

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

LG 54 DOE,

Plaintiff,

SUMMONS

vs.

ST. NICODEMUS LUTHERAN CHURCH,
12029 Liberia Road
East Aurora, New York 14052

UPSTATE NEW YORK SYNOD OF THE
EVANGELICAL LUTHERAN CHURCH IN AMERICA,
5811 Heritage Landing Drive, First Floor
East Syracuse, New York 13057

EVANGELICAL LUTHERAN CHURCH IN AMERICA,
8765 West Higgins Road
Chicago, Illinois 60631

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 this Summons, to serve a notice of appearance, on the Plaintiff's Attorneys 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 the basis on the Defendant's residence located in East Aurora, New York.

DATED: Buffalo, New York
March 3, 2020

LIPSITZ GREEN SCIME CAMBRIA LLP

By:  _____

AMY C. KELLER, ESQ.
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[ACK: # 65610.0001]

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

LG 54 DOE,

Plaintiff,

COMPLAINT

vs.

ST. NICODEMUS LUTHERAN CHURCH,
UPSTATE NEW YORK SYNOD OF THE
EVANGELICAL LUTHERAN CHURCH
IN AMERICA, and EVANGELICA
LUTHERAN CHURCH IN AMERICA,

Defendants.

Plaintiff, above named, by his attorneys, LIPSITZ GREEN SCIME CAMBRIA LLP,
for his Complaint against Defendants, alleges:

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST
DEFENDANTS, ABOVE NAMED, HEREIN,
PLAINTIFF, LG 54 DOE, ALLEGES AS FOLLOWS:**

1. Plaintiff, LG 54 DOE, is a resident of the County of Erie and the State of New York.
2. This action is commenced pursuant to the provisions of the Child Victims Act.
3. At the time of the incidents set forth herein, Plaintiff, LG 54 DOE, (hereinafter referred to as "THE CHILD") was an infant having been born in 1977.
4. Upon information and belief, at all times herein mentioned, Defendant, ST. NICODEMUS LUTHERAN CHURCH, was and still 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 and State of New York.

5. Upon information and belief, at all times herein mentioned, Defendant, UPSTATE NEW YORK SYNOD OF THE EVANGELICAL LUTHERAN CHURCH IN AMERICA, was and still 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 Onondaga and State of New York.

6. Upon information and belief, at all times hereinafter mentioned, Defendant, EVANGELICAL LUTHERAN CHURCH IN AMERICA, was and still is a foreign not-for-profit corporation authorized to do business within the State of New York.

7. Upon information and belief, at all times hereinafter mentioned, Defendant, EVANGELICAL LUTHERAN CHURCH IN AMERICA, was and still is doing and transacting business within the State of New York.

8. Defendants, ST. NICODEMUS LUTHERAN CHURCH, UPSTATE NEW YORK SYNOD OF THE EVANGELICAL LUTHERAN CHURCH IN AMERICA and EVANGELICAL LUTHERAN CHURCH IN AMERICA, are hereinafter collectively referred to as "THE LUTHERAN CHURCH."

9. Upon information and belief, Douglas D. Thore, (hereinafter referred to as "THE CHILD MOLESTER") resides in the City of Davenport, County of Polk and State of Florida.

10. Upon information and belief, at all times herein mentioned, THE CHILD MOLESTER was hired and employed by Defendant, THE LUTHERAN CHURCH and Defendant, THE LUTHERAN CHURCH conferred upon THE CHILD MOLESTER the religious title "Pastor."

11. Upon information and belief, at all times herein mentioned, THE CHILD MOLESTER was assigned to Defendant, ST. NICODEMUS LUTHERAN CHURCH by Defendant, THE LUTHERAN CHURCH, and was acting as its agent, employee or representative.

12. Upon information and belief, at all times herein mentioned, THE CHILD MOLESTER was under the direction, supervision and control of Defendant, THE LUTHERAN CHURCH.

13. Occurring from approximately 1989 through 1990, THE CHILD MOLESTER sexually assaulted and committed battery upon THE CHILD and said assault and battery constituted sexual offenses as defined in Article 130 of the Penal Law.

14. The sexual crimes by THE CHILD MOLESTER herein were willful, malicious and intentional and resulted in injury to THE CHILD.

15. As a direct result of conduct by THE CHILD MOLESTER as described herein, THE CHILD, has suffered, and continues to suffer great physical and emotional pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, flashbacks, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life, was prevented and will continue to be prevented from performing daily activities and obtaining full enjoyment of life, and has incurred and will continue to incur expenses for medical psychological treatment, therapy and counseling.

