

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

JOHN RYBARCZYK,

SUMMONS

Plaintiff,

v.

Child Victims Act Proceeding
22 NYCRR 202.72

SAINT STANISLAUS ROMAN CATHOLIC
CHURCH SOCIETY, a/k/a SAINT STANISLAUS
BISHOP & MARTYR PARISH, a/k/a SAINT
STANISLAUS B&M ROMAN CATHOLIC CHURCH,
a/k/a SAINT STANISLAUS B&M CHURCH,
123 Townsend Street
Buffalo, NY 14212

FELICIAN SISTERS OF NORTH AMERICA, INC.,
871 Mercer Road
Beaver Falls, Pennsylvania 15010

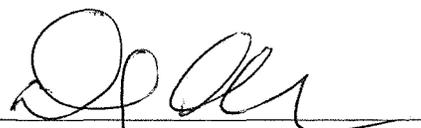
Defendants.

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 attorney(s) 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 basis that the Defendants conduct/conducted business in this County, and/or a substantial part of the events or omissions giving rise to the claims asserted herein occurred here.

Dated: August 3, 2020
Hamburg, New York

A handwritten signature in black ink, appearing to read 'D. Chiacchia', written over a horizontal line.

Daniel J. Chiacchia, Esq.
CHIACCHIA & FLEMING, LLP
Attorneys for Plaintiff
5113 South Park Avenue
Hamburg, New York, 14075
Telephone: (716) 648-3030

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

JOHN RYBARCZYK,

Plaintiff,

COMPLAINT

v.

Child Victims Act Proceeding
22 NYCRR 202.72

SAINT STANISLAUS ROMAN CATHOLIC
CHURCH SOCIETY, a/k/a SAINT STANISLAUS
BISHOP & MARTYR PARISH, a/k/a SAINT
STANISLAUS B&M ROMAN CATHOLIC CHURCH,
a/k/a SAINT STANISLAUS B&M CHURCH,

FELICIAN SISTERS OF NORTH AMERICA, INC.,

Defendants.

Plaintiff, JOHN RYBARCZYK, by his attorneys Chiacchia & Fleming, LLP, brings this action against SAINT STANISLAUS ROMAN CATHOLIC CHURCH SOCIETY, a/k/a SAINT STANISLAUS BISHOP & MARTYR PARISH, a/k/a SAINT STANISLAUS B&M ROMAN CATHOLIC CHURCH, a/k/a SAINT STANISLAUS B&M CHURCH and FELICIAN SISTERS OF NORTH AMERICA, INC., 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 each Defendant either resides in New York or conducts or, at relevant times conducted, activities in New York that give rise to the claims asserted herein.

2. Venue for this action is proper in the County of Erie pursuant to CPLR 503 in that one or more Defendant conducts/conducted business in this County, and/or a substantial part of the events or omissions giving rise to the claims asserted herein occurred here.

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

PARTIES

4. Plaintiff JOHN RYBARCZYK ("Plaintiff"), is an individual residing in Henderson, Nevada York.

5. THE DIOCESE OF BUFFALO, N.Y. ("DIOCESE") is a Roman Catholic diocese headquartered in Buffalo, New York, with its principal place of business located at 795 Main Street, Buffalo, NY. At all relevant times, the DIOCESE operated schools for minor children, including Saint Stanislaus School in 1962. The DIOCESE is a party of interest and not a named Defendant.

6. At all times relevant, Defendant SAINT STANISLAUS ROMAN CATHOLIC CHURCH SOCIETY ("ST. STANS") was and continues to be a religious organization authorized to conduct business and conducting business in the State of New York, with its principal place of business at 123 Townsend Street, Buffalo, New York 14212. Defendant ST. STANS includes, but is not limited to, the Saint Stanislaus Church corporation and any other organizations and/or entities operating under the same or similar name with the same or similar place of business. At all relevant times, it conducted activities in Erie County, New York. Upon information and belief, Defendant ST. STANS was managed, overseen, controlled, directed, and

operated by Defendant DIOCESE.

