

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

GARY LEIGH PIAZZA
612 River Road, Apt. 210
North Tonawanda, New York 14120, and

LORI SALVATORE
55 John Granville Drive
North Tonawanda, New York 14120,

Plaintiffs,

v.

CARL S. KILLIAN
37 Bostwick Place
Depew, New York 14043,

Defendant.

SUMMONS

Index No.:

TO THE ABOVE-NAMED DEFENDANT:

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 a Summons, to serve a Notice of Appearance, on Plaintiff's attorney within **twenty** (20) days after the service of this Summons, exclusive of the day of service, or within **thirty** (30) days after completion of service where service is made in any other manner than by personal delivery within the State. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

This action is brought in ERIE COUNTY based upon the residences of the parties and the location of the incidents.

DATED: July 31, 2020
Amherst, New York

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STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

GARY LEIGH PIAZZA and LORI SALVATORE,

Plaintiffs,

COMPLAINT

Index No.:

v.

CARL S. KILLIAN,

Defendant.

Plaintiffs GARY LEIGH PIAZZA (“Gary”) and LORI SALVATORE (“Lori”), by and through their attorneys, HOGANWILLIG, PLLC, as and for their Complaint against Defendant CARL S. KILLIAN (“Killian”) herein, allege as follows:

1. At all times hereinafter mentioned, Plaintiff Gary was and still is a resident of the City of North Tonawanda, County of Erie, and State of New York.
2. At all times hereinafter mentioned, Plaintiff Lori was and still is a resident of the City of North Tonawanda, County of Erie, and State of New York.
3. Upon information and belief, and at all times hereinafter mentioned, Defendant Killian is a resident of the Village of Depew, County of Erie, and State of New York who, at the time of the incidents alleged herein, resided in the Village of Kenmore, County of Erie, and State of New York.

FACTS COMMON TO ALL CLAIMS

4. From approximately 1976 to 1985, Plaintiffs, then both infants, were friends with Defendant’s daughter, and would visit Defendant’s home in Kenmore, New York.

5. From approximately 1976 to 1985, Plaintiffs were the victims of sexual harassment, sexual abuse, and violence by or at the direction of Defendant Killian in Kenmore, County of Erie, and State of New York.

FACTS SPECIFIC TO PLAINTIFF GARY LEIGH PIAZZA

6. Upon information and belief, Defendant's sexual abuse began when Plaintiff Gary was approximately nine (9) years old and took place between 1976 to 1981.

7. Some of the incidents experienced by then-infant Plaintiff over a period of five (5) years included, but are not limited to, the following:

- A. On numerous occasions, Plaintiff Gary would stay over at Defendant's house for slumber parties with Defendant's daughter.
- B. On numerous occasions, Defendant would summon Plaintiff Gary back to his office.
- C. On numerous occasions, Defendant would show Plaintiff Gary images of naked people from a book Defendant claimed was for "medical" purposes.
- D. On numerous occasions, Defendant would rub his penis in front of Plaintiff Gary.
- E. On numerous occasions, Defendant would rub Plaintiff Gary's vaginal area.
- F. On numerous occasions, Defendant would claim he was checking Plaintiff Gary as a "doctor" justify his touching her, and that the abuse was a "lesson".

- G. On numerous occasions, Defendant would have his dog, a German Shepherd, guard his office door to prevent Plaintiff Gary from running away.
- H. On numerous occasions, then-infant Plaintiff Gary would wake up in the middle of the slumber party on the living room floor to find her pajama pants pulled down, and Defendant grinding against her from behind.
- I. On numerous occasions, then-infant Plaintiff Gary would pretend to be asleep while Defendant grinded up against her on the living room floor.
- J. On numerous occasions, then-infant Plaintiff Gary was “groomed” by Defendant into believing that sexual contact between a father and his daughter was proper.
- K. On numerous occasions, Defendant would lift up Plaintiff Gary’s pajama top and rub her breasts with Vicks VapoRub, claiming he was trying to help her get over a cold.

8. The abuse of Plaintiff Gary stopped when Plaintiff Gary stopped going over to Defendant Killian’s house, and ceased to be friends with Defendant’s daughter.

9. As a result of the abuse sustained by Defendant, Plaintiff Gary required years of counseling to cope with her mental and emotional damages.

FACTS SPECIFIC TO PLAINTIFF LORI SALVATORE

10. Upon information and belief, Defendant’s sexual abuse began when Plaintiff Lori was approximately thirteen (13) years old and took place between 1981 to 1985.

