

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

JASON R. FREIER
3244 Walden Avenue
Depew, New York 14043,

Plaintiff,

SUMMONS

Index No.:

v.

THE CHAPEL a/k/a
THE CHAPEL AT CROSSPOINT
500 CrossPoint Parkway
Getzville, New York 14068, and

EDWARD BATT
63 Richmond Avenue, Apartment B1
Buffalo, New York 14222,

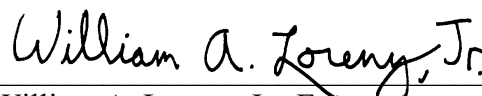
Defendants.

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 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 and the locations of the incidents.

DATED: October 14, 2020
Amherst, New York



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STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

JASON R. FREIER,

Plaintiff,

COMPLAINT

Index No.:

v.

THE CHAPEL a/k/a
THE CHAPEL AT CROSSPOINT and
EDWARD BATT,

Defendants.

Plaintiff JASON R. FREIER, by and through their attorneys, HOGANWILLIG, PLLC, as and for their Complaint against Defendants THE CHAPEL a/k/a THE CHAPEL AT CROSSPOINT (Defendant “CHAPEL”) and EDWARD BATT (Defendant “BATT”) 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 CHAPEL was and still is an interdenominational church incorporated under the laws of the State of New York as a nonprofit religious corporation headquartered in Buffalo, New York, with its principal place of business located at 500 CrossPoint Parkway, Getzville, County of Erie, and State of New York.

3. Upon information and belief, during the time period of the incidents alleged herein, Defendant CHAPEL had a place of business at 895 North Forest Road, Getzville, County of Erie, and State of New York (hereinafter “N. Forest”).

4. Upon information and belief, and at all times hereinafter mentioned, Defendant BATT was and still is a resident of the County of Erie and State of New York.

5. Upon information and belief, Defendant BATT plead guilty to Sexual Abuse 1st Degree: Contact by Forcible Compulsion, in violation of New York Penal Law § 130.65(1), a class D felony, in 2000, and is a Level 3 registered sex offender in the State of New York.

6. Upon information and belief, during the times relevant to the allegations set forth herein, Defendant BATT was a youth group leader and member, agent, servant, and/or employee of Defendant CHAPEL.

FACTS COMMON TO ALL CLAIMS

7. Upon information and belief, Defendant BATT was assigned as a youth group leader at the N. Forest location of Defendant CHAPEL in or around the late 1980s.

8. Upon information and belief, during the times relevant to the allegations set forth herein, Defendant BATT was under the direct supervision, employ, and/or control of Defendant CHAPEL.

9. Through Defendant BATT's positions at, within, or for Defendant CHAPEL, he was put in direct contact with Plaintiff, beginning in the late 1980s.

10. In approximately 1989, Plaintiff was the victim of sexual harassment, sexual abuse, and violence by or at the direction of Defendant BATT, and with the acquiescence, approval, participation, and implied permission of Defendant CHAPEL.

11. Upon information and belief, Defendant BATT's sexual abuse began when Plaintiff was approximately 11 years old, and when Defendant BATT was approximately 39 years old.

12. The incidents experienced by then-infant Plaintiff included, but are not limited to, the following:

- a. On multiple occasions, Defendant BATT began “grooming” then-infant Plaintiff by asking Plaintiff and other infant boys to join him in the woods near the property of Defendant CHAPEL at N. Forest to shoot rifles at targets.
- b. On at least one occasion, Defendant BATT invited then-infant Plaintiff to sleep in a shed in the woods on Defendant CHAPEL’s property at N. Forest after shooting rifles.
- c. On multiple occasions, Defendant BATT continued to “groom” then-infant Plaintiff by taking Plaintiff to get food at a bar, then taking Plaintiff to Defendant BATT’s parents’ home in Clarence, New York to ride Defendant BATT’s ATV, followed by watching movies inside the home.
- d. On multiple occasions, Defendant BATT invited then-infant Plaintiff over to Defendant BATT’s parents’ home in Clarence, New York to spend the night.
- e. On multiple occasions, Defendant Batt would massage then-infant Plaintiff’s body, including Plaintiff’s legs and calves, after Plaintiff had been riding the ATV, promising to make Plaintiff feel better.
- f. On multiple occasions, Defendant BATT invited then-infant Plaintiff to sleep in a bed at Defendant BATT’s parents’ home wearing only Plaintiff’s underwear.