7. Defendant FELICIAN SISTERS OF NORTH AMERICA, INC. (“SISTERS”) is a foreign not-for-profit, Catholic congregation of sisters, with its principal place of business located at 871 Mercer Road, Beaver Falls, Pennsylvania. At all relevant times, Defendant SISTERS conducted activities in Erie County, New York, including sponsoring and operating St. Stanislaus School in 1962.

FACTS COMMON TO ALL CLAIMS

8. In or around 1962, when plaintiff was 14 years old and attending Defendant ST. STANS, a school within and under the auspices of Defendants DIOCESE and SISTERS.

9. During the times relevant to the allegations set forth herein, Father John D. Lewandowski was employed as a priest at Defendant ST. STANS. Father Lewandowski died in 1982.

10. Through his positions at, within, or for Defendants, Father Lewandowski was put in direct contact with Plaintiff, a student at Saint Stanislaus School. Father Lewandowski was a priest assigned to the school in some unknown capacity. It was under these circumstances that Plaintiff came to be under the direction and control of Father Lewandowski, who used his position of authority and trust over Plaintiff to sexually abuse, sexually assault and have unpermitted sexual contact with plaintiff.

11. In 1962 while Plaintiff was a minor, Father Lewandowski, while acting as a priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer of Defendants sexually assaulted, sexually abused and/or had unpermitted sexual contact with Plaintiff in violation of the laws of the State of New York. The abuse occurred when Plaintiff was approximately 14 years old.

12. At all times material hereto, Father Lewandowski was under the direct supervision, employ and/or control of Defendants.

13. Defendants knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Father Lewandowski who sexually abused Plaintiff.

14. Defendants had the responsibility to supervise and/or direct priests serving at Saint Stanislaus School, and specifically, had a duty not to aid a pedophile such as Father Lewandowski, by assigning, maintaining and/or appointing him to a position with access to minors.

15. Defendants, individually, jointly and/or severally, violated various New York statutes, including, but not limited to N.Y. Soc. Serv. Law §§ 413 and 420, which require school officials to report suspected cases of child abuse and impose liability for failure to report.

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

17. As a direct result of the Defendants' conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, problems sleeping, concentrating, low self-confidence, low self-respect, low self-esteem, losing faith in God, feeling estranged from the church, trust issues, feeling confused and angry, feeling sad and depressed, feeling anxiety, having panic attacks, having flashbacks, and feeling that his innocence was stolen. Plaintiff was prevented and will continue to be prevented from performing his normal daily activities and obtaining the full enjoyment of life. As a victim of Father Lewandowski'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 Retention/Supervision/Direction**

18. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

19. The sexual abuse of children by adults, including priests is foreseeable.

20. By establishing, staffing, and/or operating Saint Stanislaus School, encouraging the enrollment and instruction of Plaintiff in Saint Stanislaus School, accepting him as a student there, and holding it out to be a safe environment for learning and engaging in youth activities, Defendants entered into an express and/or implied duty to provide a reasonably safe environment for Plaintiff and assumed the duty to protect and care for him.

21. Defendants negligently retained, directed, and supervised Father Lewandowski when they knew or should have known that he posed a threat of sexual abuse to children.

22. Defendants knew or should have known of Father Lewandowski's propensity for the conduct which caused Plaintiff's injuries prior to the injuries' occurrence.

23. Father Lewandowski sexually assaulted, sexually abused and/or had sexual contact with Plaintiff on Defendants' premises.

24. Defendants were put on notice of Father Lewandowski's improper and inappropriate actions with Plaintiff.

25. Defendants owed a duty of care to all persons, including Plaintiff, who were likely to come within the influence of Father Lewandowski, in his role as a priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that Father Lewandowski did not abuse his authority as a priest, counselor, trustee, director, officer, employee, agent,

servant and/or volunteer to injure minors by sexual assault, battery, and/or abuse.

26. At all times material hereto, Defendants' actions were willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of Plaintiff.

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

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

SECOND CAUSE OF ACTION
Negligence/Gross Negligence

29. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

30. Defendants knew, or were negligent in not knowing, that Father Lewandowski posed a threat of sexual abuse to children.

