Father Conlin, who sexually abused Plaintiff.

18. Defendant Diocese of Buffalo had a duty to the Plaintiff to properly supervise Diocese of Buffalo priests to ensure that priests did not use their positions with the Diocese of Buffalo as a tool for grooming and assaulting vulnerable children. Defendant Diocese of Buffalo knew or should have known that Father Conlin used his positions with the Diocese of Buffalo to sexually abuse minor children, including the Plaintiff.

Consequences of the Abuse

19. Plaintiff suffered personal physical and psychological injuries and damages as a result of Father Conlin's actions, as well as other damages related thereto, as a result of the childhood sexual abuse Plaintiff sustained.

20. As a direct result of the Defendants Diocese of Buffalo's and St. Joseph's conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of Father Conlin'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 Hiring/Retention/Supervision/Direction

21. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

22. Defendants Diocese of Buffalo and St. Joseph's owed a duty of care to all minor persons, including Plaintiff, who were likely to come within the influence or supervision of Father Conlin in his role as priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that Father Conlin did not use his assigned position to injure minors by sexual assault, sexual abuse, or sexual contact in violation of the laws of the State of New York.

23. Defendant Diocese of Buffalo at all relevant times represented that the parishes of the Diocese of Buffalo were safe places for minors to attend or visit, and that its priests were individuals to whom it was safe to entrust the care of minor children. Defendants Diocese of Buffalo and St. Joseph's entered into an express and/or implied duty to provide that when Plaintiff was a minor left in the presence of a priest assigned to, hired by, retained by, directed by, and/or under the supervision of Defendants Diocese of Buffalo and St. Joseph's, Plaintiff would be kept reasonably safe and that that priest would not sexually abuse Plaintiff.

24. Father Conlin sexually assaulted, sexually abused, and/or had sexual contact with Plaintiff when Plaintiff was a minor in the St. Joseph's rectory.

25. Defendants Diocese of Buffalo and St. Joseph's negligently hired, retained, directed, and supervised Father Conlin, though they knew or should have known that Father Conlin posed a threat of sexual abuse to minors.

26. Defendants Diocese of Buffalo and St. Joseph's knew or should have known of Father Conlin's propensity for the conduct which caused Plaintiff's injuries prior to, or at the time of, the injuries' occurrence.

27. Defendants Diocese of Buffalo and St. Joseph's were negligent in failing to properly supervise Father Conlin.

28. The sexual abuse of children by adults, including priests, is a foreseeable result of negligence.

29. At all times material hereto, Defendants Diocese of Buffalo's and St. Joseph's actions were willful, wanton, malicious, reckless, negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

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

31. Liabilities of Defendant St. Joseph's were transferred to, or assumed by, Defendant Holy Family. As a result, Defendant Holy Family is liable to the Plaintiff for the damages caused by Defendant St. Joseph's stated in this cause of action.

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

SECOND CAUSE OF ACTION
Negligence/Gross Negligence

33. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

34. Defendants Diocese of Buffalo and St. Joseph's knew, or were negligent in not knowing, that Father Conlin posed a threat of sexual abuse to children.

35. The acts of Father Conlin described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his respective employment, appointment, assignment, and/or agency with Defendants Diocese of Buffalo and St. Joseph's.

36. Defendants Diocese of Buffalo and St. Joseph's owed Plaintiff, a minor at the relevant times of abuse, a duty to protect him from Father Conlin's sexual deviancy

and the consequential damages, both prior to and/or subsequent to Father Conlin's misconduct.

37. Defendants Diocese of Buffalo's and St. Joseph's 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.

38. Defendants Diocese of Buffalo and St. Joseph's:

- 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 Conlin;
- 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.

39. At all times material hereto, with regard to the allegations contained herein, Father Conlin was under the supervision, employ, direction and/or control of Defendants Diocese of Buffalo and St. Joseph's.

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

41. As a direct and/or indirect result of said conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

42. Liabilities of Defendant St. Joseph's were transferred to, or assumed by,

Defendant Holy Family. As a result, Defendant Holy Family is liable to the Plaintiff for the damages caused by Defendant St. Joseph's stated in this cause of action.

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

THIRD CAUSE OF ACTION

Negligent Infliction of Emotional Distress

44. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

45. As described above, the actions of Defendants Diocese of Buffalo and St. Joseph's, their agents, servants, and/or employees were conducted in a negligent and/or grossly negligent manner.

46. Defendants Diocese of Buffalo's and St. Joseph's actions endangered Plaintiff's safety and caused him to fear for his own safety.

47. As a direct and proximate result of Defendants Diocese of Buffalo's and St. Joseph's actions, which included but were not limited to negligent and/or grossly negligent conduct, Plaintiff suffered and will continue to suffer the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

48. Liabilities of Defendant St. Joseph's were transferred to, or assumed by, Defendant Holy Family. As a result, Defendant Holy Family is liable to the Plaintiff for the damages caused by Defendant St. Joseph's stated in this cause of action.

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

WHEREFORE Plaintiff, demands judgment against the Defendants on each cause of action as follows:

A. Awarding compensatory damages in an amount to be proved at trial, but in

- any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- B. Awarding punitive damages to the extent permitted by law;
 - C. Awarding prejudgment interest to the extent permitted by law;
 - D. Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law; and
 - E. Awarding such other and further relief as to this Court may seem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: February 21, 2020
New York, New York

Respectfully Submitted,

/s/ Paul J. Hanly, Jr. _____

Paul J. Hanly, Jr.

phanly@simmonsfirm.com

Jayne Conroy

jconroy@simmonsfirm.com

Trent B. Miracle

tmiracle@simmonsfirm.com

SIMMONS HANLY CONROY LLC

112 Madison Avenue

New York, NY 10016

(212) 784-6401 Telephone

(212) 213-5949 Facsimile

Attorneys for Plaintiff

Of counsel:
Mitchell Garabedian
mgarabedian@garabedianlaw.com

William H. Gordon
wgordon@garabedianlaw.com
LAW OFFICES OF MITCHELL GARABEDIAN
100 State Street, 6th Floor
Boston, MA 02109
Phone: (617) 523-6250