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Return To:



DIOCESE OF ROCHESTER
ST. FRANCIS OF ASSISI

State Fee Index Number	\$165.00	
County Fee Index Number	\$26.00	
State Fee Cultural Education	\$14.25	
State Fee Records Management	\$4.75	Employee: RR
Total Fees Paid:	\$210.00	

State of New York

MONROE COUNTY CLERK'S OFFICE
WARNING – THIS SHEET CONSTITUTES THE CLERKS
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ADAM J BELLO

MONROE COUNTY CLERK



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

SUMMONS

-----X
[REDACTED]

Plaintiff(s) designate
MONROE County as the place
of trial.

Plaintiff(s),

The basis of the venue is
Defendant Diocese of
Rochester place of business

-against-

DIOCESE OF ROCHESTER and
ST. FRANCIS OF ASSISI,

Plaintiff(s) reside at
103 Knickerbocker Avenue
Rochester, NY 14615

Defendant(s).

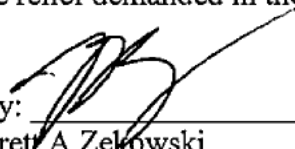
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Index No.:
Date Summons &
Complaint Filed:

To the above-named Defendant(s)

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 days after the services of this summons exclusive of the day of service, where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Port Washington, NY
September 16, 2019

By: 
Brett A Zekowski
Parker Waichman LLP
Office & Post Office Address:
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500
Our File # 9006353

TO: Diocese of Rochester
1150 Buffalo Rd
Rochester, NY 14624

St. Francis of Assisi
83 Whitney Street
Rochester, NY 14611

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

-----X

[REDACTED]

Plaintiff(s),

-against-

DIOCESE OF ROCHESTER and
ST. FRANCIS OF ASSISI,

Defendant(s).

-----X

VERIFIED COMPLAINT

Index No.:
Jury Trial Demanded

Plaintiff, [REDACTED] by his attorneys Parker Waichman LLP, complaining of the defendants, respectfully alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

1. At the time of the commencement of this action plaintiff, [REDACTED] was a resident of the County of Monroe, State of New York.
2. At the time of the incident(s) giving rise to this complaint, plaintiff was a resident of the County of Monroe, State of New York.
3. This action is timely pursuant to CPLR 214-g.
4. At all times herein mentioned, defendant Diocese of Rochester was a religious corporation organized pursuant to the Religious Corporations Law, with its principal office at 1150 Buffalo Road, Rochester, in Monroe County, New York.
5. At all times herein mentioned, defendant St. Francis of Assisi was a religious corporation organized pursuant to the Religious Corporations Law with its principal office 83 Whitney Street, Rochester, in Monroe County, New York.
6. At all times herein mentioned, St. Francis of Assisi was a Roman Catholic Church or parish within and under the authority of Diocese of Rochester.

7. At all times herein mentioned Diocese of Rochester oversaw, managed, controlled, directed and operated St. Francis of Assisi.

8. At all times herein mentioned St. Francis of Assisi oversaw, managed, controlled, directed and operated St. Francis of Assisi.

9. At all times herein mentioned Diocese of Rochester managed, supervised and controlled those who were employed or otherwise worked for St. Francis of Assisi including, but not limited to priests, nuns and other personnel and volunteers, both while they were on premises and engaged in off-premises activities related to their employment with St. Francis of Assisi.

10. At all times herein mentioned St. Francis of Assisi managed, supervised and controlled those who were employed or otherwise worked for St. Francis of Assisi, including, but not limited to priests, nuns and other personnel and volunteers, both while they were on premises and engaged in off-premises activities related to their employment with St. Francis of Assisi.

11. From on or about January 1, 1968 through on or about December 31, 1978, plaintiff was a parishioner of St. Francis of Assisi.

12. From on or about January 1, 1973 through on or about December 31, 1978, plaintiff was an alter server for St. Francis of Assisi.

13. At all times herein mentioned and relevant to the allegations set forth herein Father Dennis Shaw was a priest assigned by Defendant Diocese of Rochester to St. Francis of Assisi.

14. At all times herein mentioned and relevant to the allegations set forth herein Father Dennis Shaw was a priest at St. Francis of Assisi.