- g. On at least two occasions, Defendant BATT asked then-infant Plaintiff to sleep in the same bed as Defendant BATT.
- h. On at least two occasions, Defendant BATT slept in the same bed as then-infant Plaintiff and held Plaintiff, who was only wearing underwear, while they slept.
- i. On at least one occasion, Defendant BATT asked then-infant Plaintiff to sleep with him naked.
- j. On at least one occasion, Defendant BATT asked then-infant Plaintiff if he had ever experienced a “wet dream” and seen “the white stuff”.
- k. On at least one occasion, Defendant BATT forced then-infant Plaintiff to grab Defendant BATT’s genitals and cause Defendant BATT to ejaculate.
- l. On at least one occasion, Defendant BATT forced then-infant Plaintiff to clean Defendant BATT’s ejaculate off of Defendant BATT’s belly.
- m. On at least one occasion, Defendant BATT offered to touch then-infant Plaintiff’s penis while they showered, to which Plaintiff refused.
- n. On multiple occasions, Defendant BATT sent then-infant Plaintiff letters expressing his “love” for then-infant Plaintiff.

13. Defendant confronted Plaintiff when Plaintiff was a senior in high school by trapping him in between a set of doors, and told him that “what happened between them” years ago, when Plaintiff was an infant, was both of their faults.

14. As a result of the abuse suffered at the hands of Defendant BATT, Plaintiff has attempted suicide on at least two occasions.

15. As a result of the abuse suffered at the hands of Defendant BATT, Plaintiff has required ongoing mental health treatment.

16. As a result of the abuse suffered at the hands of Defendant BATT, Plaintiff has been unable to maintain steady employment due to symptoms related to Plaintiff's mental health.

17. Venue is proper in Erie County based on Plaintiff's residence and the locations of the incidents.

18. 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 DEFENDANTS: NEGLIGENCE

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 BATT, as an agent, servant, and/or employee of Defendant CHAPEL, was a youth group leader and educator who had physical custody of Plaintiff before, during, and after religious and youth group activities, and owed Plaintiff a duty of care.

21. All Defendants were in *loco parentis* and owed Plaintiff a duty of care.

22. Defendant CHAPEL breached their duty of care owed to Plaintiff when they allowed Plaintiff to be in contact with Defendant BATT.

23. Defendant BATT knew or should have known of the sexual abuse, sexual harassment, and violence occurring by or at the direction of Defendant BATT, and breached their duty owed to Plaintiff when they failed to report the sexual abuse, sexual harassment, and violence occurring by or at the direction of Defendant BATT.

24. Defendant CHAPEL is individually responsible and is also responsible under the doctrines of vicarious responsibility and respondeat superior.

25. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for their own physical safety.

26. As a result of Defendants' breach, Plaintiff has incurred and will incur medical costs to treat their past, present, and future psychological suffering as a result of being a victim of sexual abuse, sexual harassment, and violence while in the control of Defendant BATT.

27. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and will continue to suffer loss of earnings and earning capacity; has incurred and will in the future incur expenses for medical and psychological treatment, and was otherwise damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS:
FAILURE TO REPORT**

28. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "27" as though more fully set forth herein.

29. Defendant CHAPEL, through their agents, servants, and employees, were Mandated Reporters under New York Social Services Law.

30. Defendant CHAPEL, through their agents, servants, and employees, had reasonable cause to suspect that Plaintiff was being abused and/or maltreated by Defendant BATT.

31. Defendants CHAPEL, through their agents, servants, and employees, knowingly and willfully failed to report the suspected child abuse or maltreatment to anyone, including the police or Child Protective Services.

32. Defendant CHAPEL did not provide their employees with written information on reporting requirements.

33. Defendant CHAPEL failed to follow the policies of required reporting including, but not limited to, New York Consolidated Laws, Social Services Law - SOS § 413.

34. Defendant CHAPEL is liable for the failure to report pursuant to New York Consolidated Laws, Social Services Law - SOS § 420.

35. The knowing and willful failure of Defendant CHAPEL, through the inaction of their agents, servants, and employees, to report the child abuse and maltreatment of Plaintiff was a proximate cause of Plaintiff's damages.

36. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and will continue to suffer loss of earnings and earning capacity; has incurred and will in the future incur expenses for medical and psychological treatment, and was otherwise damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

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

37. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "36" as though more fully set forth herein.

38. During the time period encompassing 1989, Defendant CHAPEL allowed Defendant BATT unrestricted access to Plaintiff and willfully and/or intentionally ignored complaints against Defendant BATT of sexual abuse, sexual harassment, and violence.

39. During the time period referenced above, Defendant CHAPEL willfully and/or intentionally ignored Plaintiff's safety by requiring and allowing Plaintiff to be watched by Defendant BATT by himself.

40. Defendant CHAPEL was deliberately indifferent to the risk of sexual harassment and violence posed to Plaintiff by being alone with Defendant BATT.

41. Defendant CHAPEL willfully and/or intentionally created a hostile and unsafe religious and educational environment that no child would be able to tolerate.

