

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

PAUL W. SCHWANDT,
10453 Brookville Road
Alexander, New York 14005

SUMMONS

Index No.: _____

Plaintiff,

v.

Child Victims Act Proceeding
22 NYCRR 202.72

THE DIOCESE OF BUFFALO, N.Y.,
795 Main Street
Buffalo, New York 14203

BISHOP TURNER HIGH SCHOOL,
185 Lang Avenue
Buffalo, New York 14211

BISHOP TURNER-CARROLL HIGH SCHOOL,
185 Lang Avenue
Buffalo, New York 14211

THE ORDER OF THE BARNABITE FATHERS, INC.
1023 Swann Road
Youngstown, New York 14174

BARNABITE FATHERS OF LEWISTON NY, INC.
1023 Swann Road
Youngstown, New York 14174

FATHER PAUL KEELING,
1023 Swann Road, Apt. 167
Youngstown, New York 14174

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 the basis that one or more Defendant resides in this county or conducts business in this County, or conducts/conducted business in this County, and a substantial part of the events or omissions giving rise to the claims asserted herein occurred here.

Dated: September 12, 2019
Hamburg, New York



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

PAUL W. SCHWANDT,
Plaintiff,

COMPLAINT

v.

Index No. _____

THE DIOCESE OF BUFFALO, NEW YORK,
BISHOP TURNER HIGH SCHOOL,
BISHOP TURNER-CARROLL HIGH SCHOOL,
THE ORDER OF THE BARNABITES FATHERS, INC.,
BARNABITE FATHERS OF LEWISTON NY, INC.,
and FATHER PAUL KEELING,

Defendants.

Plaintiff, PAUL W. SCHWANDT, by his attorneys Chiacchia & Fleming, LLP, brings this action against, THE DIOCESE OF BUFFALO, N.Y., BISHOP TURNER HIGH SCHOOL, BISHOP TURNER-CARROLL HIGH SCHOOL, THE ORDER OF THE BARNABITE FATHERS, INC., BARNABITE FATHERS OF LEWISTON NY, INC., and FATHER PAUL KEELING 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 resides in this County, or conducts/conducted business in this County, and 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 PAUL W. SCHWANDT (“Plaintiff”), is an individual residing in Genesee County, New York.

5. Defendant 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, New York. At all relevant times, the Diocese of Buffalo operated schools for minor children, including during the period of 1983 through 1985.

6. Defendant BISHOP TURNER HIGH SCHOOL (“BISHOP TURNER”), was a Roman Catholic High School in Buffalo, New York, with its principal place of business located at 185 Lang Avenue, Buffalo, New York. Defendant BISHOP TURNER was managed, overseen, controlled, directed, and operated by the Defendants DIOCESE, BARNABITES.

7. Defendant BISHOP TURNER–CARROLL HIGH SCHOOL (“TURNER-CARROLL”), was a Roman Catholic High School in Buffalo, New York, with its principal place of business located at 185 Lang Avenue, Buffalo, New York. In 1985, Defendant BISHOP TURNER absorbed Defendant TURNER-CARROLL in a de facto merger or series of de facto merges, creating TURNER-CARROLL High School. Upon information and belief, Defendant TURNER-CARROLL continued the missions and ministry of Defendant BISHOP TURNER and was managed, overseen, controlled, directed, and operated by Defendants DIOCESE.

8. Defendant THE ORDER OF THE BARNABITE FATHERS, INC. (“BARNABITES”) is a Catholic congregation of priests, with its principal place of business located at 1023 Swann Road in Youngstown, New York. At all relevant times, Defendant BARNABITES conducted activities in Erie County, New York, including the oversight and placement of priests within parishes and Catholic schools, including the placement of Defendant FATHER KEELING at Defendant BISHOP TURNER and TURNER-CARROLL.

9. Defendant BARNABITE FATHERS OF LEWISTON NY, INC. (*collectively referred to as* “BARNABITES”) is a Catholic congregation of priests, with its principal place of business located at 1023 Swann Road in Youngstown, New York. At all relevant times, Defendant BARNABITES acted as a successor of Defendant THE ORDER OF THE BARNABITE FATHERS, INC. and conducted activities in Erie County, New York, including the oversight and placement of priests within parishes and Catholic schools, including the placement of Defendant FATHER KEELING at Defendant BISHOP TURNER and TURNER-CARROLL.