15. At all times herein mentioned, Father Dennis Shaw was employed by Diocese of Rochester.

16. At all times herein mentioned, Father Dennis Shaw was employed by the St. Francis of Assisi.

17. Through his position with Diocese of Rochester, Father Dennis Shaw was put in direct contact with Plaintiff, [REDACTED], then an infant.

18. Through his position with St. Francis of Assisi, Dennis Shaw was put in direct contact with Plaintiff, [REDACTED] then an infant.

19. That on or about January 1, 1974 to December 31, 1976, Father Dennis Shaw sexually abused the plaintiff.

20. At all times herein mentioned, Father Dennis Shaw was under the management, supervision, employ, direction and/or control of Defendants Diocese of Rochester and St. Francis of Assisi.

21. Defendants Diocese of Rochester and St. Francis of Assisi knew and/or reasonably should have known and/or knowingly condoned and/or covered up, the inappropriate and unlawful sexual activities of Father Dennis Shaw who sexually abused the Plaintiff [REDACTED] while Plaintiff was an infant.

22. Defendants, Diocese of Rochester had the responsibility to manage, supervise, control and/or direct priests assigned to St. Francis of Assisi.

23. Defendants, St. Francis of Assisi had the responsibility to manage, supervise, control and/or direct priests assigned to St. Francis of Assisi.

24. At all relevant times, Diocese of Rochester and St. Francis of Assisi had a duty not to aid pedophiles such as Father Dennis Shaw by assigning, maintaining and/or appointing he/she to positions in which he/she would have access to minors.

25. At all relevant times, Father Dennis Shaw used his position as a priest to entice, take control of Plaintiff, [REDACTED] and sexually assault, sexually abuse or have sexual contact with [REDACTED] while plaintiff was a minor.

26. 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 church officials, employees and managers to report suspected cases of child abuse and impose liability for failure to report.

27. Plaintiff suffered physical and psychological injuries and damages as a result of his childhood sexual abuse by Father Dennis Shaw.

28. As a direct result of defendants' conduct, Plaintiff suffered and will continue to suffer great pain of body and mind, severe and permanent emotional distress and physical manifestations of emotional distress. As a result of his childhood sexual abuse, plaintiff has been prevented from obtaining the full enjoyment of life, has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling and has incurred and will continue to incur loss of income and/or loss of earning capacity.

29. Because of his childhood sexual abuse, Plaintiff [REDACTED] is unable to fully describe all of the details of that abuse and the extent of the harm that he suffered as a result.

**AS AND FOR A FIRST CAUSE OF ACTION
NEGLIGENT HIRING, RETENTION, SUPERVISION AND/OR DIRECTION**

30. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 29 as if fully set forth herein.

31. The sexual abuse of children by adults, including priests and teachers, is foreseeable.

32. Defendants Diocese of Rochester and St. Francis of Assisi at all relevant times represented and held out to the public St. Francis of Assisi to be a safe place for learning and participating in youth activities.

33. At all relevant times, defendants Diocese of Rochester and St. Francis of Assisi were each under an express and/or implied duty to protect and care for plaintiff, [REDACTED]

34. Defendants Diocese of Rochester and St. Francis of Assisi negligently hired, retained, directed and supervised Father Dennis Shaw because they knew or should have known that Father Dennis Shaw posed a threat of sexual abuse of children such as plaintiff.

35. Defendants Diocese of Rochester and St. Francis of Assisi knew or should have known that Dennis Shaw had a propensity to engage in the conduct which caused plaintiff's injuries prior to or about the time of the occurrence of these injuries.

36. Defendants Diocese of Rochester and St. Francis of Assisi owed a duty of care to all minors, including plaintiff, who were likely to come under the influence or supervision of Father Dennis Shaw in their role as teacher, priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer to ensure that Father Dennis Shaw did not use their assigned positions to injure minors by sexual assault, sexual abuse or sexual contact with minors.

37. Father Dennis Shaw sexually assaulted, sexually abused and/or had sexual contact with plaintiff [REDACTED] on Defendants' premises, including inside the rectory.

38. Defendants Diocese of Rochester and St. Francis of Assisi were put on notice of Diocese of Rochester's improper and inappropriate actions toward minors.

39. Defendants Diocese of Rochester and St. Francis of Assisi were negligent in failing to properly supervise Father Dennis Shaw.