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

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

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

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

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

47. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological

injuries, fear and anxiety; was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and will continue to suffer loss of earnings and earning capacity; has incurred and will in the future incur expenses for medical and psychological treatment, and was otherwise damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

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

48. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "47" as though more fully set forth herein.

49. Defendants CHAPEL was negligent when they allowed Plaintiff to continue to be exposed to Defendant BATT despite being aware of allegations of sexual harassment, sexual abuse, and violence against Defendant BATT.

50. Defendants CHAPEL knew or should have known this would subject Plaintiff to sexual harassment, sexual abuse, and violence, and knew or should have known this would unreasonably endanger Plaintiff's safety, cause them to fear for their safety, and cause them severe emotional distress.

51. Defendant CHAPEL owed a duty to Plaintiff to protect him from sexual harassment, sexual abuse, and violence from Defendant BATT, including but not limited to when on the premises of Defendant CHAPEL.

52. Defendants CHAPEL breached the duty owed to Plaintiff to protect him from sexual abuse, sexual harassment, and violence from Defendant BATT, including but not limited to when on the premises of Defendant CHAPEL.

53. The conduct of Defendants as described herein was done with utter disregard as to the potential profound injuries which would ensue, and with depraved indifference to the health and well-being of children, and to the fact that Defendants subjected children in their charge, including Plaintiff, to sexual crimes.

54. Defendants' aforesaid actions were negligent, reckless, willful and wanton in their disregard for the rights and safety of children, including Plaintiff.

55. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions and/or inactions, as well as fear for their own physical safety.

56. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and will continue to suffer loss of earnings and earning capacity; has incurred and will in the future incur expenses for medical and psychological treatment, and was otherwise damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANTS: NEGLIGENT HIRING

57. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "56" as though more fully set forth herein.

58. Defendant CHAPEL owed Plaintiff a duty of care to supervise and protect Plaintiff.

59. Defendant CHAPEL was obligated to Plaintiff to hire and/or assign personnel, including Defendant BATT, to ensure that the children assigned to said personnel would be in a safe educational and religious environment.

60. Defendant CHAPEL knew or should have known at the time of Defendant BATT's assignment to Defendant CHAPEL of his propensity for the conduct which caused the injury.

61. Plaintiff was a victim of sexual abuse, sexual harassment, and violence by or at the direction of Defendant BATT.

62. Defendant CHAPEL breached their duty of care to Plaintiff when they negligently hired Defendant BATT.

63. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for their own physical safety.

64. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and will continue to suffer loss of earnings and earning capacity; has incurred and will in the future incur expenses for medical and psychological treatment, and was otherwise damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST DEFENDANTS:
NEGLIGENT SUPERVISION AND RETENTION

65. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "64" as though more fully set forth herein.

66. Defendant CHAPEL owed Plaintiff a duty of care to supervise and protect Plaintiff.

67. Defendant CHAPEL was obligated to Plaintiff to supervise the personnel assigned to watch Plaintiff, including but not limited to while on the premises of Defendant CHAPEL, to ensure that Plaintiff was in a reasonably safe environment.

68. Plaintiff was the victim of sexual abuse, sexual harassment, and violence by or at the direction of Defendant BATT.

69. Defendant CHAPEL had knowledge or should have had knowledge of the sexual abuse, sexual harassment, and violence by or at the direction of Defendant BATT and negligently ignored the sexual abuse, sexual harassment, and violence that was done by or at the direction of Defendant BATT.

70. Defendant CHAPEL did not terminate the employment or suspend the duties of Defendant BATT despite reports concerning the sexual abuse, sexual harassment and violence committed by Defendant BATT.

71. Defendant CHAPEL breached their duty of care to Plaintiff when they negligently supervised and retained Defendant BATT.

72. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for his own physical safety.

73. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and will continue to suffer loss of earnings and earning capacity; has

incurred and will in the future incur expenses for medical and psychological treatment, and was otherwise damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS:
PUNITIVE DAMAGES**

74. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs “1” through “73” as though more fully set forth herein.

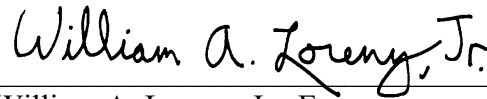
75. Defendant CHAPEL’s knowledge of the violence, sexual harassment, and/or misconduct against Plaintiff by or at the direction of Defendant BATT is tantamount to a wanton and conscious disregard for the safety of Plaintiff and others, and warrants the imposition of punitive damages.

76. By reason of the malicious, intentional, willful, and/or negligent conduct of Defendants herein, and by such other acts that were morally reprehensible, Defendants’ 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.

77. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life’s pleasures; has suffered and will continue to suffer loss of earnings and earning capacity; has incurred and will in the future incur expenses for medical and psychological treatment, and was otherwise damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiff demands judgment against Defendants 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: October 14, 2020
Amherst, New York



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