31. The acts of Father Lewandowski described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his employment, appointment, and/or agency with Defendants.

32. Defendants owed Plaintiff, at the relevant times a minor, a duty to protect him from Father Lewandowski's sexual deviancy, both prior to and/or subsequent to Father Lewandowski's misconduct.

33. Defendants' 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.

34. Defendants:

- 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 Lewandowski;
- 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.

35. At all times material hereto, with regard to the allegations contained herein, Father Lewandowski was under the direct supervision, employ and/or control of Defendants.

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

37. As a direct and/or indirect result of said conduct, Plaintiff has suffered the injuries and damages described herein.

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

**THIRD CAUSE OF ACTION
Breach of Fiduciary Duty**

39. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

40. Through his positions at Defendants, Father Lewandowski was put in direct

contact with Plaintiff, then a minor student at ST. STANS, specifically being assigned to supervise him and other students, teach him both lay academic subjects and religious instruction, including religious training, spiritual guidance and/or counseling expounded by the Roman Catholic Church. It was under these circumstances that Plaintiff came to be under the direction and control of Father Lewandowski, who used his position of authority and trust over Plaintiff to sexually abuse, sexually assault and have unpermitted sexual contact with him.

41. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendants herein.

42. Pursuant to their fiduciary relationship, Defendants were entrusted with the well-being, care, and safety of Plaintiff.

43. Pursuant to their fiduciary relationship, Defendants assumed a duty to act in the best interests of Plaintiff.

44. Defendants breached their fiduciary duties to Plaintiff.

45. At all times material hereto, Defendants' actions and/or inactions were willful, wanton, malicious, reckless, and outrageous in their disregard for the rights and safety of Plaintiff.

46. As a direct result of said conduct, Plaintiff has suffered injuries and damages described herein.

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

**FOURTH CAUSE OF ACTION
Breach of Non-Delegable Duty**

48. Plaintiff repeats and realleges each and every allegation set forth in the foregoing

paragraphs as if fully set forth herein.

49. Plaintiff, when he was a minor, was placed in the care of Defendants for the purposes of, *inter alia*, providing plaintiff with a safe environment to receive a lay education and spiritual instruction, training, guidance and/or counseling. There existed a non-delegable duty of trust between Plaintiff and Defendants.

50. Plaintiff was a vulnerable child when placed within the care of Defendants.

51. As a consequence, Defendants were in the best position to prevent Plaintiff's abuse, and to learn of Father Lewandowski's sexual abuse of Plaintiff and stop it.

52. By virtue of the fact that Plaintiff was sexually abused as a parishioner/student, Defendants breached their non-delegable duty to Plaintiff.

53. At all times material hereto Father Lewandowski was under the direct supervision, employ and/or control of Defendants.

54. As a direct result of said conduct, Plaintiff has suffered injuries and damages described herein.

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

**FIFTH CAUSE OF ACTION
Fraudulent Concealment**

56. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

57. Defendants allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint, to occur.

58. Defendants knew or should have known of Father Lewandowski's propensity for

the conduct which caused Plaintiff's injuries prior to the injuries' occurrence.

59. Defendants had a duty to report any reasonable suspicion of child abuse.

60. Defendants owed a duty of care to all persons, including Plaintiff, who were likely to come within the influence of Father Lewandowski, in his role as a priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that Father Lewandowski did not abuse his authority as a priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer to injure minors by sexual assault, battery, and/or abuse.

61. Defendants breached their duty by knowingly and willfully failing to report reasonable suspicion of abuse by Father Lewandowski of children in their care.

62. Defendants breached their duty by knowingly and willfully failing to disclose reasonable suspicions of abuse by Father Lewandowski of children in their care to current or prospective students.

63. By knowingly and willfully failing to inform other current and prospective students of the abuse of Father Lewandowski, Defendants intended to defraud other current and prospective students.

64. When Plaintiff chose to attend Saint Stanislaus School, he reasonably relied upon the Defendants' representation that Defendants would look out for Plaintiff's well-being, care, and safety.

