

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

JAY SANTOS PABILONIA  
80 Ayer Road  
Williamsville, New York 14221,

Plaintiff,

**SUMMONS**

**Index No.:**

v.

DIANE PABILONIA  
2555 Pennsylvania Avenue North West, Unit 10  
Washington, District of Columbia 20037,

Defendant.

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 Plaintiff's residence.

DATED: July 31, 2020  
Amherst, New York

*William A. Lorenz, Jr.*  
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STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

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JAY SANTOS PABILONIA,

Plaintiff,

v.

DIANE PABILONIA,

Defendant.

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**VERIFIED COMPLAINT**

**Index No.:**

Plaintiff JAY SANTOS PABILONIA, by and through his attorneys, HOGANWILLIG, PLLC, as and for his Verified Complaint against Defendant DIANE PABILONIA herein, alleges as follows:

1. At all relevant times hereinafter mentioned, Plaintiff was and still is a resident of the County of Erie and State of New York.
2. Upon information and belief, and at all times hereinafter mentioned, Defendant was and is a resident of Washington, District of Columbia who, during the time period of the incidents alleged herein, resided in the County of Niagara, State of New York.
3. Defendant is the step-mother of Plaintiff who married Plaintiff's father in or about 1972.

**FACTS COMMON TO ALL CLAIMS**

4. Plaintiff and Defendant lived together with Plaintiff's father in the County of Niagara, State of New York from approximately 1972 to 1974.
5. Beginning in approximately 1972, when Plaintiff was approximately fourteen (14) years old, Plaintiff was the victim of sexual harassment, sexual abuse, and violence by or at the direction of Defendant.

6. The incidents experienced by then-infant Plaintiff over a period of approximately three (3) years included, but are not limited to, the following:

A. On numerous occasions, then-infant Plaintiff was forced to vaginally penetrate Defendant at Defendant’s request for sexual pleasure.

7. Upon information and belief, then-infant Plaintiff revealed the abuse to his father and sister in or about 1974.

8. Upon information and belief, Plaintiff’s father ended up divorcing Defendant after learning of the allegations of abuse by then-infant Plaintiff.

9. Venue is proper in Erie County based upon Plaintiff’s residence.

10. 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**

11. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs “1” through “10” as though more fully set forth herein.

12. Defendant’s actions in sexually abusing her step-son, then-infant Plaintiff, over a period of approximately three (3) years placed Plaintiff in apprehension of an imminent harmful and offensive bodily contact.

13. That the aforesaid assaults were unwarranted, unjustified, and unprovoked by Plaintiff and without his consent, as Plaintiff did not and could not give consent.

14. That by reason of the foregoing actions of Defendant, Plaintiff sustained injuries and damages, with accompanying pain and suffering and was greatly injured emotionally and

mentally, was subject to humiliation and embarrassment, all to his 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**

15. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "14" as though more fully set forth herein.

16. Defendant's actions in sexually abusing her step-son, then-infant Plaintiff, over a period of approximately three (3) years constitutes Defendant intentionally making offensive bodily contact with Plaintiff.

17. That the aforesaid offensive bodily contact was unwarranted, unjustified, and unprovoked by Plaintiff and without his consent, as Plaintiff did not and could not give consent as an infant.

18. By reason of the foregoing, Plaintiff sustained injuries and damages, with accompanying pain and suffering and was greatly injured emotionally and mentally, and was subject to humiliation and embarrassment, all to his 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**

19. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "18" as though more fully set forth herein.

20. Defendant intentionally and recklessly touched Plaintiff on the aforementioned occasions over a period of three (3) years, including forced sexual intercourse.

21. Defendant's conduct in sexually abusing her step-son, then-infant Plaintiff, over a period of approximately three (3) years, was extreme, outrageous, shocking, and exceeding all reasonable bounds of decency.

22. That the aforesaid conduct was done with the intention of causing Plaintiff severe emotional distress.

23. By reason of the foregoing, Plaintiff sustained injuries and damages, with accompanying pain and suffering and was greatly injured emotionally and mentally, and was subject to humiliation and embarrassment, all to his 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**

24. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "23" as though more fully set forth herein.

25. Defendant owed a duty to Plaintiff, as his step-mother, to reasonably protect him from harm and not sexually abuse him.

26. Defendant intentionally and recklessly breached that duty by touching Plaintiff on the aforementioned occasions over a period of three (2) years, including by forced sexual intercourse.

27. Defendant's conduct in repeatedly sexually abusing her step-son, then-infant Plaintiff, unreasonably endangered Plaintiff's physical safety and caused Plaintiff to fear for his own safety over the period of abuse lasting approximately three (3) years.

28. Plaintiff suffered several emotional and mental suffering and distress due to Defendant's actions, as well as fear for his own physical safety.

29. By reason of the foregoing, Plaintiff sustained injuries and damages, with accompanying pain and suffering and was greatly injured emotionally and mentally, and was subject to humiliation and embarrassment, all to his 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**

30. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "29" as though more fully set forth herein.

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

32. 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 Plaintiff, and said acts constituted a wanton, reckless and/or malicious disregard for the rights of others and, as a result thereof, Plaintiff demands punitive damages.

33. 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.

**WHEREFORE**, Plaintiff demands 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 Plaintiff as this Court deems just and proper.

DATED: July 31, 2020  
Amherst, New York

*William A. Lorenz, Jr.*

William A. Lorenz, Jr., Esq.

HoganWillig, PLLC

*Attorneys for Plaintiff*

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