11. Some of the incidents experienced by then-infant Plaintiff over a period of four (4) years included, but are not limited to, the following:

- A. Following Plaintiff Lori's confirmation, Defendant began "grooming" Plaintiff Lori by complimenting her on her physical appearance.
 - B. On numerous occasions, Defendant allowed Plaintiff Lori to sit in the front seat of his car while Defendant's wife and daughter sat in the back seat, to continue "grooming" Plaintiff Lori to believe she was special to Defendant.
 - C. On at least one occasion, Plaintiff Lori was at Defendant's house visiting her friend, Defendant's daughter, when Defendant began grinding his genital area on top of her.
 - D. On numerous occasions, Plaintiff Lori would stay over at Defendant's house for slumber parties with Defendant's daughter, and would set up a tent in the dining room.
 - E. On numerous occasions, Defendant would crawl into the tent in the dining room and forcibly insert his fingers into Plaintiff Lori's vagina.
 - F. On numerous occasions, Defendant would "groom" Plaintiff Lori to back up against a wall in his office so he could measure her height, before forcibly grinding up against her.
 - G. On at least one occasion, Defendant walked into the living room and exposed his penis to Plaintiff Lori.
12. The abuse of Plaintiff Lori stopped when Plaintiff Lori stopped going over to Defendant Killian's house, and ceased to be friends with Defendant's daughter.
13. Venue is proper based on the residences of the parties and the location of the incidents.

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

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANT:
ASSAULT

15. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs “1” through “14” as though more fully set forth herein.

16. Defendant’s actions in sexually abusing then-infant Plaintiffs over several years placed Plaintiffs in apprehension of an imminent harmful and offensive bodily contact.

17. That the aforesaid assaults were unwarranted, unjustified, and unprovoked by Plaintiffs and without their consent, as Plaintiffs did not and could not give consent as infants.

18. That by reason of the foregoing actions of Defendant, Plaintiffs sustained injuries and damages, with accompanying pain and suffering and were greatly injured emotionally and mentally, were subject to humiliation and embarrassment, all to their damage in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANT:
BATTERY

19. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs “1” through “18” as though more fully set forth herein.

20. Defendant’s actions in sexually abusing then-infant Plaintiffs over a period of several years constitutes Defendant intentionally making offensive bodily contact with Plaintiffs.

21. That the aforesaid offensive bodily contact was unwarranted, unjustified, and unprovoked by Plaintiffs and without their consent, as Plaintiffs did not and could not give consent as infants.

22. By reason of the foregoing, Plaintiffs sustained injuries and damages, with accompanying pain and suffering and were greatly injured emotionally and mentally, and were subject to humiliation and embarrassment, all to their damage in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANT:
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

23. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs "1" through "22" as though more fully set forth herein.

24. Defendant intentionally and recklessly touched Plaintiffs on the aforementioned occasions over a period of several years, including in their genital areas.

25. Defendant's conduct in repeatedly sexually abusing then-infant Plaintiffs was extreme, outrageous, shocking, and exceeding all reasonable bounds of decency.

26. That the aforesaid conduct was done with the intention of causing Plaintiffs severe emotional distress.

27. By reason of the foregoing, Plaintiffs sustained injuries and damages, with accompanying pain and suffering and were greatly injured emotionally and mentally, and were subject to humiliation and embarrassment, all to their damage in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANT:
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

28. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs "1" through "27" as though more fully set forth herein.

29. Defendant owed a duty to then-infant Plaintiffs to reasonably protect them from harm and not sexually abuse them.

30. Defendant intentionally and recklessly breached that duty by touching Plaintiffs on the aforementioned occasions over a period of several years, including their genital areas.

31. Defendant's conduct in repeatedly sexually abusing then-infant Plaintiffs unreasonably endangered Plaintiffs' physical safety and caused Plaintiffs to fear for their own safety over the period of abuse lasting several years.

32. Plaintiffs suffered several emotional and mental suffering and distress due to Defendant's actions, as well as fear for their own physical safety.

33. By reason of the foregoing, Plaintiffs sustained injuries and damages, with accompanying pain and suffering and were greatly injured emotionally and mentally, and were subjected to humiliation and embarrassment, all to their damage in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANT:
PUNITIVE DAMAGES**

34. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs "1" through "33" as though more fully set forth herein.

35. Defendant's actions in being violent, sexually harassing, and/or committing other misconduct against then-infant Plaintiffs is tantamount to a wanton and conscious disregard for the safety of Plaintiffs, and warrants the imposition of punitive damages.

36. By reason of the malicious, intentional, willful, and/or negligent conduct of Defendant herein, and by such other acts that were morally reprehensible, Defendant's conduct evidenced a callous disregard for the safety of Plaintiffs, and said acts constituted a wanton, reckless and/or malicious disregard for the rights of others and, as a result thereof, Plaintiffs demand punitive damages.

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

WHEREFORE, Plaintiffs demand judgment against Defendant in an amount which exceeds the jurisdictional limits of all other courts which might otherwise have jurisdiction, and for such other and further relief to Plaintiffs as this Court deems just and proper.

DATED: July 31, 2020
Amherst, New York

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