40. Defendants Diocese of Rochester and St. Francis of Assisi were negligent in failing to properly manage Father Dennis Shaw.

41. Defendants Diocese of Rochester and St. Francis of Assisi were negligent in failing to properly control Father Dennis Shaw.

42. At all relevant times, defendants Diocese of Rochester and St. Francis of Assisi were willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of plaintiff.

43. As a direct and proximate result of defendants' above described omissions, plaintiff has suffered and will continue to suffer the injuries described herein.

44. By reason of the foregoing, the Defendants are liable to plaintiff jointly, severally and/or in the alternative, for compensatory damages and punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION
NEGLIGENCE/GROSS NEGLIGENCE**

45. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 44 as if fully set forth herein.

46. Defendants Diocese of Rochester and St. Francis of Assisi knew or negligently failed to know that Father Dennis Shaw posed a threat of sexual abuse to children.

47. The acts of Father Dennis Shaw as described above, were undertaken, enabled by, and/or during the course of their respective employment, assignment, appointment and/or agency with defendants Diocese of Rochester and St. Francis of Assisi.

48. Defendants Diocese of Rochester and St. Francis of Assisi:

- a. gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons in work involving risk of harm to others;
- b. failed to adequately supervise the activities of Dennis Shaw;
- c. failed to adequately supervise and safeguard minors attending St. Francis of Assisi;
- d. permitted and/or intentionally failed and/or neglected to prevent negligent or tortious conduct by persons, whether or not their servants, agents or employees, upon premises under their control; and

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

49. At all relevant times Father Dennis Shaw was under the supervision, employ, direction and/or control of defendants Diocese of Rochester and St. Francis of Assisi.

50. At all relevant times, defendants Diocese of Rochester and St. Francis of Assisi were wanton, willful, malicious, reckless and outrageous in their disregard for the rights and safety of plaintiff, which conduct was equivalent to criminal conduct.

51. As a direct and/or indirect result of said conduct, Plaintiff has suffered injuries and damages as 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 in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**THIRD CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY**

53. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 52 as if fully set forth herein.

54. At all relevant times, there existed a fiduciary relationship of trust, confidence, and reliance between plaintiff, on the one hand, and defendants Diocese of Rochester and St. Francis of Assisi, on the other, based upon the entrustment of plaintiff, while he was a minor child, to the care and supervision of the defendants and each of them, as a parishioner, worshiper, invitee, attendee or guest at St. Francis of Assisi. The entrustment of the plaintiff to the care and supervision of the defendants and each of them, while plaintiff was a minor child, required the defendants to assume a fiduciary role and to act in the best interests of the plaintiff and to protect

him while he was a minor and vulnerable child.

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

56. Pursuant to their fiduciary relationship with Plaintiff, defendants assumed a duty to act in the best interests of Plaintiff.

57. Defendants Diocese of Rochester and St. Francis of Assisi breached their fiduciary duties to plaintiff.

58. At all relevant times, the actions and/or inactions of Diocese of Rochester and St. Francis of Assisi were willful, malicious, wanton, reckless and outrageous in their disregard for the rights and safety of plaintiff.

59. As a direct result of defendants' 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 in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**FOURTH CAUSE OF ACTION
BREACH OF NON-DELEGABLE DUTY**

61. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 60 as of fully set forth herein.

62. When he was a minor, plaintiff [REDACTED] was placed in the care of defendants Diocese of Rochester and St. Francis of Assisi for the purposes of providing plaintiff with a safe environment in which to participate in youth activities and receive an education. There was thus created a non-delegable duty of trust between plaintiff and defendants.

63. Plaintiff [REDACTED] was a vulnerable child when placed in the care of defendants Diocese of Rochester and St. Francis of Assisi.

64. Defendants Diocese of Rochester and St. Francis of Assisi, and each of them, were in the best position to prevent plaintiff from being abused and/or to have learned of the repeated abuse by Father Dennis Shaw and to have stopped it.

65. As evidenced by the fact that plaintiff [REDACTED] was sexually abused as a minor child entrusted to the care of the defendants, these defendants breached their non-delegable duty to plaintiff.

66. At all relevant times, Father Dennis Shaw was under the supervision, employment, direction and/or control of defendants Diocese of Rochester and St. Francis of Assisi.