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

17. As a result of the foregoing, THE CHILD, has sustained general and special damages in an amount which exceeds the jurisdictional limits of all lower courts

which would otherwise have jurisdiction.

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

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST
DEFENDANT, THE LUTHERAN CHURCH, HEREIN:**

19. Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs "1" through "18" of this Complaint with the same force and effect as if fully set forth herein.

20. Upon information and belief, Defendant, THE LUTHERAN CHURCH, trained, hired, selected and approved THE CHILD MOLESTER as a pastor at Defendant, ST. NICODEMUS LUTHERAN CHURCH, placing him in a position with authority and power over THE CHILD, a parishioner at Defendant, ST. NICODEMUS LUTHERAN CHURCH.

21. Defendant, THE LUTHERAN CHURCH, knew or reasonably should have known of the propensities of THE CHILD MOLESTER to commit acts of sexual assault, battery, rape and other sexual crimes against THE CHILD and other children.

22. Upon information and belief, the aforesaid incidents and resultant injury and damages to THE CHILD were caused as a result of the negligence, carelessness and recklessness of Defendant, THE LUTHERAN CHURCH, in the training, hiring, selecting and assignment of THE CHILD MOLESTER.

23. The acts and/or omissions of Defendant, THE LUTHERAN CHURCH, constitute reckless disregard for the safety of THE CHILD and other children.

24. As a result of the foregoing, THE CHILD has sustained general and special

damages in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

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

25. Plaintiff repeats, reiterates and re-alleges 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 aforesaid incidents and resultant injury to THE CHILD, were caused as a result of the negligence, carelessness and recklessness of Defendant, THE LUTHERAN CHURCH, in the retaining of THE CHILD MOLESTER.

27. The acts and/or omissions of Defendant, THE LUTHERAN CHURCH, constitute reckless disregard for the safety of THE CHILD and other children.

28. As a result of the foregoing, THE CHILD has sustained general and special damages in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

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

29. Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs "1" through "28" of this Complaint with the same force and effect as if fully set forth herein.

30. Upon information and belief, the aforesaid incidents and resultant injury to THE CHILD, were caused as a result of the negligence, carelessness and recklessness of Defendant, THE LUTHERAN CHURCH, in supervising THE CHILD MOLESTER.

31. The acts and/or omissions of Defendant, THE LUTHERAN CHURCH, constitute reckless disregard for the safety of THE CHILD and other children.

32. As a result of the foregoing, THE CHILD has sustained general and special damages in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A FIFTH CAUSE OF ACTION
AGAINST DEFENDANT, THE LUTHERAN CHURCH, HEREIN:**

33. Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs "1" through "32" of this Complaint with the same force and effect as if fully set forth herein.

34. Defendant, THE LUTHERAN CHURCH, is vicariously liable for the damages sustained by THE CHILD because THE CHILD MOLESTER was aided by his position with Defendant, THE LUTHERAN CHURCH, in committing the sexual assaults and battery upon THE CHILD.

35. As a result of the foregoing, THE CHILD has sustained general and special damages in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SIXTH CAUSE OF ACTION AGAINST
DEFENDANT, THE LUTHERAN CHURCH, HEREIN:**

36. Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs "1" through "35" of this Complaint with the same force and effect as if fully set forth herein.

37. Defendant, THE LUTHERAN CHURCH, is vicariously liable for the actions of THE CHILD MOLESTER because Defendant, THE LUTHERAN CHURCH, materially increased the risk of sexual assault or sexual crimes upon THE CHILD and other infant children by conferring power or authority on its pastors over THE CHILD and other infant children.

38. Defendant, THE LUTHERAN CHURCH, is vicariously liable for the sexual assault and battery committed upon THE CHILD by THE CHILD MOLESTER because Defendant, THE LUTHERAN CHURCH, regularly placed THE CHILD MOLESTER and other pastors in situations of intimate or personal contact with THE CHILD and other infant children.

39. As a result of the foregoing, THE CHILD has sustained general and special damages in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiff demands judgment against Defendants, either jointly or severally, in the First, Second, Third, Fourth, Fifth and Sixth 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
March 3, 2020

LIPSITZ GREEN SCIME CAMBRIA LLP

By:  _____

AMY C. KELLER, ESQ.
CHRISTINA M. CROGLIO, ESQ.

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