

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

LG 77 DOE,

Plaintiff,

vs.

SUMMONS

ALDEN CENTRAL SCHOOL DISTRICT
BOARD OF EDUCATION
13190 Park Street
Alden, New York 14004

ALDEN CENTRAL SCHOOL DISTRICT
13190 Park Street
Alden, New York 14004

TOWN OF ALDEN
3311 Wende Road
Alden, New York 14004

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 of the defendants' place of business is located in Alden, New York.

DATED: Buffalo, New York
July 31, 2020

LIPSITZ GREEN SCIME CAMBRIA LLP

By:  _____

AMY C. KELLER, ESQ.
CHRISTINA M. CROGLIO, ESQ.
Attorneys for Plaintiff
42 Delaware Avenue, Suite 120
Buffalo, New York 14202-3924
(716) 849-1333
(# 67726.0001)

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

LG 77 DOE,

Plaintiff,

COMPLAINT

vs.

ALDEN CENTRAL SCHOOL DISTRICT
BOARD OF EDUCATION,
ALDEN CENTRAL SCHOOL DISTRICT, and
TOWN OF ALDEN,

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 77 DOE, ALLEGES AS FOLLOWS:**

1. Plaintiff, LG 77 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 77 DOE, (hereinafter referred to as "THE CHILD") was an infant having been born in 1964.
4. Upon information and belief, Defendant, ALDEN CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION, is a municipal and educational corporation duly organized and existing under and pursuant to the laws of the State of New York.

5. Upon information and belief, Defendant, ALDEN CENTRAL SCHOOL DISTRICT, is a municipal and educational corporation duly organized and existing under and pursuant to the laws of the State of New York.

6. Upon information and belief, Defendant, TOWN OF ALDEN, is a municipal corporation duly organized and existing under and pursuant to the laws of the State of New York.

7. Defendants, ALDEN CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION, ALDEN CENTRAL SCHOOL DISTRICT, and TOWN OF ALDEN are hereinafter collectively referred to as "ALDEN CENTRAL."

8. Upon information and belief, at all times herein mentioned, Michael P. Sweet, (hereinafter referred to as "THE CHILD MOLESTER") was hired and employed by Defendant, ALDEN CENTRAL, as a music teacher.

9. At all times hereinafter mentioned, THE CHILD was a student at Alden Primary School.

10. Upon information and belief, at all times herein mentioned, THE CHILD MOLESTER was assigned to Alden Primary School, as a music teacher by Defendant, ALDEN CENTRAL, and was acting as its agent, employee or representative.

11. Upon information and belief, at all times herein mentioned, THE CHILD MOLESTER was under the direction, supervision and control of Defendant, ALDEN CENTRAL.

12. Occurring between approximately 1969 through 1973, 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.

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

14. 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.

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

16. 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.

17. 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, ALDEN CENTRAL, HEREIN:**

18. Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs "1" through "17" of this Complaint with the same force and effect as if fully set forth herein.

19. Upon information and belief, Defendant, ALDEN CENTRAL, trained, hired, selected and approved THE CHILD MOLESTER as a music teacher at Alden Primary School, placing him in a position with authority and power over THE CHILD, a student at Alden Primary School.

20. Upon information and belief, Defendant, ALDEN CENTRAL, 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.

21. 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, ALDEN CENTRAL, in the training, hiring, selecting and assignment of THE CHILD MOLESTER.

22. The acts and/or omissions of Defendant, ALDEN CENTRAL, constitute reckless disregard for the safety of THE CHILD and other children.

23. 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, ALDEN CENTRAL, HEREIN:**

24. Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs "1" through "23" of this Complaint with the same force and effect as if fully set forth herein.

25. 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, ALDEN CENTRAL, in the retaining of THE CHILD MOLESTER.

26. The acts and/or omissions of Defendant, ALDEN CENTRAL, constitute reckless disregard for the safety of THE CHILD and other children.

27. 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, ALDEN CENTRAL, HEREIN:**

28. Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs "1" through "27" of this Complaint with the same force and effect as if fully set forth herein.

29. 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, ALDEN CENTRAL, in supervising THE CHILD MOLESTER.

30. The acts and/or omissions of Defendant, ALDEN CENTRAL, constitute reckless disregard for the safety of THE CHILD and other children.

31. 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, ALDEN CENTRAL, ABOVE NAMED, HEREIN:**

32. Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs "1" through "31" of this Complaint with the same force and effect as if fully set forth herein.

33. Pursuant to New York Social Services Law Sections 413 and 420 Defendant, ALDEN CENTRAL, had a statutory duty to report reasonable suspicion of sexual assault and/or abuse of children in its care.

34. Upon information and belief, Defendant, ALDEN CENTRAL, breached that duty by knowingly and willfully failing to report reasonable suspicion of sexual assault and/or abuse by THE CHILD MOLESTER of children in its care.

35. Upon information and belief, the aforesaid incidents and resultant injury to THE

CHILD, were caused as a result of the failure by Defendant, ALDEN CENTRAL, to report the sexual assault and abuse of THE CHILD herein.

36. The acts and/or omissions of Defendant, ALDEN CENTRAL, constitutes reckless disregard for the safety of THE CHILD and other children.

37. 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, ALDEN CENTRAL, HEREIN:**

38. Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs "1" through "37" of this Complaint with the same force and effect as if fully set forth herein.

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

40. 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 SEVENTH CAUSE OF ACTION AGAINST
DEFENDANT, ALDEN CENTRAL, HEREIN:**

41. Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs "1" through "40" of this Complaint with the same force and effect as if fully set forth herein.

42. Defendant, ALDEN CENTRAL, is vicariously liable for the actions of THE CHILD MOLESTER because Defendant, ALDEN CENTRAL, materially increased the risk of

sexual assault or sexual crimes upon THE CHILD and other infant children by conferring power or authority on its teachers over THE CHILD and other children.

43. Defendant, ALDEN CENTRAL, is vicariously liable for the sexual assault and battery committed upon THE CHILD by THE CHILD MOLESTER because Defendant, ALDEN CENTRAL, regularly placed THE CHILD MOLESTER and other staff in situations of intimate or personal contact with THE CHILD and other children.

44. 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, Sixth, and Seventh 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
July 31, 2020

LIPSITZ GREEN SCIME CAMBRIA LLP

By:  _____

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