67. As a result of the sexually abusive conduct of Father Dennis Shaw, plaintiff [REDACTED] [REDACTED] suffered the injuries and damages described herein, the full extent of which is unknown at present.

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 in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**FIFTH CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

69. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 68 above as if set forth at length herein.

70. As described above, defendants Diocese of Rochester and St. Francis of Assisi and Father Dennis Shaw acted in a negligent and/or grossly negligent manner.

71. The actions of defendants Diocese of Rochester and St. Francis of Assisi, and

Father Dennis Shaw endangered plaintiff's safety and caused him to fear for his own safety.

72. As a direct and proximate result of the actions of defendants Diocese of Rochester and St. Francis of Assisi, which included, but were not limited to, negligent and/or grossly negligent conduct, plaintiff suffered severe injuries and damages as 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 costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**SIXTH CAUSE OF ACTION
BREACH OF DUTY *IN LOCO PARENTIS***

74. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 73 as if set forth at length herein.

75. While he was a minor, plaintiff was entrusted by his parents to the control of the defendants Diocese of Rochester and St. Francis of Assisi for the purposes of providing plaintiff with an education and allowing him to participate in youth activities sponsored by defendants. During the times that plaintiff participated in youth activities, he was under the supervision and control of defendants Diocese of Rochester and St. Francis of Assisi. These defendants, and each of them, at all relevant times and now, owed and owe a duty to children entrusted their care to act *in loco parentis* and to prevent foreseeable injuries.

76. Defendants Diocese of Rochester and St. Francis of Assisi breached their duty to act *in loco parentis*.

77. At all relevant times the actions of defendants Diocese of Rochester and St. Francis of Assisi were willful, malicious, wanton, reckless, negligent, grossly negligent and/or outrageous

in their disregard for the rights and safety of plaintiff.

78. As a direct result of defendants' conduct, plaintiff [REDACTED] has suffered the injuries and damages described herein.

79. 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 in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**SEVENTH CAUSE OF ACTION
BREACH OF STATUTORY DUTY PURSUANT TO NEW YORK
SOCIAL SERVICES LAW §§ 413, 420 TO REPORT ABUSE**

80. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 79 as if fully set forth herein.

81. Pursuant to N.Y. Social Services Law §§413, 420, defendants Diocese of Rochester and St. Francis of Assisi had a statutory duty to report the reasonable suspicion of abuse of children in their care.

82. Defendants Diocese of Rochester and St. Francis of Assisi breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Father Dennis Shaw of children in their care.

83. As a direct and/or indirect result of said conduct, plaintiff has suffered injuries and damages as described above.

84. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against defendants on each cause of

action as follows:

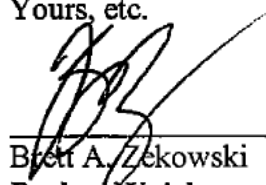
- A. Awarding compensatory damages in an amount to be proven at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding prejudgment interest to the extent permitted by law;
- D. Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: Port Washington, New York
September 12, 2019

Yours, etc.



Brett A. Zekowski
Parker Waichman LLP
Attorneys for Plaintiff(s)
Office & Post Office Address
 6 Harbor Park Drive
 Port Washington, NY 11050
 516-466-6500
 Our File # 9006353

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 09/17/2019

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

_____ RT BRYAN,

Plaintiff(s),

-against-

DIOCESE OF ROCHESTER and
ST. FRANCIS OF ASSISI,

Defendant(s).

SUMMONS AND VERIFIED COMPLAINT

Certification per 22NYCRR §130-1.1a

Brett A. Zekowski
Parker Waichman LLP
Attorneys for Plaintiff(s)
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500

To:
Attorney(s) for

Service of a copy of the within is hereby admitted.

Dated:
Attorney(s) for

PLEASE TAKE NOTICE

NOTICE OF

ENTRY that the within is a (certified) true copy of a _____ entered in the office of the Clerk of the within named
Court on 2019 .

NOTICE that an Order of which the within is a true copy will be presented to the Hon. _____, one of the
OF

SETTLEMENT judges of the within named Court, at ,
, on
2019, at M.

Dated:

Parker Waichman LLP
Attorneys for Plaintiff(s)