65. While attending Saint Stanislaus School, Plaintiff was sexually abused by Father Lewandowski and has suffered injuries and damages described herein.

66. At all times material hereto, said Defendants' actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

67. As a direct result of Defendants' conduct, Plaintiff has suffered the injuries and damages described herein.

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

**SIXTH CAUSE OF ACTION
Negligent Infliction of Emotional Distress**

69. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

70. As described aforesaid, the actions of Defendants, their predecessors and/or successors, agents, servants and/or employees were conducted in a negligent and/or grossly negligent manner.

71. Defendants' actions endangered Plaintiff's safety and caused him to fear for his own safety.

72. As a direct and proximate result of Defendants' actions, which included but were not limited to, negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

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

**SEVENTH CAUSE OF ACTION
Intentional Infliction of Emotional Distress**

74. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

75. In 1962, Defendants allowed Father Lewandowski unrestricted access to Plaintiff and willfully and/or intentionally ignored suspicious behavior and/or complaints against Father Lewandowski of sexual assault, sexual abuse and sexual contact.

76. During the time period referenced above, Defendants willfully and/or intentionally ignored Plaintiff's safety by requiring Plaintiff to be under the supervision of Father Lewandowski by himself before, during and after school.

77. Defendants were deliberately indifferent to the risk of sexual assault, sexual abuse, and sexual contact posed to Plaintiff by being alone with Father Lewandowski.

78. Defendants willfully and/or intentionally created a hostile and unsafe school environment that no child would be able to tolerate.

79. Defendants, in order to avoid embarrassment, scandal, and negative publicity, intended to cause Plaintiff shame, humiliation and extreme emotional distress so he would stay silent, and not report the abuse.

80. Defendants behaved in a manner toward Plaintiff that was so outrageous as to exceed all reasonable bounds of decency.

81. Defendants knew with substantial certainty or should have known that their behavior would cause Plaintiff to be a victim of sexual assault, sexual abuse and sexual contact.

82. Defendants knew with substantial certainty or should have known that their behavior would cause severe emotional distress to Plaintiff.

83. The foregoing acts of Defendants caused Plaintiff physical, mental and emotional distress.

84. 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.

EIGHTH CAUSE OF ACTION
Breach of Duty *in Loco Parentis*

85. Plaintiff repeats and realleges each and every allegation set forth in foregoing paragraphs as if fully set forth herein.

86. Plaintiff when he was a minor was entrusted by his parents to the control of Defendants for the purposes of *inter alia*, providing Plaintiff with a lay education and spiritual instruction, training, counseling and/or spiritual guidance as expounded by the Roman Catholic Church. Defendants owe – and owed -- a duty to students entrusted to them to adequately supervise them to prevent foreseeable injuries to their students. As a result, Defendants owed a duty to Plaintiff *in loco parentis*.

87. Defendants breached their duty *in loco parentis*.

88. At all times material hereto, said Defendants' actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

89. As a direct result of Defendants' conduct, Plaintiff has suffered the injuries and damages described herein.

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

NINTH CAUSE OF ACTION
Breach of Statutory Duty to Report Abuse under Soc. Serv. Law §§ 413, 420

91. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

92. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420, Defendants had a statutorily

imposed duty to report reasonable suspicion of abuse of children in their care.

93. Defendants breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Father Lewandowski of children in their care.

94. As a direct and/or indirect result of said conduct, Plaintiff has suffered injuries and damages described herein.

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

WHEREFORE, plaintiff respectfully requests judgment against Defendants herein in sums which exceed the jurisdictional limit of all lower courts which would otherwise have jurisdiction in this action, including compensatory damages, punitive damages, prejudgment interest to the extent permitted by law; costs, disbursements and fees of this action, including attorneys' fees, to the extent permitted by law; and any other relief as the Court deems just and proper.

Dated: August 3, 2020
Hamburg, New York



Daniel J. Chiacchia, Esq.
CHIACCHIA & FLEMING, LLP
Attorneys for Plaintiff
5113 South Park Avenue
Hamburg, New York 14075
Telephone: (716) 648-3030