10. Defendant FATHER PAUL KEELING (“FATHER KEELING”) is an individual residing in Niagara County, New York. Defendant KEELING was a priest, Vice Principal, and Dean of Discipline at Defendants BISHOP TURNER and TURNER-CARROLL. Defendant FATHER KEELING was a member of the Defendant BARNABITES.

FACTS COMMON TO ALL CLAMS

11. In or around 1983, when he was 14 years old, Plaintiff began matriculating at Defendant BISHOP TURNER, a school within and under the auspices of the DIOCESE.

12. During the times relevant to the allegations set forth herein, Defendant FATHER

KEELING was employed as a priest, Vice Principal, and Dean of Discipline at Defendants BISHOP TURNER and TURNER-CARROLL.

13. Through his positions at, within, or for Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES, Defendant FATHER KEELING was put in direct contact with Plaintiff, a student at Defendant BISHOP TURNER and TURNER-CARROLL. Defendant FATHER KEELING was in charge of disciplining him. It was under these circumstances that Plaintiff came to be under the direction and control of Defendant FATHER KEELING, who used his position of authority and trust over Plaintiff to sexually abuse, sexually assault and sexually harass him.

14. During the years from approximately 1983 through 1985, while Plaintiff was a minor, Defendant FATHER KEELING, while acting as a priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer of the Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES, sexually assaulted, sexually abused and/or had unpermitted sexual contact with Plaintiff in violation of the laws of the State of New York.

15. The abuse began when Plaintiff was 15 years old and ended when he was approximately 17 years old.

16. Defendant FATHER KEELING provided special attention to Plaintiff and became close to Plaintiff's family. On multiple occasions, Defendant FATHER KEELING would provide alcohol and cigarettes to Plaintiff with the full knowledge that he was a minor and in doing so was unlawfully dealing with a minor child, contrary to the Penal Law of the State of New York.

17. Defendant FATHER KEELING took Plaintiff on overnight trips. During these

trips, Defendant FATHER KEELING sexually assaulted, sexually abused and/or had unpermitted sexual contact with Plaintiff.

18. At all times material hereto, Defendant FATHER KEELING, was under the direct supervision, employ and/or control of Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES.

19. Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Defendant FATHER KEELING who sexually abused, sexually assaulted and/or had unpermitted sexual contact with Plaintiff.

20. Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL, and BARNABITES had the responsibility to supervise and/or direct priests serving at Defendants BISHOP TURNER and TURNER-CARROLL, and specifically, had a duty not to aid a pedophile such as Defendant FATHER KEELING, by assigning, maintaining and/or appointing him to a position with access to minors.

21. All 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 and teachers to report suspected cases of child abuse and impose liability for failure to report.

22. Plaintiff suffered personal physical and psychological injuries and damages as a result of Defendant FATHER KEELING's actions, as well as other damages related thereto, as a result of his childhood sexual abuse.

23. 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,

physical manifestations of emotional distress, problems sleeping, concentrating, low self-confidence, low self-respect, low self-esteem, feeling of worthlessness, feeling shameful, and embarrassed, feeling alone and isolated, losing faith in God, feeling estranged from the church, struggling with alcohol problems, battling anorexia, feeling helpless, and hopeless, problems with sexual intimacy, relationship problems, trust issues, feeling confused and angry, the feeling that the good things have been ruined, feeling sad and depressed, feeling anxiety, having panic attacks, crying, feeling dirty, used, and damaged, feeling suicidal, having flashbacks, feeling like he took the wrong road, feeling that his innocence was stolen, and feeling that his life was ruined. Plaintiff was prevented and will continue to be prevented from performing his normal daily activities and obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and, on information and belief, has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of Defendant FATHER KEELING'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

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

25. The sexual abuse of children by adults, including priests and school administrators, is foreseeable.

26. By establishing, staffing, and/or operating Bishop Turner High School and Turner-Carroll High School, encouraging the enrollment and instruction of Plaintiff in Bishop Turner High School and Turner-Carroll High School and accepting him as a student there and

holding the schools out to be a safe environment for learning and engaging in youth activities, Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES, 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.

27. Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES, negligently retained, directed, and supervised Defendant FATHER KEELING when they knew or should have known that he posed a threat of sexual abuse to children.

28. Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES knew or should have known of Defendant FATHER KEELING's propensity for the conduct which caused Plaintiff's injuries prior to the injuries' occurrence.

29. Defendant FATHER KEELING sexually assaulted, sexually abused and/or had sexual contact with Plaintiff while under the direct supervision, employ and/or control of Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES.

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

31. 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.

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

33. By reason of the foregoing, the 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

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

35. Defendants knew, or were negligent in not knowing, that Defendant FATHER KEELING posed a threat of sexual abuse to children.

36. The acts of Defendant FATHER KEELING 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 the Defendants DIOCESE, BISHOP TURNER TURNER-CARROLL and BARNABITES.

37. Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES owed Plaintiff, at the relevant times a minor, a duty to protect him from Defendant FATHER KEELING's sexual deviancy, both prior to and/or subsequent to Defendant FATHER KEELING's misconduct.

38. 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.

39. 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 Defendant FATHER KEELING;
- 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.

40. At all times material hereto, with regard to the allegations contained herein, Defendant FATHER KEELING was under the direct supervision, employ and/or control of Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES.

41. 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.

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

43. 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

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

45. Through his positions at the Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and his appointment by BARNABITES, Defendant FATHER KEELING

was put in direct contact with Plaintiff, then a minor student at Defendant BISHOP TURNER and TURNER-CARROLL, specifically being assigned as the Vice Principal and Dean of Discipline to oversee the school and student disciplinary proceedings. It was under these circumstances that Plaintiff came to be under the direction and control of Defendant FATHER KEELING who used his position of authority and trust over Plaintiff to sexually abuse and harass him.

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

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

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

49. Defendants breached their fiduciary duties to Plaintiff.

50. 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.

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

52. 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

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

paragraphs as if fully set forth herein.

54. Plaintiff, when he was a minor, was placed in the care of all of the 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.

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

56. As a consequence, the Defendants were in the best position to prevent Plaintiff's abuse, and to learn of Defendant FATHER KEELING's repeated sexual abuse of Plaintiff and stop it.

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

58. At all times material hereto Defendant FATHER KEELING was under the direct supervision, employ and/or control of the Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES.

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

60. 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

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

62. Defendants allowed the acts of omission and/or commission and/or any or all of

the allegations set forth in this Complaint, to occur.

63. Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES knew or should have known of Defendant FATHER KEELING's propensity for the conduct which caused Plaintiff's injuries prior to the injuries' occurrence.

64. Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES had a duty to report any reasonable suspicion of child abuse.

65. Defendants owed a duty of care to all persons, including Plaintiff, who were likely to come within the influence of Defendant FATHER KEELING, in his role as a priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that Defendant FATHER KEELING 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.

66. Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES breached their duty by knowingly and willfully failing to report reasonable suspicion of abuse by Defendant FATHER KEELING of children in their care.

67. Defendants breached their duty by knowingly and willfully failing to disclose reasonable suspicions of abuse by Defendant FATHER KEELING of children in their care to current or prospective students.

68. By knowingly and willfully failing to inform other current and prospective students of the abuse of Defendant FATHER KEELING, Defendant intended to defraud other current and prospective students.

69. When Plaintiff chose to attend Bishop Turner High School and Turner-Carroll High School, he reasonably relied upon the Defendant's representation that Defendant would

look out for Plaintiff's well-being, care, and safety.

70. While attending Bishop Turner High School and Turner-Carroll High School, Plaintiff was sexually abused by Defendant FATHER KEELING and has suffered injuries and damages described herein.

71. 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.

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

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.

SIXTH CAUSE OF ACTION
Intentional Infliction of Emotion Distress

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

75. During the time period from approximately 1983 through 1985, Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES allowed Defendant FATHER KEELING unrestricted access to Plaintiff and willfully and/or intentionally ignored suspicious behavior and/or complaints against Defendant FATHER KEELING of sexual assault, sexual abuse and sexual contact.

76. During the time period referenced above, Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES willfully and/or intentionally ignored Plaintiff's safety by requiring Plaintiff to be under the supervision of Defendant FATHER

KEELING.

77. Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES were deliberately indifferent to the risk of sexual assault, sexual abuse, and sexual contact posed to Plaintiff by being alone with Defendant FATHER KEELING.

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.

SEVENTH CAUSE OF ACTION
Negligent Infliction of Emotional Distress

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

86. 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.

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

88. 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.

89. 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.

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

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

91. 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 DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES 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*.

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

93. 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.

94. As a direct result of Defendants' conduct, Plaintiff has suffered the 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.

NINTH CAUSE OF ACTION

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

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

97. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420, Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES had a statutorily imposed duty to report reasonable suspicion of abuse of children in their care.

98. Defendants breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Defendant FATHER KEELING of children in their care.

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

100. 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.

TENTH CAUSE OF ACTION

Nuisance (Common Law and N.Y. Penal Law 240.45)

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

102. The actions and omissions of Defendants DICOESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES, as described above, have interrupted or interfered with the health, safety, and welfare of the general public.

103. The Defendants have created and exposed the public to these unsafe conditions continuously and on an ongoing basis since at least the time that Plaintiff was sexually abused and has continued to expose the public to that unabated threat until the present day.

104. As a direct and proximate result of the Defendants' conduct, the Plaintiff has suffered special and individualized harms separate and distinct from the harms suffered by the public at large.

105. The harm suffered by the Plaintiff is the exact type of harm that one would expect to result from the Defendants' acts and omissions.

106. Defendants continue to conspire and engage and/or has conspired and engaged in efforts to: 1) conceal from the general public the sexual assaults committed by, the identities of, and the pedophilic/ephebophilic tendencies of Defendant FATHER KEELING and the Diocese's and Barnabites' other accused priests; and/or 2) conceal from proper civil authorities sexual assaults and abuse committed by Defendant FATHER KEELING and the Diocese's and Barnabites' other agents against minor children; and/or 3) attack the credibility of victims of the Diocese's and Barnabites' agents; and/or 4) protect the Diocese's and Barnabites' agents from criminal prosecution for their sexual assaults and abuse against children; and/or 5) allow known child molesters to live freely in the community without informing the public.

107. The net result of the aforementioned activities is that Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES have introduced the threat of criminal activity into the public sphere and has thereby impaired the public's health, safety, and

welfare.

108. The conduct of Defendant DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES was specially injurious to Plaintiff's health, safety and welfare as because Plaintiff was sexually assaulted by Defendants DIOCESE's and BARNABITES' agent, Defendant FATHER KEELING.

109. The conduct of Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES was further specially injurious to Plaintiff's health, safety and welfare in that when Plaintiff discovered Defendant DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITE's conduct, Plaintiff experienced mental, emotional and/or physical distress that he had been the victim of Defendant DIOCESE's conduct.

110. Plaintiff has suffered and/or continues to suffer special, particular, and peculiar psychological and emotional harm and/or peculiar pecuniary harm, different in kind from the general public, after learning of Defendant DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES's conduct.

111. Plaintiff's injuries are also particular to him and different from certain members of the public who have not been harmed by the nuisance. People who have not been harmed by the nuisance include those who have not suffered any injury at all, those who are unaware of the nuisance, those who do not believe that the conduct of Defendant DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES ever occurred, and those who think that any such conduct only occurred decades ago.

112. 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.

ELEVENTH CAUSE OF ACTION
Debts for Willful and Malicious Injury Nondischargeable

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

114. Pursuant to Section 523(a)(6) of the Bankruptcy Code, any debt “for willful and malicious injury by the debtor to another entity or to the property of another entity” is nondischargeable.

115. Defendants DIOCESE, BISHOP TURNER, TURNER-CARROLL and BARNABITES allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint, to occur.

116. Defendants breached their duty by knowingly and willfully failing to report reasonable suspicion of abuse by Defendant FATHER KEELING of children in their care.

117. Defendants knowingly, willingly, and intentionally failed to report reasonable suspicion of abuse by Defendant FATHER KEELING of children in their care.

118. Defendants’ intentional act of nondisclosure allowed Defendant FATHER KEELING to continue abusing children in Defendants’ care, an injury that Defendants were substantially certain would occur.

119. This intentional act necessarily produced the harm that resulted.

120. Defendants’ actions endangered Plaintiff’s safety and caused him to fear for his own safety.

121. 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.

122. 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: September 12, 2019
Hamburg, New York


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